

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
August 25, 2008

A Council Meeting of Milford City Council was held in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware on Monday, August 25, 2008.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

Mayor Marabello called the Council Meeting to order at 8:18 p.m.

*Adoption of Ordinance 2008-15/Amendment to Animal Code/Chapter 79*

The following ordinance was scheduled for final action by city council:

*An Ordinance to amend the Code of the City of Milford by deleting and repealing Chapter 79, thereof, Animals, and replacing it with a new Chapter 79, to be entitled Animals, which purpose is to protect the public health and safety of its citizens and to promote the general welfare of the citizens and animals within the City.*

*The City of Milford hereby ordains:*

*Section 1.*

*The Code of the City of Milford is hereby amended by deleting and repealing Chapter 79, Animals, in its entirety.*

*Section 2.*

*The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 79, hereinabove repealed, to be Chapter 79, Animals, to read as follows:*

*DEFINITIONS:*

*OWNER--person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.*

*ANIMAL CONTROL AGENCY--agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.*

*CAT COLONY--social group of cats who avoid human contact and breed with each other to create a growing population of homeless cats; cats who group together in an alley, corner of a parking lot or a grassy area.*

*CAREGIVER--Anyone who puts out food for feral cats.*

*FERAL CAT--untamed domestic cat living in the wild; unaltered cats released by owners who no longer care for them; offspring of such abandoned cat.*

*HORSE-DRAWN VEHICLE--carriage, wagon, cart, sled or sleigh or other device drawn by horses which has a passenger carrying capacity.*

*TNR Program--humane and non-lethal approach to feral cat population control; comprehensive management plan where healthy feral cats are sterilized and vaccinated, then returned to their habitat and provided with long-term care.*

*Article I. Control of Dogs, Cats and Other Animals*

*§ 79-1. Running at large.*

*It shall be unlawful for any person or persons to permit any dog or cat owned, kept, maintained or in the custody or control of such person or persons to run at large, either upon the public streets, sidewalks, highways, alleys or thoroughfares of the City of Milford or upon private property of any other person or persons.*

*§ 79-2. Identification tag; violations and penalties.*

- A. *Every person who owns, controls, harbors, possesses or keeps any dog or cat over the age of six months in the City of Milford shall procure an identification tag for said animal. Within 15 days after an animal reaches the age of six months, or within 15 days after any animal over the age of six months is acquired or brought into the city, its owner shall procure an identification tag for said animal. Any owner who fails to procure such an identification tag within the time allowed shall be subject to a fine of not less than \$25 nor more than \$300. The identification tag shall contain the name, address and telephone number of the owner of the animal.*
- B. *The owner of the animal shall affix or cause to be affixed to said animal the identification tag hereinabove mentioned, and said animal shall thereafter, at any and all times, have attached to it said identification tag.*

*§ 79-3. Leash required; exception..*

- A. *No dog, cat or other animal shall be permitted in or upon any public street, sidewalk, alley, park, parkway or other public place in the city or in or upon any property belonging to said city unless said animal is on a leash and is under the complete control of the person owning or, at the time, in possession of said animal.*
- 1. Exception: Feral cats that have been trapped, spayed or neutered and re-released are exempt from §79-3.(A) . Each cat would be ear-tipped, clearly identifying it as a product of the Kent County SPCA Feral Cat TNR Program.*
- B. *Notwithstanding anything in this article to the contrary, no person shall be compelled to keep any dog, cat or other animal in his possession on a leash while in or upon any public street, alley, parkway or other public place in the city if, at the time, said animal is securely confined in an automobile.*

*§ 79-4. Feral Cats*

- A. *Individuals who choose to apprehend a feral cat running at large within the City of Milford shall have the feral cat delivered to the Kent County SPCA.*
- B. *No individual will trap a feral cat off their property of record except the Kent County SPCA pursuant to specific authorization from the City of Milford Police Department.*
- C. *Each feral cat colony will be registered by the caregivers with the City of Milford and Local Animal Control Agency, which will serve as a clearinghouse for information on current caregivers and assistance for persons found in violation of this section. A caregiver who fails to register within the time allowed shall be subject to a fine of not less than \$100 no more than \$300.*
- D. *Any person or caregiver determined to be in violation of subsections (a) through (d) below, shall be in violation and may be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance.*
- E. *Failure to comply in the time given will result in issuing a violation citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:*
- (1) Sterilize (spay/neuter) all adult cats that can be captured.*
  - (2) Vaccinate against rabies, as required by law, all cats that can be captured.*
  - (3) Make every attempt to remove kittens from the colony before eight (8) weeks of age for domestication and placement.*
  - (4) Make every attempt to sterilize all kittens over eight (8) weeks of age and before 5 months of age.*
  - (5) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or for humane euthanasia.*
  - (6) Assure responsibility and arrangements for feeding the cat colony regularly throughout the year, including weekends, holidays and vacations.*
  - (7) Keep feeding areas clean and orderly.*
  - (8) Maintain secure and safe winter shelter as required in § 79-3b of this sub-part.*
  - (9) A microchip implant and ear-tipped will be mandatory and used on feral cats in order to be identified as spayed or neutered and vaccinated member of a managed colony.*
  - (10) The feral cat caregiver shall be vaccinated for rabies, the expense will be the responsibility of the*

*individual or rescue group.*

*(11) Maintain proof of sterilization, vaccination, medical records, and implant identification for all cats.*

*These records must be provided to the Animal Control or Law Enforcement Agency upon request.*

*(F) Animal(s) creating a public nuisance – the designated agency/rescue group will be notified within forty-eight (48) hours of removal of any feral cats.*

*(G) In the event the feral cat caregiver fails to comply with this section, the designated agency/rescue group will be notified within forty-eight (48) hour period before removal of any animal. The designated agency/rescue group will attempt to resolve the situation prior to removal of a cat by an enforcement agency.*

*§ 79-5. Outdoor Housing Facilities/Feral Housing*

*(A) Restrictions.*

*(1) The following categories of cats must not be kept in outdoor facilities, unless the attending veterinarian specifically approves that practice:*

*(a) Cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;*

*(b) Breeds of cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short hair breeds in cold climates); and*

*(c) Sick, infirm, aged or young cats.*

*(2) When their acclimation status is unknown, cats must not be kept in outdoor facilities when the ambient temperature is less than 50 degrees (F).*

*(3) Shelter from the elements. Outdoor facilities for cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, vertical stretch and lie in a normal manner, and to turn about freely. It must be large enough to contain all the animals at one time. Shelters in outdoor structures for cats must contain a roof, four sides, and a floor, building surfaces in contact with animals must be impervious to moisture. Metal boxes/barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures and must:*

*(a) Provide the cats with adequate protection and shelter from the cold and heat;*

*(b) Provide the cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;*

*(c) Be provided with a wind break and rain break at the entrance; and*

*(d) Contain clean, dry, bedding material if the ambient temperature is below 50 degrees (e) Additional clean, dry, bedding is required when the temperature is 35 degrees (F) or lower.*

*§ 79-6. Noisy animals.*

*No person shall keep any animal which causes frequent or long-continued noise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section, in addition to the penalties set forth in § 79-11, is declared to be a nuisance and as such may be abated.*

*§ 79-7. Appointment of Animal Control Official; Impoundment Procedure.*

*The Society for the Prevention of Cruelty to Animals of the State of Delaware, Kent County, 32 Shelter Circle, Camden, DE (KC SPCA) has been designated as the Animal Control Agency for the City of Milford. It shall be the duty of the SPCA to apprehend any animal found in violation of the provisions of this article and to impound such animal in a suitable place. A record of the breed, color and sex of the animal and the number of its license, if any, shall be made at the time of impoundment and shall be maintained by the SPCA.*

*§ 79-8. Right of entry by Animal Control Official or Designee; Impoundment.*

*Upon presentation of proper credentials, an official of the SPCA and/or a City of Milford Code Official or Milford Police Officer may enter upon the yards of private property in order to enforce the provisions of this article. It shall be the duty of the Animal Control Official or his duly authorized representative to impound all animals over the age of six months that are untagged, as provided for in this article, or that are in or upon any private property without the permission and consent of the owner of such property or that are in or upon any public street, alley, sidewalk, park or other public place unleashed.*

*§ 79-9. Redemption of impounded animals; costs.*

*The owner of any dog apprehended and impounded by the SPCA may reclaim said dog upon the payment of any fine and cost imposed for any violation of this chapter. Further, if the animal is of a character which requires a license under the laws of the State of Delaware and does not bear a license when impounded, proof of proper licensure must be demonstrated to the SPCA prior to redemption by the owner. If proof of proper licensure cannot be demonstrated by its owner, the animal cannot be reclaimed until such time as the owner has procured a proper license.*

*§ 79-10. Obstruction of Animal Control Agency/Official.*

*No person shall willfully oppose, restrict, delay or obstruct the SPCA in the discharge or attempt to discharge or perform any act or duty authorized or prescribed herein.*

*§ 79-11. Violations and penalties. Unless otherwise established herein, the following fines and penalties shall apply to Article II of this chapter: Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$25 but not more than \$300, plus the costs of prosecution.*

#### *ARTICLE II Prohibited Animals [Adopted 8-14-1995]*

*§ 79-12. Keeping or slaughtering of certain animals within city limits.*

*No person shall keep or slaughter any swine, cow, bull, sheep, goat, goose, duck, hen, rooster, turkey or like animal or other farm animal within the City of Milford unless in conformity with Chapter 230, Zoning, and properly licensed and inspected by the appropriate state agencies.*

*§ 79-13. Animals used in parades where a City of Milford Parade Permit has been issued are exempt from the provisions of this chapter.*

*§ 79-14. Violations and penalties.*

*Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$100 but not more than \$500, plus the costs of prosecution.*

#### *ARTICLE III. Horse-drawn Vehicles*

*§ 79-15. The provisions of Article II shall not be applicable to any person who brings into the city a horse for the purpose of providing transportation in horse-drawn vehicles carrying passengers on a fixed route under the following terms and conditions:*

- A. Each route shall be approved by the City Manager.*
- B. The horse shall not be kept or maintained within the corporate limits of the city when not being used for the purpose of providing transportation.*
- C. Horse-drawn vehicles are prohibited from all other streets and areas within the city unless specifically approved by the City Manager for providing point to point transportation for special events, including but not limited to weddings, theatrical performances and funerals.*
- D. No person shall drive or operate a horse-drawn vehicle on any day or at any time that the Chief of the Milford Police Department or his designee makes a specific determination that it would be inconsistent with other special events or public safety requirements.*

#### *Section 3: Dates*

*Adopted: August 25, 2008*

*Effective September 4, 2008*

Chief Hudson provided a synopsis of the amendments which include new definitions and a section on feral cats and outdoor housing as was previously discussed and recommended by the SPCA. He pointed out that all farm animals are presently prohibited with the exception of those listed in the ordinance. A new article was added to officially allow horse-drawn vehicles.

Mr. Workman confirmed that upon finding an unlicensed cat, the SPCA will pick them up and transport them to their

shelter. Any owner who is unable to locate a cat or dog without identification, should be referred to the SPCA immediately.

Mr. Ambrose moved for adoption of Ordinance 2008-15, seconded by Mr. Workman. Motion carried by unanimous roll call vote.

*Adoption of Ordinance 2008-16/Amendment to International Building Code/Chapter 88*

The following ordinance was scheduled for final action by city council:

*An Ordinance to Amend the Code of the City of Milford, Chapter 88 thereof, entitled Building Construction the Purpose of as it Relates to Construction Documents for Commercial Structures under the International Building Code.*

*WHEREAS, The City repealed the 1993 BOCA Code and adopted the 2006 International Building Code (IBC) as the commercial building code in 2007; and*

*WHEREAS, the 1993 BOCA Code required all construction documents to be prepared by a registered design professional; and*

*WHEREAS, the 2006 IBC requires the City to take specific action should the City choose to require construction documents to be prepared by a registered design professional.*

*NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1.*

*Section 4 of Chapter 88, Building Construction, of the Code of the City of Milford is hereby amended read as follows:*

*§88-4 Additions, Insertions and Changes*

*CHANGE: 106.1 Submittal Documents.*

*Construction Documents, statement of special inspections and other data shall be submitted in one or more sets with each permit application. The construction documents shall be prepared by a registered design professional. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional.*

*Exception: The building official is authorized to waive the requirement that construction documents be prepared by a registered design professional, if in the opinion of the building official with confirmation from the City Manager, the nature of the work is minor and the waiver of said requirement will not be detrimental to the intent of this code.*

*Section 3: Dates*

*Adopted: August 25, 2008*

*Effective September 4, 2008*

Mr. Baird explained that anyone applying for commercial permits is required to have construction documents prepared by a registered design professional. This ordinance allows an exception if in the opinion of the building official (Code Official Brad Dennehy) the nature of the work is minor and would not be detrimental to this code. However, it will require the confirmation of the city manager.

Mr. Crouch moved to adopt Ordinance 2008-16, seconded by Mr. Ambrose. Motion carried by unanimous roll call vote.

Ms. Wilson asked Mr. Baird to explain the process should someone wish to appeal the decision of the code official. Mr. Baird explained it would go through the Board of Appeals as is specified in the building code.

#### *Charter Review Committee*

Mayor Marabello said there are a number of issues that need to be addressed in the charter. He will appoint a special committee to make recommendations on issues deemed necessary but particularly those that are noncompliant to state law. The goal is to have the revised charter presented to state legislators in January 2009.

The mayor reported the committee will consist of himself, the city manager, city clerk and council members Ambrose, Brooks and Spillane. He offered to serve as chair. When asked if anyone else wished to serve, no one responded.

Mr. Workman asked in what manner the charter would be addressed; the mayor advised it will be done sequentially.

It was suggested that any council member unable to attend who wishes to address an area of concern, should submit something in writing to the chair expressing their opinion.

The first meeting is scheduled for Friday, September 12<sup>th</sup> at 10:00 a.m. Because of some potential conflicts, it was decided the meetings would be on staggered days depending on the committee members' schedule.

Mayor Marabello offered to e-mail and contact council members with the dates and times of the meetings. He added that staff members will also be assisting as needed.

After a brief discussion, Mr. Spillane then offered to chair the committee.

Ms. Wilson moved for approval of the Charter Review Committee as appointed, seconded by Mr. Workman. Motion carried by unanimous roll call vote.

Mr. Baird advised the meeting site will be later determined.

#### *Executive Session-Personnel Matter; Legal Advice-Collective Bargaining*

Mr. Crouch made a motion to go into Executive Session regarding a personnel matter and collective bargaining, seconded by Ms. Wilson. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:37 p.m. to go into Executive Session to conduct a discussion regarding a personnel matter and collective bargaining.

#### *Return to Open Session*

City Council returned to Open Session at 9:27 p.m.

#### *City of Milford Planning Commission Appointments*

It was agreed to withhold the names of the planning commissioners until all relevant persons have been contacted. Mr. Workman moved to confirm the action taken in Executive Session regarding the appointment of the City of Milford Planning Commissioners, seconded by Mr. Crouch. Motion carried by unanimous roll call vote.

No action was needed on the collective bargaining issue.

#### *Adjourn*

Mr. Crouch moved to adjourn the regular session of City Council, seconded by Mr. Ambrose. Motion carried.

The Council Meeting adjourned at 9:29 p.m.

Respectfully submitted,

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

Terri K. Hudson, CMC  
City Clerk

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*August 25, 2008*

The City Council of Milford met in Workshop Session on Monday, August 25, 2008 in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware.

PRESIDING:                   Honorable Mayor Daniel Marabello

IN ATTENDANCE:       Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

Mayor Marabello convened the Workshop Session at 7:31 p.m.

*City Arborist Bill Pike/Porcelainberry Control/Goat Island/Mispyllion Wild and Scenic River Designation*

City Arborist Bill Pike reported to council on three of his ongoing projects—porcelainberry control, the creation of a wildlife preserve on Goat Island and Mispyllion Wild and Scenic River Designation.

According to Mr. Pike, approximately \$300,000 has been spent from in-kind support and grants on an invasive species herbicide plant spraying. Assistance has come from the city, Delaware Riverkeepers Network, US Fish and Wildlife Foundation, Delaware Agriculture Department, US Department of Agriculture, National Resources Conservation Service, DNREC and Delaware Estuary Partnership in their assistance.

Since last year, Mr. Pike and his assistance have become certified applicators. Prior to that, a great deal of their money was being spent on contractors. That money now goes toward salaries and the cost of herbicides.

Mr. Pike explained that at this point, it has not cost the city or property owners any money. But because of the budget cutbacks, funding has become more difficult. He feels there is enough to cover the costs this year and next year. He informs property owners they will go in and spray the first year and will come back the second year if they have a major infestation that needs a follow up, but after that it is up to them to take care of it. Mr. Pike said they are in the fourth year and still have people calling them to report the plants are coming back.

He feels the public must be educated and informed this program cannot go on forever. Currently, there are no ordinances to address these problems. He is asking for an amendment to cover invasive plant species that have been eradicated and have started to come back. It needs to make the homeowner responsible for preventing them from coming back.

He asked council to inform their constituents on this issue. Additional information will be provided through the media.

Mr. Pike then advised that he and Parks and Recreation Director Gary Emory are working together to obtain the necessary permitting for a boardwalk and bridging on Goat Island. The US Fish and Wildlife Foundation (USFWS), DNREC and Delaware Nature Society are very interested in the island becoming an educational park. USFWS has been talking with Milford School District about making this an outdoor classroom for their science curriculum. He said that Goat Island is a unique structure of freshwater tidal marshes, forest land and a good example of a Delmarva Coastal Plain area where everything is natural and undisturbed.

The trail will be an elevated boardwalk approximately three-quarters of a mile long.

Approximately \$45,000 in grant money has been spent between USFWS and DNREC's Coastal Program. Additional trees are being planted and brush has been cleared to get things ready.

Mr. Pike said that this past spring, the state botanist and he found two extremely rare plants which will be included in the booklet. A sign along the trail will identify and designate them as rare plants. He believes there may be some additional plants found during later trips.

Eagle scout troops have also expressed an interest in being trained trail guides. He expects some grad students from area colleges will be studying the area.

Mr. Pike also plans to create a Mispillion Watershed Alliance which involves a group of individuals and businesses in the Mispillion Watershed to protect the watershed by monitoring potential threats to the river's health and the wildlife areas.

Once the watershed alliance is in place and all the farmers and property owners located in the watershed are educated, the final goal is to get the federal government to name the river as a National Wild and Scenic River. That is a distinction only one other body of water in Delaware has which is a portion of the White Clay Creek. The feasibility and suitability study for the National Wild and Scenic Rivers status is lengthy, possibly two to three years, and must be authorized by US Congress.

Mr. Pike said that the city could then partner with DNREC on eco-tourism. They are willing to provide a tour boat with a captain that would run from the research station up to Milford. DNREC has offered to assist with the permitting to place a larger city dock along the new part of the riverwalk where the Growmark warehouses used to be.

Mr. Pike announced that anyone who wishes to tour the river should contact him.

The National Park has informed Mr. Pike that once the alliance is started, money will be available in the form of grants to property owners along the river to reestablish the riverbank. He has personally reconstructed 2,100 feet of riverbank he owns outside of Milford. Mr. Pike feels there is potential to restore the entire river.

He explained that he has been working on behalf of the city without any formal approval but would like councils' blessing to continue.

Mr. Ambrose said that Mr. Pike is an asset to the City of Milford. He is extremely knowledgeable about trees and plants and is always willing to offer advice. In addition, Mr. Pike has many contacts that are invaluable to the city. His recommendation is that Mr. Pike proceed with this project and council agreed.

Mr. Pike concluded by saying that in the long run, this will be a win/win situation for the city and everyone else involved.

#### *Review of Ordinance 2008-12/Chapter 200/Amendment to Subdivision Code*

The following amendment was submitted for council review:

*AN ORDINANCE TO AMEND the Code of the City of Milford by deleting and repealing Chapter 200, thereof, Subdivision of Land, and replacing it with a new Chapter 200, to be entitled Subdivision of Land, which chapter promotes and protects the public health, safety, convenience and general welfare; ensures the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provisions for housing, recreation, circulation, utilities and services; and safeguards the City from undue future expenditure for the maintenance of streets and public spaces.*

*The City of Milford hereby ordains:*

#### *Section 1.*

*The Code of the City of Milford is hereby amended by deleting and repealing Chapter 200, Subdivision of Land, in its entirety.*

#### *Section 2.*

*The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 200, hereinabove repealed, to be Chapter 200, Subdivision of Land, to read as follows:*

#### *§ 200-1. Purpose.*

*These regulations are adopted in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces.*

#### *§ 200-2. Title.*

*These regulations shall be known and may be cited as the "City of Milford, Delaware, Land Subdivision Regulations."*

§ 200-3. Definitions.

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

COMMISSION — The Planning Commission of the City of Milford, Delaware.

OPEN SPACE – (DELETE) Any land laid out as a public garden or used for the purposes of public recreation. This means space which has unimpeded public access, and which is of a suitable size and nature for sport, active or passive recreation for all age groups. This may include but is not limited to the following: Natural areas, wildlife and native plant habitat areas, stream corridors, passive or low-impact activities, trails for nonmotorized activities.

(ADD) Areas of land designated for public or private recreational use, limited to such items as parks, plazas, landscaped areas, gardens, walkways and trails, organized sporting event areas and passive recreational areas. Key points of these requirements are that no more than fifty percent (50%) of the designated open space can be in "wetlands or storm water management facilities, etc." Open space prohibits flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments and are maintained by an HOA, not any individual property owner.

PLAT — The final drawing on which the subdivision plan is presented to the City Council for approval and submitted to the County Recorder of Deeds for recording.

PROPERTY OWNERS ASSOCIATION — An association established by the subdivider as a non-stock corporation to provide for the perpetual maintenance of the common property in the subdivision.

ROADWAY — The paved portion of the street primarily used for vehicular traffic.

A. ARTERIAL STREET and HIGHWAY — A street primarily used for fast and/or heavy traffic.

B. COLLECTOR STREET — A street carrying traffic from minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.

C. MINOR STREET — A street primarily used for access to the abutting properties.

D. MARGINAL ACCESS STREET — A minor street paralleling and adjacent to an arterial street or highway and providing access to abutting properties and protection from through traffic.

E. DEAD-END STREET or CUL-DE-SAC — A street closed at one end and having only one connection with any other street.

F. HALF STREET — A street paralleling the boundary of a subdivision and lying partly in an abutting tract.

STANDARD SPECIFICATIONS FOR INSTALLATION OF UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN — The current specifications regulating subdivision design and construction as adopted by the City.

STREET — All land between property lines, whether designated as a street, highway, thoroughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way lane, place, court or any similar term.

SUBDIVIDER — Any person, firm, corporation, partnership or association or duly authorized agent who or which shall apply to the Commission for approval of the layout of any subdivision.

SUBDIVISION — The division or redivision of any tract of land into two or more lots or parcels for immediate or future sale or for building development.

SUBDIVISION, MINOR — Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to four lots.

SUPERBLOCK — An oversize residential block wherein private open spaces, closed to automobile traffic, are provided for the common use of all residents in the block.

ALLEY — A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

RIGHT-OF-WAY — A stripped of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, gas pipelines, and water line, sanitary storm sewer, and other similar uses.

§ 200-4. Application procedure.

A. Preliminary approval.

(1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

(3) *The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application.*

*Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.*

(4) *City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.*

(5) *Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.*

*B. Final approval.*

(1) *A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in §230-57.*

(2) *The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.*

(3) *The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application.*

*Upon a recommendation of approval with or without conditions, or recommendation of denial, the application shall be scheduled to be heard by City Council.*

(4) *City Council shall approve the application with or without conditions, deny the application, or table the application.*

(5) *Within 90 days of final approval from City Council, the subdivider shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Four sets will be returned to the subdivider.*

(6) *Upon recordation of the plat, the subdivider shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.*

(7) *Failure to record the approved plat within one year from the date of City Council approval shall void the final approval. In order to obtain final approval after it has been voided, the subdivider must make application for final approval again.*

(8) *Failure to record the approved plat in more than one year from the date of City Council approval shall void the preliminary approval and final approval. In order to obtain preliminary and final approval after they have been voided, the subdivider must make application for and receive preliminary approval, then make application for and receive final approval.*

*§ 200-5. General requirements and design standards.*

*The following shall be deemed to be minimum requirements and may be varied or waived by the Commission only under circumstances set forth in § 200-6:*

*A. Streets.*

(1) *The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:*

(a) *Public convenience and safety.*

(b) *Proposed uses of the land to be served by said streets.*

(c) *Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.*

(d) *Topography and other land features.*

(2) *The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.*

(3) *Minor streets shall be laid out so as to discourage their use by through traffic.*

(4) *Where a subdivision abuts or contains an existing or proposed arterial street, limited access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a non access reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with*

due regard for the requirements of future approach grades and grade separations.

(5) Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements of this chapter.

(6) Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.

(7) Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.

(8) The creation of dead-end or loop streets and superblocks will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.

(9) Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have center-line offsets of 150 feet or more.

(10) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

(11) Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.

(12) Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.

(13) Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.

(14) Right-of-way widths.

(a) Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

Street Type	Right-of-Way	Roadway	(Feet)	(Feet)
Arterial			80 to 110	As required by DelDOT
Collector			60	28
Minor, for townhouses and apartments			60	30
Minor, for other residences			50	25
Dead-end			50	22
Marginal access			30	16
*Alley			20	12

\* If utilities are present in an alley, the City reserves the right to modify the minimum right of way and roadway widths.

(b) Subdivisions utilizing open swale drainage shall have a ten-foot drainage easement along the front of each property to accommodate the back slope of the drainage swales.

(15) Half streets shall be prohibited except where essential to the reasonable development of a subdivision in conformity with the requirements of this chapter and where the Commission finds that it shall be practicable to require the dedication of the other half when the abutting property is subdivided. Wherever an approved half street shall be adjacent to a subdivision, the other half of the street shall be platted within said subdivision.

(16) Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of 76 feet and a street right-of-way diameter of 100 feet.

(17) Street names.

(a) Street names shall be selected so as not to duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission. It is recommended that all new streets shall be named in the following manner:

General Direction	Long	Short (under 1,000 feet)
North and south	Streets	Places
East and west	Avenues	Courts

<i>Diagonal Curving</i>	<i>Roads Drives</i>	<i>Ways Lanes or Circles</i>
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*(b) Arterial streets shall be named boulevards.*

*(18) Street grades shall not exceed 5%.*

*(19) Street grades shall be not less than 0.5% wherever feasible.*

*(20) Changes in street grades shall be connected by vertical curves of suitable length.*

*(21) The width of streets adjacent to areas designed, proposed or zoned for nonresidential use shall be increased by such amount as may be deemed necessary by the Commission to assure the free flow of through traffic without interference by parked or parking cars and to provide adequate and safe parking space.*

*(22) All required roads shall be constructed in accordance with the standard specifications as issued by the City Engineer.*

*B. Sidewalks and curbs.*

*(1) Sidewalks shall be required in all subdivisions. Sidewalks shall have the following widths:*

*(a) In residential subdivisions: four feet unless otherwise specified.*

*(b) In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.*

*(2) Curbs or drainage swales conveying stormwater shall be required in all subdivisions.*

*(3) All required sidewalks shall be constructed in accordance with standard specifications as issued by the City Engineer.*

*C. Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.*

*D. Blocks.*

*(1) The lengths, widths and shapes of blocks shall be determined with due regard to:*

*(a) The provision of building sites suitable to the needs of the type of use contemplated.*

*(b) Zoning requirements as to lot sizes and dimensions.*

*(c) The control, safety and convenience of pedestrian and vehicular traffic.*

*(d) The characteristics of topography.*

*(2) Block length shall not exceed 1,200 feet.*

*(3) Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.*

*(4) Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.*

*(5) Alleys shall be provided if required by the City Engineer.*

*E. Lots.*

*(1) Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.*

*(2) Lot sizes shall conform to the requirements of Chapter 230, Zoning.*

*(3) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in Chapter 230, Zoning.*

*(4) Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.*

*(5) All lots in a subdivision shall have frontage on a public street.*

*(6) Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.*

*(7) Side lot lines shall be at right angles or radial to street lines.*

*(8) No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of flood hazard may result. Such land should be set aside for uses which would not be endangered by periodic or occasional inundations.*

*(9) No lots shall be platted within 25 feet of land under the jurisdiction of the U.S. Army Corps of Engineers.*

*F. Parks, playgrounds, open spaces, school sites and natural features.*

*(1) Parks and playgrounds. Where a proposed park or playground is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, in those cases in which the Commission deems such requirements to be reasonable.*

(2) *Open spaces.* Where deemed essential by the Commission and City Planner, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale developments, the Commission or City Planner may require the dedication or reservation of sites of a character, extent and location suitable to the needs created by such development for playgrounds or parks. The Commission shall not require that more than 10% of the gross area of the open space of the subdivision to be so dedicated or reserved unless otherwise specified by the Zoning Code. In case of a conflict, the requirement of the Zoning Code prevails. The Commission shall give due credit for the provision of open spaces reserved for the common use of all property owners within the proposed subdivision by covenants in the deeds. Generally, the minimum area of contiguous open space acceptable for dedication for public use shall be at least three and preferably five acres. Open spaces with a lesser area may be approved by the Commission whenever it deems that the difference between the area offered and three acres may be made up in connection with the future subdivision of adjacent land or added to an existing recreation area.

(3) *School sites or sites for other public uses.* The Commission may also require a subdivider to set aside such area as it may deem to be required for a school or other public use. Upon failure of the proper authorities to purchase such site within one year after the date of the approval of the plat, the subdivider, upon application to the Commission and approval of such application, shall be relieved of the responsibility of reserving such land for public purposes.

(4) *Preservation of natural features.* The Commission may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and historic spots and similar irreplaceable assets. In no case shall a tree over 12 inches in diameter measured three feet from the base be removed without prior approval by the City Arborist.

G. *General grading.* No final slope on the property shall exceed the normal angle of repose of the soil of said slope as determined by the City Engineer, except where said slope consists of a natural rock formation or is supported by a retaining wall or equivalent of a design acceptable to the City Engineer.

H. *Improvements.*

(1) *In major subdivisions the following improvements are required:*

(a) *Paved streets.*

(b) *Street signs.*

(c) *Curbs and gutters, or roadside swales.* Curbs shall be required as per standard specifications to stabilize intersections, entrances, and parking areas, and where they are necessary for the conveyance of stormwater and protecting road surfaces and driveway surfaces from vehicular traffic.

(d) *Sidewalks.*

(e) *Streetlighting.*

(f) *Shade trees.* Shade trees 150 feet on center each side of the road shall be located so as not to interfere with utilities or sidewalks and shall be of the types recommended by the City Arborist.

(g) *Topsoil protection.* No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide adequate cover, as determined by the City Engineer, to all areas of the subdivision and shall be stabilized by seeding or planting.

(h) *Monuments.* Monuments shall be of the type, size and shape required by the City Engineer.

(i) *Water mains, culverts, storm sewers and sanitary sewers.*

[1] *All water installations shall be looped, all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.*

[2] *All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.*

[3] *Utility easements shall be required to be granted and recorded by the subdivider to allow extension of utilities to neighboring properties.*

(j) *Swales.* Conveyance of stormwater is permitted by open drainage systems where appropriate for environmental and engineering integrity and design. Such systems shall be separated from the edge of road to the top of bank by a minimum five-foot shoulder. The depth of such systems shall not exceed two feet below crown of road. The side slope shall be a maximum of 4:1. The bottom of the system shall have a minimum width of two feet. The system slope shall be such that the maximum velocity does not exceed two feet per second. The system has to be designed in such a way as to incorporate driveway and cross-road drainage pipes; such systems shall be restored with topsoil and sod. Temporary check dams shall be placed in intervals not to exceed 300 feet.

(k) *Headwalls.* Storm drainage pipes which are part of an open swale drainage system shall be terminated with a headwall

*in accordance with standard specifications.*

*(2) The developer shall complete all utilities and street improvements not specifically waived by the Commission in accordance with standard specifications as issued by the City Engineer and with any additional requirements specified by the Commission. Construction drawings shall be submitted in a form satisfactory to the City Engineer.*

*(3) When the Commission or the City Engineer, due to planning considerations extraneous to the subdivision, requires a standard of improvements higher than that which is sufficient to serve the subdivision, the amount of the bond to be posted shall be deemed to be satisfactory if it adequately covers the cost of improvements which would be normally required.*

*(4) The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, Planning and zoning fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.*

*§ 200-6. Variances and waivers.*

*Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 230, and the Planning Commission may, at its discretion, recommend to City Council the varying or waiving of said requirements and request conditions that substantially secure the objectives of the requirements so waived. Upon the findings of the City Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the City Council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, Chapter 230, Zoning, the Development Plan or this chapter. In varying or waiving certain requirements, the City Council may specify such conditions at will, in its judgment, secure substantially the objectives of the requirements so varied or waived.*

*Section 3: Dates*

*Planning Commission Review: August 19, 2008*

*Projected Adoption Date: August 25, 2008*

*Projected Effective Date: September 4, 2008*

Mr. Norris reviewed the amendments presented to council. He explained there is a new definition for open space. Preliminary approval will require submission of the DAC comments to the city planner before an application is scheduled for the planning commission. City council will review preliminary subdivision plans and will make a condition or approval. Final approval will remain the same in terms of the procedure with city council making the final determination. Within 90 days, the subdivision must be recorded. Failure to record the plan within one year of council approval will make the plan null and void. A number of engineering specifications were also implemented.

This was presented to the planning commission.

Mr. Spillane reiterated his concern that no more than 50% will be considered open space. He feels that should be zero. He said in Hearthstone, the ponds are considered open space and he does not feel a storm pond should be counted.

Mr. Crouch feels more comfortable with these decisions being made by the city planner and the city engineer. That should be considered along with the recommendation of the planning commission. He feels that is the reason we hire experts and if he agreed to zero, he would not know exactly what that meant. The intent is to have a good product and if our experts are recommending 50%, he must agree. Mr. Spillane said that previously, the city added more than 50% noting it could be a number between 50% and zero.

Mr. Workman explained that Mr. Spillane is trying to say is he does not want to count a stormwater pond as part of the open space. He agrees that every development must have a percentage of open space and a portion of that should be designated for recreation. He agrees those type things, including a runoff ditch, should not be counted as open space. Those are items required in a development and should not be considered part of the recreation area.

Mr. Morrow pointed out that open space is not always intended for recreation. He agrees with Mr. Crouch and feels we need to consider those standards recommended by our city planner and city engineer.

Mr. Norris clarified open space can be a variety of things. The definition says parks, plaza, landscaped areas, gardens, and walkways. Currently, a developer can count a stormwater pond as developable. A hundred acres in an R-3 can be 16 units times the acreage, but does not subtract out the stormwater ponds or wetlands. By reducing that to 50%, the density could

be less which would allow more open space. He emphasized the ordinance states not more than 50%.

Mayor Marabello advised that Meadows at Shawnee has open space though it is usable.

Mr. Spillane said there is a lot of open space at Hearthstone for stormwater ponds but no play areas for kids who have to play in the streets. People are speeding and he is afraid someone will get hurt if he doesn't try to solve it.

Mr. Norris understands recreational space at Hearthstone is limited. Mr. Ambrose recalled that when Hearthstone was built, stormwater ponds were allowed to be part of the open space calculation. If you subtract half of that area they were given, that would probably leave a lot of space where you could actively engage nature. Mr. Norris agreed verifying it would actually be vacant open areas.

Mr. Spillane explained a lot of the open space in Hearthstone involves storm drains, but if you took 50% of that away, it could be reduced to open space where kids could play or people could walk. He understands the builder is trying to get all the land he can to put something on and this would allow an extra 50% in Hearthstone to be built on.

Mr. Ambrose disagreed that in the calculation for the density, stating you take the density multiplied by a percentage. Mr. Norris said you would subtract up to 50% of the area designated as open space.

Mr. Ambrose explained that 50% of the acreage now being used for stormwater ponds would become open space so there would be less density. Mr. Norris agreed they would have to provide more open space which would not be buildable acreage.

On the other hand, Mr. Crouch pointed out that you must also be careful of where you put recreational open space. There are many people who do not want to live beside a baseball field and do not want to hear kids playing at 10 o'clock at night. He recalled the problems when the skateboard park was downtown and the neighbors who complained about the noise.

Mr. Spillane said that a sports field can be controlled but he does not feel there is enough open space for people to do things on.

When asked how to calculate net developable land, Mr. Norris explained that if a developer has a 100-acre farm that is zoned R-3, he multiplies 16 times a hundred. According to the ordinance, he can build 1,600 units. Then he comes in and says he is only going to build 1,200 or less. The city planner and city council think the maximum can be built. Mr. Norris believes there should be extra provisions in the PUD. A developer is going to subtract between 15 and 20% for the roads which removes 20 acres in this case. So you take the remaining 80 acres, multiply by 16 which is 1,280.

Mr. Baird asked if open space is counted into the net developable area; Mr. Norris confirmed it was. He explained the developer takes 16 times the acreage. From his perspective, a clearer definition is needed. His opinion is the roadways, stormwater systems and open space should all be deducted. The acreage left is then multiplied by 16 which becomes the net developable.

Mayor Marabello said anyone with further comments should set up a meeting with the city planner.

#### *Review of Ordinance 2008-13/Amendment to Zoning Code/Chapter 230*

City Planner Norris referred to his previous comments during the public hearing on this ordinance. He noted the suggestion by the city solicitor regarding site plans. If construction of approved buildings and improvements are not substantially undertaken within one year of final site plan approval, the site plan approval shall be void. The applicant may, however, request an extension and the planning commission can grant the approval for good cause.

Mr. Norris confirmed that site plans are only reviewed by the planning commission. The expiration for site plans is currently not addressed in the zoning code though it is required for subdivisions and conditional uses.

Milford will host the September SCAT meeting at Milford Senior Center on Wednesday, September 3, 2008 beginning at 6:00 p.m. Candidates running for Sussex County offices will address the membership that evening. Statewide and national candidates will be invited to the October SCAT meeting.

Mr. Workman asked for assurance that all candidates are invited to attend. Mr. Baird informed Mr. Workman that Sussex County Clerk Robin Griffin is handling the invitations.

*Delaware League of Local Government/Annual Meeting*

Delaware Local League will hold their annual meeting on Sunday, September 28, 2008 at the Dover Sheraton beginning at 1:00 p.m. Registration is required by September 22, 2008.

There is an ongoing training session for new mayor and council members. A discussion will also take place that day for the new statewide workers comp pool.

*DEMEC Annual Dinner Meeting*

The DEMEC Annual Dinner will be held Wednesday, September 24, 2008 at Dover Downs Hotel beginning at 5:30 p.m. A response is needed by September 12, 2008. Primary topics are wind power in Delaware and new industries being considered.

With no further business, Mayor Marabello declared the Workshop Session of Council adjourned. The Workshop concluded at 8:18p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*August 25, 2008*

The City Council of the City of Milford held a Public Hearing on Monday, August 25, 2008 to take public comment and make a final determination on the following matter:

The request of Davis, Bowen and Friedel, Incorporated on behalf of Tutse Tonwe, M.D. for a Conditional Use at 1011 North Walnut Street, Milford, Delaware in an R-2 District; Tax Map MD-16-174.14-01-31.00; Present Use Single Family Dwelling; Proposed Use Doctor's Office.

PRESIDING:           Honorable Mayor Daniel Marabello

IN ATTENDANCE:   Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

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

Ms. Wilson advised that Doctor Tonwe was unable to attend the hearing due to being called to the hospital.

Mr. Edwin Teneffoss of Davis, Bowen & Friedel was present to represent the application on behalf of Doctor Tonwe. Mr. Teneffoss advised this is an existing house that the doctor plans to convert into a small office for one physician to serve approximately two patients at a time.

City Planner Gary Norris advised this was reviewed by the planning commission who recommended approval. He added this is the second time Doctor Tonwe has submitted the plan per the city solicitor's request noting everything is in order.

Mayor Marabello opened the hearing for public comment. No one responded. Subsequently, Mayor Marabello closed the hearing for public comment.

The mayor then asked for comments or questions from city council. Mr. Workman asked if there is adequate parking for more than one patient. Mr. Norris explained there is adequate parking with three or four available in addition to a handicapped spot.

Mr. Crouch feels it is beneficial to have another doctor available in Milford.

Mr. Brooks moved for approval of the conditional use application to allow a doctor's office at 1011 North Walnut Street, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Mayor Marabello declared the public hearing adjourned at 7:05 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
August 25, 2008

The City Council of the City of Milford held a Public Hearing on Monday, August 25, 2008 on the following matter:

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 230, thereof, Zoning, which chapter classifies, regulates and restricts the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location, use and extent of use of buildings, structures and land for residence, trade, industry and other purposes; creates districts for said purpose and establish a Board of Adjustment; and imposes penalties for violations, so as to lessen congestion in the streets; secures safety from fire, panic and other dangers; provides adequate light and air; prevent undue concentration of population and overcrowding of land; facilitates the adequate provision of transportation, water, sewage, school, park and other public requirements; conserves the value of buildings and encourage the most appropriate use of land; and promotes the health, safety, morals and general welfare of the City of Milford.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

Mayor Marabello called the hearing to order at 7:05 p.m. to take public comment on the following ordinance as amended by the City of Milford Planning Commission:

*Ordinance 2008-13*

*The City of Milford hereby ordains:*

*Section 1.*

*The Code of the City of Milford is hereby amended by amending Chapter 230, Zoning to read as follows:*

*Section 2.*

*§ 230-4 Definitions.*

*(Add) BED AND BREAKFAST: A private owner/owner representative occupied residence with one to six guestrooms. The bed and breakfast is subordinate and incidental to the main residential use of the building. Individual guests are prohibited from staying at a particular bed and breakfast establishment for more than fourteen (14) consecutive days in any one-year period.*

*R-1 District:*

*§ 230-9 (C)*

*(Add)*

*(12) Bed and Breakfast, subject to the following requirements:*

- (a) The bed-and-breakfast establishment does not adversely affect the residential character of the neighborhood and such use is carried on in an existing residential structure.*
- (b) The building proposed for use as a bed-and-breakfast must have the owner of the bed and breakfast residing in the building as his/her principal residence.*
- (c) The serving of meals shall be limited to breakfast and afternoon tea for overnight guests and customers.*
- (d) Rooms used for sleeping shall be part of the primary residential structure and shall not have been specifically constructed for rental purposes.*
- (e) No exterior alterations other than a sign and those required by law to ensure the safety of the structure shall be made.*
- (f) The Bed and Breakfast operation shall not use more than fifty (50%) percent of the floor area of the principal residence. Common areas such as the kitchen, foyer, livingroom or dining room, are not included in this calculation.*
- (g) No areas shall be floodlit. Drives and parking areas shall not be illuminated by lighting fixtures higher than twenty (20) feet. Sidewalks shall not be illuminated by lighting fixtures higher than fifteen (15) feet. Exterior lighting shall be so shaded as to prevent illumination off-site. All external lighting, except for demonstrated security needs, shall be*

extinguished by 10:00 P.M.

(h) All Bed and Breakfasts must be in compliance with the requirements of the Uniform Building Code and Uniform Fire Code as adapted and enforced by the state fire marshal. Requirements include smoke detectors centrally located on each floor with sleeping rooms and the basement stairway. They must have battery backup and be connected or have a sounding device to provide an alarm which can be heard in all sleeping areas. Every sleeping room must provide at least 50 square feet of floor area per guest and have an operable window of 5.7 square feet or more of clear opening or exterior door for emergency escape or rescue. The maximum distance to a fire extinguisher rated 2A and having a BC rating is 75 feet.

(i) Safe food handling is the responsibility of the "host." He/she must properly train employees and other household members in safe food handling procedures and requirements and secure the proper State Health permit if applicable.

(j) Parking requirements. One space per guestroom plus two spaces for residence. Spaces shall be located to the side and rear of the building and shall be screened from adjacent properties by a five-foot high wood or masonry fence or by sight-obscuring vegetation of the same height. The area of the parking lot, including driveways, shall be graded, surfaced with asphalt or other suitable material and drained to the satisfaction of the City Engineer to the extent necessary to prevent dust, erosion or excessive water flow across streets or adjoining properties.

(k) Signs. For each bed and breakfast, one small-unlighted announcement sign not exceeding three square feet in area may be attached to and parallel with the front porch or wall of the building.

§ 230-9 (D)

(10) Decks, subject to the following requirements:

(a) The deck cannot be located in the front yard.

(b) A minimum distance of 10 feet must be maintained from the deck to the rear property line.

~~(DELETE) (c) A deck attached to buildings located on the corner must not extend beyond the building line.~~

R-2 District:

§ 230-10 (G) 1

(Add)

(j) Decks permitted in rear yards, subject to the following requirements:, subject to the following requirements:

[1] The deck cannot be located in the front or side yard.

[2] A minimum distance of 10 feet must be maintained from the deck to the rear property line.

R-3 District:

§ 230-11 (B) 1

(Add)

[8] Decks permitted in rear yards, subject to the following requirements:, subject to the following requirements:

(a) The deck cannot be located in the front or side yard.

(b) A minimum distance of 10 feet must be maintained from the deck to the rear property line.

§ 230-50. Purpose.

The site plan review has a twofold purpose. It is to assure that the large-scale developments are in accord with the Comprehensive Plan and that such developments comply with the regulations of this chapter. Site Plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures, assure consistency with the City's adopted building and design standards, the Comprehensive Plan, and the City's ~~(DELETE) Standard Specifications for Utility Construction Projects and Subdivision Pavement Design~~ **(ADD) Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design**; to provide an understanding of the impacts of proposed development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this ordinance.

§ 230-52. Review procedure.

~~(DELETE) A. The proposed site plan shall first be referred to the Code Official. If the proposed site plan is one that this chapter automatically requires a site plan review for by the Planning Commission, such a site plan shall be referred to the Planning Commission. If the proposed site plan is not one enumerated in this chapter as a development that shall automatically require the Commission's review, the City Code Official, following guidelines listed by this chapter, shall determine if such a proposed development requires review by the Planning Commission. In case the Code Official determines that the proposed development requires a site plan review, he shall then refer copies of the site plan to the Planning Commission.~~

**(ADD) A. Preliminary approval.**

(1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the

applicant and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.

(5) Preliminary approval from Planning Commission shall be void after one year, unless an extension is requested by the owner and approved for good cause by Planning Commission prior to the expiration.

B. Final approval.

(1) A final plat and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in §230-57.

(2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed consistent with the preliminary plan, if applicable, in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.

(3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.

(4) Within 90 days of final approval from Planning Commission, the applicant shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Three sets will be returned to the applicant.

(5) Upon recordation of the plat, the applicant shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.

(6) Failure to record the Plat within 90 days of Planning Commission approval will result in the approval being voided.

C. The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this chapter and to those proposed developments that require a site plan review as determined by the ~~(DELETE) Code Official~~ (ADD) City Planner. No other site plans shall be considered by the Planning Commission for review.

(ADD) D. Prior to Planning Commission holding a public hearing to review the application for the site plan, the City Engineer shall provide a copy of the signed Subdivision Agreement to the City Planner.

§ 230-57. Planning and zoning fees.

Planning and zoning fees shall be set by resolution by City Council and are maintained by the City Clerk's Office.\*

§ 230-61. (DELETE, SEE MEMO FROM CITY SOLICITOR\*\*) Effect of application; loss of status; extensions.

A. Every (ADD) zoning application, when approved by the City Council (ADD) or Planning Commission either as submitted originally or as (DELETE) submitted or resubmitted in modified form, shall constitute an agreement by the applicant that such improvement shall be made, completed and operated as shown on the plan as part of the project in accordance with the provisions of the particular zoning district (ADD) within one year of said approval. (DELETE) granted and that the (ADD) any area which has been rezoned by the City Council shall lose that status and revert to its former zoning classification in the occurrence of any of the following events:

(1) If construction of approved buildings and improvements shall not be substantially undertaken within one year of the zoning change or within such additional time as may be authorized by the City Council.

(2) If, as a result of voluntary sale or conveyance or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

B. The City Council may, at its option, grant an extension of any approved zoning application that may have expired; provided that the applicant can show good reason and justification for such an extension.

Section 3: Dates

*Planning Commission Review: August 19, 2008*

*Adoption Date: Pending*

*Effective Date: Ten Days Following Adoption by Milford City Council*

*\*A RESOLUTION REPLACING SECTION 230-57 OF THE CITY OF MILFORD ZONING CODE; AUTHORIZING ALL FUTURE FEES BE ESTABLISHED BY COUNCIL RESOLUTION.*

### *PLANNING AND ZONING FEES*

*WHEREAS, the City of Milford Planning Department needs to comprehensively update its existing land development application fee schedule; and*

*WHEREAS, the City Council wants fees for required land development applications and associated documents to keep pace with inflation, personnel, processing, and inspection requirements due to application and project complexities, and to maintain effective, quality and responsible service.*

*NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford on this \_\_\_\_ day of \_\_\_\_\_, 2008, that the City of Milford*

*Planning and Zoning Fee Schedule be revised as reflected in the Proposed Fee Schedule and BE IT FURTHER RESOLVED that the revised fee schedule shall be effective \_\_\_\_\_, 2008.*

*Planning and zoning fees effective \_\_\_\_\_:*

*A. Site plan: \$700.*

*B. Subdivision.*

*(1) Minor residential: \$300 plus \$50 per unit*

*(2) Minor commercial or industrial, less than four acres: \$500 plus \$100 per lot*

*(3) Major residential: \$1,000 plus \$10 per unit*

*(4) Major commercial or industrial, in excess of four acres: \$1,000 plus \$100 per lot*

*C. Conditional Use: \$700*

*(1) Amendment to a Conditional Use: \$700*

*D. Variance/Board of Adjustment hearing:*

*(1) Residential: \$300.*

*(2) Commercial/industrial: \$1,000.*

*E. Rezoning: \$1,000, plus \$100 per acre.*

*F. Commercial maintenance agreement: \$500.*

*G. Interpretations of Subdivision or Zoning Code: \$300.*

*H. Application resubmission or rescheduling fee (required with each resubmission as a result of a revised design or a request for change in public hearing date): \$100.*

*I. Project management and infrastructure inspection fee: Four percent of any infrastructure improvement construction costs to include stormwater management, drainage, sanitary sewer and water systems, roads, curb, gutter and sidewalks, and other related systems shall be paid by the owner/developer.*

*J. Any constructions fees (i.e., grading, curbing, gutter, subbase, traveling surface, sidewalks, etc.) incurred by the City relative to the development of any property shall be paid by the owner/developer.*

*K. Annexation.*

*(1) Residential, less than one acre: \$350*

*(2) Residential, one acre to five acres: \$2,500*

*(3) Residential, in excess of five acres: \$2,500 plus \$100 per acre*

*(4) Commercial: \$2,500 plus \$500 per acre*

*L. Zoning inspection.*

*(1) Proposed use: \$200.*

*(2) Violation of use: \$200 for first visit; \$500 for each subsequent visit.*

*M. Subdivision Agreement: \$2,500 per agreement.*

*N. Subdivision and Specifications Manual: \$30.*

*O. Zoning Code Manual: \$30.*

*P. Alley or Street Closing Petition: \$300.*

*Q. Engineering Review Fees:*

- (1) Preliminary Major Subdivision: \$500.
- (2) Final Major Subdivision: \$1500.
- (3) Final Minor Subdivision: \$500.
- (4) Final Site Plan, 0 to 5,000 square foot building: \$250.
- (5) Final Site Plan, over 5,000 square foot building, add \$250 for each additional 5,000 square feet
- (6) Sewage Pump Station: \$1500.
- (7) Revisions: \$100/sheet per revision.

**\*\*From:** Tim Willard

**Sent:** Wednesday, August 20, 2008 1:00 PM

**To:** Gary J. Norris

*As I suggested add this language to 2008-13*

*FOR Site Plans INSERT:*

*230-52.1 Site Plan Expiration*

*If construction of approved buildings and improvements are not substantially undertaken within one year of final site plan approval, the site plan approval shall be void. The applicant may, however, request and the Planning Commission may grant a one year extension for good cause.*

City Planner Norris provided a brief summary of the amendments proposed by the planning commission since the ordinance was originally presented. They have added a requirement for a bed and breakfast, procedures for decks in the R-2 and R-3 zone to be consistent with the R-1 zone, a provision for standard specifications on the installation of utility construction projects and subdivision pavement designs, a new review procedure that requires developers to address DAC comments prior to being scheduled for planning commission, a requirement that city council review preliminary plans and planning and zoning fees will be adopted by a resolution instead of being addressed in the ordinance.

Mayor Marabello then opened the hearing for public comment.

Paul Goldstein of 15 West Thrush Drive, Meadows at Shawnee, asked that the city council make sure the people of Milford are protected by not allowing a bed and breakfast to become a boarding house. He said it originally stated a person could stay fourteen days a year, but it was crossed out and changed to fourteen consistent days. That means a person can go away for a day and return for fourteen more days. People in developments do not want a house with ten or fourteen people living there under the disguise of a bed and breakfast.

City Planner Norris explained the ordinance was changed to fourteen consecutive days based on a recommendation from Dan Bond who owns two Bed and Breakfast Inns in the city. He reported there are guests that stay beyond fourteen days. The amendment stated they cannot stay longer than fourteen consecutive in any one-year period.

Mr. Brooks confirmed a person can stay fourteen days, leave for a day and then return for fourteen more days. Mr. Norris explained the purpose of the fourteen-day rule is to prevent a bed and breakfast from turning into a boarding house. However, it was amended based on Mr. Bond's information. Mr. Norris clarified that guests are only provided breakfast and an afternoon tea.

Mr. Ambrose stated he agrees with Mr. Goldstein that there must be a middle ground. However, this allows a person to stay in a motel for a day and return to the bed and breakfast which could become a permanent cycle. He asked if Mr. Norris could review this and find another way to address this concern.

Mr. Workman pointed out that if the owner has a license for a bed and breakfast that is what it should be used for. However, a boarding house would require a different license. Mr. Ambrose agrees but pointed out the key is for the owner to monitor how it is being used.

Mr. Crouch agrees there must be some compromise on the number of days while allowing the bed and breakfast to continue

to operate. He recommends that more days, for example, sixty days, be considered.

Mr. Morrow asked council to keep in mind that many of the larger industries such as the hospital, Caulk, Perdue and Seawatch often bring in contractual workers, such as engineers, whose stay may be a couple of months or so. Ms. Wilson added that her company has brought in casual doctors for a period of three months or so.

Mr. Ambrose also pointed out there is a significant difference in fees when comparing a boarding house charges to a bed and breakfast. He suggests Mr. Bond be approached about a longer period of time or even an exception for corporate customers.

Mr. Morrow understands the concern, but feels that economics will take care of this problem because of the higher cost of staying in a bed and breakfast versus a boarding house for an extended period of time.

Mr. Norris emphasized that no other bed and breakfast owner responded.

Mr. Workman said he understands the concerns but the wording needs to be specific to prevent it from being interpreted in another way.

Chuck Rini of 119 Ginger Lane stated the planning commission debated the fourteen days versus a longer period of time. Originally, the fourteen days was in a calendar year, but was changed to consecutive days to allow a days break while still having the ability to continue to use it. This was in response to only one letter received. The letter stated there are people that make bed and breakfasts a hobby though some professional people prefer to stay at a bed and breakfast rather than a hotel. He explained that at a bed and breakfast, the owner or the owners' representative must reside on the property which is more controlled than a boarding or lodging house.

Ms. Wilson pointed out that a bed and breakfast requires a conditional use approval so anytime a bed and breakfast is considered, it must come before the planning commission and council for approval. Therefore, the city is made aware of each bed and breakfast and can keep a watchful eye on them.

Joe Palermo of 5 Misty Vale Court, Meadows at Shawnee said he understands the concern because they currently have three single family homes in their subdivision that are being utilized for more than single family dwellings. They do not want to see an abuse of the situation.

Mr. Crouch asked if these dwellings have been designated as bed and breakfasts as is being discussed; Mr. Palermo said no, they are being used as shape up working houses which they plan to eliminate once they have an HOA.

Ms. Wilson suggested they notify the city planner or code official of such concerns. In her neighborhood, action was always taken to shut them down by the code official.

Mayor Marabello then closed the hearing for public comment. He added this is for public comment and informational purposes this evening. A formal vote will be taken at a later meeting.

Mayor Marabello then declared the Public Hearing over at 7:26 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*August 25, 2008*

On August 25, 2008, the City Council of the City of Milford held a Public Comment Session on Monday, August 25, 2008, prior to the commencement of Milford Council Meeting to allow the public to comment about issues of interest that impact the City of Milford.

PRESIDING:           Honorable Mayor Daniel Marabello

IN ATTENDANCE:    Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

Mayor Marabello declared the Public Comment Session open at 7:26 p.m.

No one signed up to comment.

The mayor then introduced Bob Ricker, a candidate for Sussex County Council. Mr. Ricker announced he is running for Sussex County Council and is currently on the town council in Georgetown and a former mayor. He stated he looks forward to working with the City of Milford and thanked them for allowing him to be introduced.

Mr. Starling then asked about the status of the house on the corner of Church and N.W. Front Street which appears to be under construction or possibly being torn down. He feels it is a danger to the public in its present condition which is completely open on the Church Street side.

The city manager said they met with its owner Dan Bond who is also very concerned about the condition of the property. The buildings are attached to one another and their intent was to demolish the end unit. When they started the process, it started pulling the sidewall of the second unit which caused a greater amount of the concern because there was no intent to damage the adjoining property.

He reported that over the past couple of months, there have been a number of structural engineers in and out of that property trying to determine how to complete the demolition and eliminate any further damage to the adjoining property.

The city manager stated that Mr. Bond has a contract to move forward with the demolition of the additional building and expects that work to start within the next two weeks.

Though there is a small fence around the property, Mr. Workman is concerned it is not enough to keep people out. He feels there needs to be something more substantial put up to ensure people and particularly children, are kept out.

Mr. Baird said he will arrange that but expects this to be done within a week or so. If it takes longer than that, some additional provisions will be made.

With no one signed up, Mayor Marabello closed the Public Comment Session at 7:31 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder