

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*October 27, 2008*

On October 27, 2008, the City Council of the City of Milford held a Public Comment Session 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 in order to allow the public to comment about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., 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 declared the Public Comment Session open at 7:01 p.m.

Spiro Stamat of 10284 Webb Farm Road, Lincoln, Delaware spoke about the proposed increase in the landlord fees. He asked how this ordinance will apply to the condominiums in Hearthstone and other places like Orchard Hill. He says it is attempt to punish the immigrant population that relies heavily on rentals. He added any additional costs will be passed on to them. He asked if the city will cross check ownership with absentee owners or if this will only fall back on the working poor.

He then read the following statement, called 'RIP-Milford 2008' into record:

After a long and vibrant life, this city council of Milford finally succumbed to years of extravagant living, preferential treatment, mismanagement of resources, total disregard for those living on fixed incomes, not saving during the good times so that when the downturn came you were prepared to survive the storm without inflicting financial hardship on the most vulnerable. It wasn't enough to have the highest electric, water, sewer and taxes in both Kent and Sussex counties you had to increase license fees as the final insult to an already callous reputation. When the citizens said they could not afford food with all the costs they were paying, one councilman said "Let Them Eat Cake". He explained that was a famous utterance by Marie Antoinette.

Emmett Venett of 810 N.E. Tenth Street, Milford, Delaware also spoke about the landlord tenant issue. He said he has had one tenant for over twenty years. He said that as business people, those increases are passed along to their tenants. When considering the five or six tenants he has, two people have been with him more than twenty years who are both on social security and are in their 70's. He has one person who is a bus driver and one person that is Section 8 because of a handicap. He has another person who experienced bankruptcy a couple times and is trying to recover from that. Another person works for a lumber company which is not the best place to be working at this time when considering the lack of development.

Mr. Venett feels that though \$75 is not earth shattering, he thinks most landlords will pass it along to the people paying the rent. The city is taxing this group of people through a licensing fee or transfer tax. He asked council weigh that though he knows city government has a responsibility to keep solvent while continuing to provide city services. However, on the other hand, when the licensing fee was first suggested, it was suggested merely as a means to determine who was the landlord. At that time, there was a \$25 fee for each landlord in order to keep track of who they were. He objected to it because the city has the ability to determine that information through water or tax bills.

He does not believe the enforcement issue is out of hand or has he seen any publicity that indicates it is. For the most part, responsible landlords are doing what they should. As a result, he has not seen any signs or a great outcry for more enforcement.

Mr. Venett concluded by saying he is very pleased the city is helping with the roadway and bridge issue at Lighthouse Estates to help deter traffic from the Northeast Tenth Street area. He thanked the city for their efforts.

Mark Davis of 228 Cicada Lane, Milford, Delaware said we assessed the \$25 fee a couple of years ago and found out about the new landlord ordinance through the newspaper. He feels the \$25 could have been used to notify the landlords that the fee was going to increase. He said everybody knows the landlord's address because he gets pink slips every month for his tenants when they are unable to pay the water and electric bill. He asked where the \$25 went because he has not seen anything from that.

He said that instead of another full time code enforcement official, the city should consider a part-time position. Mr. Davis pointed out there are no longer grass or weed problems and won't be over the next several months. He said there are 140 employees in the city and asked why some are unable to be cross-trained to help with this in the winter time when many other city employees are not busy. He has code enforcement agents who are neighbors that call him when something is wrong. He has homeowners insurance agents and auditors that also check his houses. It appears to him to be redundancy.

Mr. Davis thanked Councilman Brooks, Councilman Oechsler, Councilman Spillane and Councilman Ambrose for returning his phone calls on this matter.

Paul Goldstein of 15 West Thrush Drive, Meadows at Shawnee, Milford, Delaware, said that on the agenda is Hearthstone II Extension for a major subdivision. He thinks it is great we are going to be looking at it to approve it. He said when it is considered, he asks that three things be done. One, their taxes should be up to date and paid, there should be no pending violation of any nature whether it be cutting the grass, or dirt or debris and the third thing he saw in the paper they want it is set up, they are not going to put in sidewalks and curbs. The City of Milford has an ordinance that says you have to put in sidewalks.

He said what I think is happening and I don't want to happen is you say that this is an extension and that when it was originally passed, the builder did not have to conform to regulations of the city or current regulations. So when you do discuss the extension and if the motion is made and if the motion is seconded and you are going to vote on it, please protect the Citizens of Milford and require that they be in compliance with all current code and regulations in place.

With no other person signed up, Mayor Marabello closed the Public Comment Session at 7:12 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
*MINUTES OF MEETING*  
*October 27, 2008*

A Council 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, October 27, 2008.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., 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 opened the Council Meeting at 7:13 p.m.

*Recognition/Cub Scout Den 6 Pack 116/Assistant Cub Master Ed Huey*

Assistant Cub Master Edward Huey introduced Cub Scout Jacob Kimmey, Ted Kimmey, Cub Scouts Robert Knutson, and Daniel Knutson, Dean Knutson and Cub Scout Brock Huey who are working on their citizenship patch. One of the requirements for obtaining a community citizenship patch is to attend a City Council meeting in order to observe and better understand how a city operates.

*Extension Request/Hearthstone II Major Subdivision Preliminary Approval*

Attorney Jim Griffin representing the owners of Hearthstone II asked council for an extension of the preliminary approval originally granted on July 10, 2006. He recalled that last year, a two-year extension was requested though a one-year extension was granted. Council members preferred a one-year extension in order to be kept up to date on the project.

Mr. Griffin advised the application was filed in June well in advance of the preliminary approval expiration. He wanted it made clear they did not wait until the extension expired to apply.

He reported that after preliminary approval was granted in July 2006, applications were submitted to the required agencies. Approvals have been received from DELDOT, Soil Conservation and the State Health Department. An application has been submitted to the fire marshal and a few other details needed to be worked on though he said it is substantially in hand. The fire marshal recommended the applicant contact the Carlisle Fire Company. His applicant contacted the fire company and was told they had issued an approval and a copy of the letter was provided which stated they reviewed the plan which meets their approval. He said the required agency approvals are in hand.

Mr. Griffin advised his client has made substantial and steady progress to get these approvals. The PLUS process has also been completed. The number of approvals and steps needed for a project of this size often place a developer in a situation where they need to ask for extensions. He feels that council will be seeing a number of requests for extensions on development given the state of the economy.

He said that last week, they were before the planning commission on the matter of the extension of the preliminary approval. They voted unanimously to recommend to council that this extension be granted. He said he is happy to answer any questions council has though he does not see this as the forum in which they would go into design aspects because they have received preliminary approval. They are not yet at the level where they would ask for final approval and that has not yet been resolved in front of the planning commission as they will go back before them with a final plan or at least another meeting which he expects to take place in November.

Mr. Griffin said they are asking council to grant an extension to allow the permit to stay alive.

Mayor Marabello advised council that Mr. Baird would like to make some comments.

Mr. Baird said that adding to Mr. Griffin's remarks, the applicant has been working with the City Planner, Mr. Norris and City Engineer Mr. Mallamo on some of the planning issues as well as the utility designs and specifically the sewer. He said those issues have been resolved to a point they are being considered by the planning commission. As Mr. Griffin stated, last week, the planning commission voted to table the application and will be reconsidered at their meeting in November. Therefore, the application is moving forward and he would like to reiterate the comments that the city has been working hand in hand with the applicant on this project thus far and would recommend city council approve the one-year extension as they continue to work on the project.

Mr. Brooks said that there are several new council members and a new mayor. He said the subject came up tonight about sidewalks. He asked if sidewalks will be included in the project. Mr. Griffin advised that when the preliminary approval was granted, there were no sidewalks engineered into the plan. They do not have final approval and he is sure that issue will come back up before the commission whose final approval is needed before those issues are resolved. Those members on council at the time will recall this was represented as a mirror of Hearthstone I designed with drainage swales and not sidewalks. Whatever provisions of the code that existed in relation to sidewalks, existed then. They did not come into existence since then. It was preliminarily approved without sidewalks.

Mr. Workman asked what was done at Hearthstone II over the past year and was any dirt moved. He added this is the second extension and again asked what has been done on this property. Mr. Griffin explained that until all agency permits were received, they were not in a position to do anything. Any land disturbing activity can only occur after soil conservation has given the go ahead which has since been received during the last year. They have not been in a position where they could actually start moving dirt.

Mr. Workman confirmed that the property has been maintained with regard to grass and weeds to make sure it was cleaned up to surrounding neighbors. Personally, Mr. Griffin said he did not know because he was not that familiar with it not seeing it on a daily basis. Dale Faulkner of Key Properties advised the land is presently being farmed.

Mr. Oechsler asked how long it takes to receive these approvals from the state and why it would take longer than two years. Mr. Griffin advised that the first step is the PLUS process which takes several months. He thinks that happened in 2007. He also stated it is difficult to get every permit within two years. The PLUS committee consists of representatives from every state agency who make comments. Each of those comments require a response. There is some give and take and exchange back and forth between the developer and PLUS. If that process ends with a favorable decision, they will tell you they have no objections to the development. That process alone can be a very lengthy one because there is a waiting list to get before them. Then the applicants attend the monthly PLUS meetings with state agency experts to discuss their plans and identify any possible problems and solutions. After the meeting with PLUS and the state agencies, they then give you comments to which you have to respond.

Mr. Griffin reported the state fire marshal approval was granted in March of 2007; DELDOT provided a letter of no objection in March of 2008. He explained the DELDOT application alone takes approximately a year. The Sussex Conservation District granted approval in May of 2008. The State Health Department approval for the water distribution system was granted in October 2007. He added this shows that something has been happening throughout this time and even before the permits were granted. Prior to and during this process, the project was being engineered to support the applications and/or comments.

Mr. Morrow then reconfirmed that fire marshal approval was received. Mr. Griffin explained that at last month's planning commission meeting, Commissioner Marvin Sharp indicated that Carlisle Fire Company had not given their approval of the project. The fire marshal letter suggested they talk to Carlisle. Since that meeting last week, Mr. Faulkner contacted the fire company at which time he was informed they had reviewed the plans and approved the project. A letter followed which can now be presented to the planning commission at the November meeting which Mr. Morrow confirmed is next month.

It was confirmed that by the next meeting for the planning commission, all agency approvals will have been received. Mr.

Griffin believes that is correct.

Mr. Faulkner further explained that at the last DAC meeting, which was the second DAC meeting, State Fire Marshal Duane Fox discussed some changes due to the fact that the City of Milford adopted a new building code so some modifications may be needed to the plan. He suggested the applicant contact the Carlisle Fire Company to confirm there were no conflicts with the 9-11 addressing. On October 17<sup>th</sup>, a letter was sent to them by fax providing the street addresses. On the same date, they responded back by indicating they had no problems with the addressing. Today, he received the official letter stating everything was ok.

Mr. Workman then verified that all agency approvals have now been received.

Mr. Spillane asked Mr. Griffin to fill him in on the land that was supposed to be put aside for a tower for the city and for the fire house that was supposed to be put aside and will that be on this land on an area set aside.

Property Owner Elmer Fannin advised that at the time of the annexation, the city discussed a site for a fire substation being considered at the Vreeland Farm or on the east side of Route 1. At the time, there was a consideration for a water tower, but since then, more annexations and developments have occurred and other sites have been considered. Nothing has ever been decided about where the new water tower would go. A test well was done at one of his properties near the intersection of Route 30.

Mr. Spillane said it was his understanding there was an approval done and land was supposed to be set aside for this. He asked if that is correct. Mr. Fannin said that at the time of the annexation, they asked if they would give consideration. Mr. Fannin recalled that they agreed to cooperate if the city decided to locate the water tower on this site. The fire company was being considered for the Vreeland Farm and they agreed to look at a parcel down there. However, he does not recall this being an exchange for being annexed into the city. He said that consideration was given if the city wished to purchase some land in this area.

Mr. Spillane asked Mr. Fannin if he put up land himself aside for the city or he didn't say they could have this land. Mr. Fannin recalled saying it could be made available if the city said they would like to purchase some land here or there to do these things, but there was no exchanges set up.

Ms. Wilson then clarified that only the extension is on the agenda. She then moved that the one-year extension be granted for Hearthstone II preliminary major subdivision, seconded by Mr. Starling.

When asked for a clarification on the fire marshal approval, Mr. Griffin explained that the fire marshal approval was received in March 2007. However, the DAC (Milford's Development Advisory Council) had some additional issues they asked the applicant to work out with the fire marshal.

Mr. Spillane then asked if the applicant would conform to the codes in effect today. Mr. Griffin explained that this is not an occasion to redesign and re-engineer the project but instead is an occasion to decide whether council will allow the developer to keep the existing permit until they can get back to the planning commission. If the commission has concerns about what was approved during the preliminary phase, that issue may be brought up. But he is not in a position to personally tell council his client will change the entire development in mid stream. Final approval will be addressed by the planning commission next month.

Mayor Marabello then said the motion was made and duly seconded and directed the city clerk to poll the council. Motion carried by the following 5-3 vote:

Yes-Ambrose, Spillane, Morrow, Starling, Wilson  
No-Workman, Oechsler, Brooks

Mayor Marabello advised the extension was approved by a vote of 5-3. Mr. Griffin thanked council.

*Introduction of Ordinance 2008-14/Adoption of City of Milford 2008 Comprehensive Plan*

The following ordinance was introduced for review and later adoption by council:

**ORDINANCE NO. 2008-14**  
**APPROVING AND ADOPTING BY ORDINANCE**  
**THE 2008 CITY OF MILFORD COMPREHENSIVE PLAN**

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

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

*WHEREAS, the City of Milford's Comprehensive Plan was last adopted in 2003 (as amended) and requires revision to account for physical changes and revitalization accomplishments which have since occurred in both the built and natural environments of the community; and*

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

*WHEREAS, the 2008 City of Milford Comprehensive Plan will be the foundation for revision or improvement of the City's Zoning Ordinance, Subdivision Regulations, Housing and Maintenance Codes, Capital Improvement Program, Community Development Program, Public-Private Agreements, Potential Annexation Plans and other implementation tools;*

*WHEREAS, the Mayor and City Council held a duly advertised public hearing on the Plan on November 10, 2008, at which time the 2008 City of Milford Comprehensive Plan was reviewed with the public.*

*NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the 2008 City of Milford Comprehensive Plan is hereby adopted and made effective as the Comprehensive Plan for Milford on this 10<sup>th</sup> day of November, 2008.*

*Dates:*

*Ordinance Introduction: October 27, 2008*

*Effective Date: Ten Days Following Approval of City Council*

City Planner recalled that on September 3, 2008, the comprehensive plan was submitted to the PLUS committee for review and comments. On October 2, 2008, a 23-page response was received. On October 20<sup>th</sup>, 101 property owners east of Route 1 were invited to attend a meeting at Milford Library to review the comp plan for that area. A meeting with representatives of State Planning and Department of Agriculture Secretary Scuse took place on October 23<sup>rd</sup>.

Mr. Norris summarized the comments received from state planning. The first major comment was for an explanation of the urban growth boundary. The second point was the development of maps showing lands which the city intends to consider for annexation in the next five years along with an annexation phasing map. According to the city planner, the criteria was successfully met at the October 23<sup>rd</sup> meeting by explaining the urban growth boundary and where the city

intends to grow over the next twenty years. In addition, the urban growth boundary would be revised every five years as required by state law and the adoption of an amended comprehensive plan.

The third comment addressed the Department of Agriculture's concern about the annexation of lands east of Route 1. A meeting was held with the property owners east of Route 1 at which time the city's concept that those lands be open space was defined as a sending area for transfer of development rights. Mr. Norris explained we would also continue the agriculture preservation in that area and conservation zoning of rural lands and possible acquisition of land by the city for open space.

The state also objected to lands in agriculture preservation to the north. The urban growth boundary has since been redrawn of which approximately 400 acres would not be included in the north area. The state seemed satisfied with that configuration.

The state wanted the city to mention there was a memorandum of understanding regarding the east planning area which will be included as well.

The city must also coordinate with both Kent and Sussex counties. A meeting has been scheduled for November 10<sup>th</sup> with representatives from Kent County and Sussex County Planning Commissions. At that time, Milford will explain its comprehensive plan; they will reciprocate and explain their comprehensive plans to the city.

The last comment is the city must review both county plans as well as state strategies.

City Manager Baird added that the lands east of Route 1, originally proposed in the city's growth area, were a major concern of the state and particularly the Department of Agriculture. Once the open space concept was presented, the state seemed very receptive to what was being proposed as far as the current and future utilization of those lands within the city's growth boundaries.

He said the other items have been addressed by the city planner many of which were well underway by the time they met with the state planning office and Chief of Staff Scuse. He feels that once these issues are addressed and submitted in writing, the city should receive a favorable nod.

The public hearing process will continue as scheduled. The adoption of the comp plan is now scheduled around the end of November or early December. It was recommended the plan be approved at the local level in order to be certified by Governor Ruth Ann Minner's Office before her term expires in January.

#### *Adoption of Ordinance 2008-8/Residential Rental Operating License/Chapter 180*

The following ordinance was scheduled for adoption by city council:

#### *AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 180 THEREOF, ENTITLED RESIDENTIAL RENTAL OPERATING LICENSE, FOR THE PURPOSE OF AMENDING THE LICENSE FEE*

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

*Section 1. The Code of the City of Milford is hereby amended by deleting and repealing Chapter 180, Residential Rental Operating License, in its entirety.*

*Section 2. The Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Chapter 180, hereinabove repealed, to be Chapter 180, Residential Rental Operating License, to read as follows:*

#### *Section 3.*

*§ 180-1. Title.*

*This chapter shall be known as the "Residential Rental Operating License Ordinance."*

§ 180-2. Purpose.

*This chapter is adopted to protect the health, safety and welfare of the City residents and to prevent deterioration of the housing stock in the City.*

§ 180-3. Definitions.

*For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:*

*CITY — The City of Milford, Delaware.*

*CODE OFFICIAL — The Building Inspector and/or Code Enforcement Official.*

*LANDLORD — A person and/or an authorized representative, heir, successor or assignee of a person who leases or otherwise permits another person to occupy a rental unit for money or other consideration.*

*PERSON — An individual, proprietorship, partnership, corporation, association, or other legal entity.*

*RENTAL UNIT — Any building or any portion of a building in which a person resides in consideration of which money or other goods or services are paid or provided to the owner of such building, the owner's authorized representative or another tenant.*

*TENANT—A person who occupies a rental unit for which said person pays money or gives other consideration.*

§180-4. Rental operating license required.

*No landlord shall operate a rental unit in the City unless an application has been filed and a current rental operating license has been issued for the specified rental unit for the current year.*

§ 180-5. Application for rental operating license and agreement to comply.

- A. Every landlord shall apply for a rental operating license and shall agree to comply with all provisions of this and any other applicable City ordinance.*
- B. The application shall be in the form provided by the Code Enforcement Department and shall be accompanied by a check or money order payable to the City of Milford in the amount set forth by City Council.*
- C. It shall be unlawful for any person to operate any rental dwelling without obtaining a license from the licensing division of the department of planning and inspections in order to determine compliance. The license shall expire annually on December 31. The fee for the annual license shall be \$75.00 for each unit.*
- D. In the event that the license fee set forth herein is not paid on the date due then the licensee shall incur a penalty fee in the amount of \$25.00 per month per unit until the license fee is paid*
- E. An owner whose license has been suspended shall pay a \$100.00 reinstatement fee.*
- F. The owner or occupant of any rental shall not be entitled to receive utilities until the license fee required is paid in full and City personnel shall refuse to provide sewage, water and electric to the property until satisfactory proof is furnished that such fee has been paid.*

§180-6. Contents of Applications.

- A. Every landlord shall supply the following information to the City as part of the annual application for a rental operating license and agreement to comply:*
  - 1) The mailing and street address of the rental units.*
  - 2) Name of responsible party leasing the unit and telephone number at time of application.*
  - 3) The total number of persons living in the rental unit at time of application.*
  - 4) Landlord's name, mailing address and telephone number.*

§180-7. Regulations for the issuance of licenses.

- A. If violations are found that pose a health or safety risk to the tenants, the unit may be judged as unfit for occupancy by the Code Official.*
- B. Expiration of permits. Each rental operating license shall expire on December 31 of the year in which it was issued. No prorating, rebate or refund shall not be made because of nonuse of the permit.*
- C. Timing for reapplication.*
  - 1) Application to renew a rental operating license shall be made at least 60 days prior to the expiration date of the current license.*

2) *When reapplication is made fewer than 30 days before the expiration date, the pendency of the application will not prevent the expiration of the license.*

D. *Every rental unit owned shall have a "caretaker" designated by the owner.*

1) *The caretaker may be the property owner if residing within a 10 mile radius of Milford, Delaware.*

2) *The caretaker shall be an adult person(s) 18 years or older, specifically identified in writing by the owner on the rental license application (stating name, address and telephone numbers) and reside in such proximity to the City as to allow him or her to meet with the Code Enforcement Official at the rental unit within 24 hours of receipt of notice from the Code Enforcement Official.*

3) *The caretaker shall be charged, by the owner, with responsibility and authority to deal with occupants of the premises on behalf of the owner, to make repairs to the rental unit, to maintain the premises and the common areas thereof, and to accept service of process on behalf of the owner.*

4) *Once notified of a defective condition and unless circumstances are beyond the caretaker's control, the caretaker will be given an amount of time to make repairs as deemed reasonable by the Code Official.*

5) *The owner shall notify the City in writing of any changes in the name, address, and/or telephone number of the caretaker.*

E. *The owner is subject to penalties as defined in § 180-9 for failure to comply.*

#### *§180-8. Inspections.*

A. *The Code Enforcement Official reserves the right to inspect property at any time to insure compliance with all property maintenance (Chapter 174), zoning (Chapter 230), and codes.*

B. *When such inspections are deemed necessary, the Code Enforcement Official will provide 24 hours' notice to the owner or caretaker.*

1) *Exceptions to this rule will apply when health or safety conditions exist that require immediate inspection.*

C. *A rental unit shall be deemed to be not in substantial compliance if:*

1) *There are one or more violations that pose a serious and substantial threat to the health, safety or welfare of the occupants.*

2) *There are an extensive number of minor violations that, cumulatively, pose a significant threat to the health, safety, and welfare of the occupants.*

D. *When the Code Enforcement Official schedules an inspection, it is the responsibility of the property owner to make sure the structure/property is ready by the time the inspector arrives on site.*

1) *If an inspection needs to be cancelled or rescheduled the Code Enforcer Officer must be notified by 8:30 am the day of the inspection.*

2) *If an inspector arrives onsite and the structure/property is not ready and the inspection was not cancelled or rescheduled, a fee of \$100 must be paid at City Hall before the inspection can be rescheduled.*

E. *When conditions of a property are such that cause more than one follow up inspection, for the purpose of ensuring compliance, a fee of \$50 per inspection will be imposed. §*

#### *§180-9. Violations and penalties; enforcement.*

A. *Penalty for violation.*

1) *Any property owner who shall violate any provisions of this chapter or who fails to comply with any notice or order issued by a Code Enforcement Official pursuant to the provisions of this chapter shall be guilty of violating the provisions of this chapter and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000. The minimum fine is not subject to suspension or reduction.*

2) *Except where an appeal is taken, each day of a separate and continuing violation shall be deemed a separate offense.*

B. *Should the aforesaid penalties not be paid within 30 days of being assessed, and after notice of said failure is served, then the property covered by this chapter will be assessed for the unpaid penalties, which shall be collected in the same manner and at the same time as City taxes.*

C. *If any of the cited violations are not remedied, the Code Enforcement Official shall revoke the residential rental operating license.*

D. *The remedies contained within this section shall further not be exclusive, but shall be in addition to any other remedy provided by law, so long as not inconsistent herewith, nor shall the invoking of any remedy or procedure contained within this section preclude the pursuit of any and all other remedies, and the same are intended to be cumulative.*

Section 4.Dates.

*Introduction: October 13, 2008*

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

Mr. Baird recalled this item being introduced at a previous meeting after considerable discussion throughout the year. In addition to the remarks heard during the public comment session, Mr. Baird met earlier today with Randy Marvel of the Marvel Agency regarding some similar issues. He felt the following issues should be incorporated into the ordinance:

1) The language and definitions are unclear; we assume this is to apply to any and all rental units in Milford including apartments both for profit and subsidized, single family homes, condos, duplexes and rooming houses. The law needs to clearly state this and that the \$75 is for each and every rental unit.

Mr. Baird assured Mr. Marvel this fee would apply across the board to every type of rental unit.

Can the caretaker be a management company (corporation, LLC and partnership)?

Mr. Baird said the answer is yes and the ordinance will be clarified as the way it is currently written as it refers to an individual only.

The State of Delaware Landlord Tenant Code requires a landlord give a tenant 48-hour notice before the landlord can enter a unit unless it is an emergency. An owner or caretaker cannot grant access to the code enforcement official with 24-hour notice. The inspection section of the ordinance will not work and the city cannot force an owner to violate the Landlord Tenant Code.

The city manager said that he and Mr. Marvel came to an agreement about the possibility of citing exceptions to the 24-hour notice. He explained that the 24-hour notice access and notice will work when it deals with the exterior of the premise, but the problem occurs when entering the unit. If a situation occurs when the 48-hour is required, that will be listed in the ordinance as an exception. It will be noted that the inspection will be in accordance with the Delaware Landlord Tenant Code.

Will a license be required for 2008 and again in January for 2009?

Mr. Baird expects this to be implemented in January of 2009 so the license will apply to the 2009 calendar year.

Mr. Ambrose agrees the ordinance needs some fine tuning. He also recommends a public hearing be scheduled to hear public comments. He believes there are many misconceptions about the ordinance and would like them clarified.

Council agreed a public hearing is needed. Mr. Brooks noted this will affect a number of people and his concern is tenants who will receive an increase in their rent. Though \$10 seems minor to some, it is an impact on someone living on a fixed income.

Mr. Ambrose appreciates the concern and stated that as a landlord, he is going to absorb the \$75 fee and will not pass that onto his tenants. He asked that other landlords give that consideration as well. He pointed out it is a little more than \$6 a month which he feels landlords can easier absorb. He has a tenant similar to what Mr. Venett described whose rent cannot be increased.

Mr. Ambrose then asked that the vote be postponed until a final version of the ordinance is provided. In the meantime, a public hearing should be scheduled to give the public an opportunity to speak.

Mr. Workman recommends a public hearing be scheduled before the ordinance is amended so that any new recommendations can be implemented. The ordinance would then be finalized and then scheduled for adoption.

Mr. Ambrose prefers the proposed amendments be made and noted and any additional changes be made after the public hearing.

Mr. Ambrose moved to postpone adoption of Ordinance 2008-8 until a public hearing is scheduled and any amendments be incorporated for a final vote, seconded by Mr. Workman. Motion carried with no one opposed.

The public hearing was scheduled for Monday, November 24, 2008

*Proposal/Lighthouse Christian Center/Carpenters Pit Road Bridge Extension*

Mr. Baird recalled the proposed development at the end of Carpenter Pit Road. It involves a residential subdivision and commercial properties including a hotel, church and Christian school. He advised the developer is required to complete roadway improvements on Carpenter Pit Road from Tenth Street to the entrance of the residential subdivision. From that point forward moving north on Carpenter Pit Road, the church is responsible for improving the roadway from the entrance into the subdivision north, to where it connects with Big Stone Beach Road/New Wharf Road. A bridge was required which resulted in an alignment issue that deemed it be one way only. That has been a point of contention from traffic circulation and a condition of approval for the commercial development side. Once the development in that area reaches a certain point, it will need to be widened.

Century Engineering has been working with Lighthouse Christian Center on the improvements to Carpenter Pit Road and the bridge. Lighthouse has been successful in obtaining \$120,000 in community transportation funds from the general assembly. The church is ineligible to be a direct recipient of those funds which is how the city became involved. Since the bridge and roadway improvements will be dedicated for public use and under public ownership, community transportation funds can be utilized.

A copy of the agreement between the State of Delaware and the city for the \$120,000 was executed by the mayor and is included in the packet. Mr. Baird explained it was signed to secure the funding to insure it would be earmarked for use on this project. However, council will need to confirm the agreement.

Also included is an agreement between the city and Lighthouse Christian Center. It states the church is responsible for the work being done; the city will provide the \$120,000 pass thru money from the state for this project. The \$120,000 will be used for engineering services on the design and expansion of the bridge to accommodate two-way traffic. Any funds left over from the design will be used for the construction of the bridge. Any costs above \$120,000 will be the sole responsibility of Lighthouse Christian Center.

The third proposal is between the City of Milford and Century Engineering. Because the city will be the recipient of the community transportation funds, the contract for engineering services needs to be between Century Engineering and the city. It also covers contract administration services associated with any permitting, bidding and award of the bid.

Once the design is completed, Century will oversee the bid of the project though it will be in accordance with city procurement requirements. Those bids will come back to be awarded by council. At that time, there will be a clarification of the exact amount needed for the project from the community transportation funds as well as the amount Lighthouse Christian Center will need to provide.

The bridge was originally designed to be a two-way bridge and was reviewed and approved by the Department of Transportation. The construction was built according to the design. During the review by DELDOT, it was determined the alignment was off which created a sharper than preferred bend in the road for traffic heading north.

Scott Rathfon and Kristin Conway of Century Engineering were present. Mr. Rathfon explained the way the bridge is skewed now and only one lane will safely fit across the bridge. The one way bridge is only a 30 mile per hour design speed.

Ms. Conway added the \$120,000 will be used toward the bridge expansion and toward the design which includes a conceptual alignment to correct the problem.

Mr. Brooks recalled that when the project was originally presented, council approved it based on the fact that the north entrance and exit would be used primarily.

Mr. Morrow moved for approval of all three agreements, seconded by Mr. Brooks. Motion carried by unanimous roll call vote.

*Lease Agreement/Godwin Pumps of America, Incorporated*

The city manager advised that Godwin Pumps provides emergency and bypass pumping equipment for our water and sewer operations. All of their equipment is currently stored in their home office in New Jersey so when emergency situations occur, it takes some time to get the equipment to Milford.

Godwin has been exploring locations in this area to store their pumps so they would be available to their customers in this area.

The proposal is to allow the storage of two pumps in our public works yard. In return, the city would be able to utilize those pumps at any given time for little if any charge. If approved by council, the pumps would always be available in an emergency situation.

According to the city manager, the city has considered purchasing a bypass pump to have on hand. Having the equipment stored here would alleviate the need to purchase that equipment which will save the city between \$40,000 and \$50,000.

Godwin Pumps will be maintaining their own insurance and the city will be named as an additional insured.

When asked if our crews can install the pumps without Godwin being involved, Mr. Baird explained the local representative, who lives in Harrington, would be informed the pump was going to be used and the hours logged.

Mr. Ambrose moved for approval of the Lease Agreement with Godwin Pumps of America, for one year, to be renewed on an annual basis, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

*Kent Economic Partnership, Incorporated/Small Community Air Service Development Program*

Mayor Marabello advised this represents our portion of a feasibility study for air service out of the Dover area. Of the local share contribution of \$15,000, Milford's portion is \$500.

Mr. Baird added the total program is \$150,000 of which \$135,000 is being funded by the federal government. The largest contributors are Kent County Levy Court and the City of Dover. The remaining balance is apportioned over the surrounding communities.

Mr. Oechsler moved for approval of the \$500 payment to the City of Dover for the Small Community Air Service Grant, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

*City of Milford Planning Commission Vacancy*

Due to a recent vacancy in the planning commission, Mayor Marabello has contacted the people who have applications on file. Those he spoke with still want to be considered. However, other residents have also expressed an interest.

The vacancy was posted with a deadline of November 10<sup>th</sup> with the intent to make the appointment by the end of November.

Mr. Workman agreed the position needs to be filled as soon as possible noting that a second ward resident should be selected in order to keep the commission balanced by wards.

Mr. Baird added that he will distribute copies of the applications before the November 10<sup>th</sup> meeting. Mayor Marabello confirmed the appointment will be made at the November 24<sup>th</sup> council meeting.

*City Hall Facility Needs & Assessment Committee Meeting*

Mr. Workman advised a meeting will be held Thursday evening at 6:00 p.m. at City Hall.

*Adjourn*

With no further business, Mr. Morrow moved to adjourn the Council Meeting, seconded by Mr. Workman. Motion carried. The Council Meeting adjourned at 8:13 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  
*October 27, 2008*

A Workshop Session of Milford City Council was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, October 27, 2008.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., 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

A Workshop Session to discuss a proposed Adequate Public Facilities Ordinance was postponed until late November as was announced by Mayor Marabello during the Council Meeting on this date.

He advised this will be coordinated with the assistance of Kent County Levy Court Commissioner Eric Buckson.

Respectfully submitted,

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

Terri K. Hudson, CMC  
City Clerk/Recorder