

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 10, 2008

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 10, 2008.

PRESIDING: Vice Mayor Katrina Wilson

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., Owen Brooks, Jr. and James Starling, Sr.

ALSO: City Manager David Baird, Police Lieutenant Kenneth Brown and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Vice Mayor Wilson called the Monthly Meeting to order at 8:07 p.m.

INVOCATION & PLEDGE OF ALLEGIANCE

Following the Pledge of Allegiance, Councilman Starling gave the invocation.

APPROVAL OF MINUTES

Mr. Brooks moved for approval of the October 1, 13, 15, 27 and 30, 2008 minutes as submitted with Mr. Starling seconding.

When asked for questions, Mr. Spillane said that on October 13, 2008, they were discussing a subject and City Solicitor Willard said he owned some ground or property at Hearthstone. He said he wants it clear that he does not own any property. Mr. Spillane advised it was on page four of the October 13, 2008 minutes. City Solicitor said he stands corrected and apologized. Mr. Spillane wanted it made clear he does not own property.

Also on the October 13, 2008 minutes, Mr. Spillane wants to reflect his understanding of the intent and approval of Hearthstone II. He said he recalled we voted on the approval of Hearthstone II Extension for a new period of one year with the clear understanding that all current taxes do have to be paid and that the company is up to date on them as well as there are no code problems with them. He said it has been brought to his attention through a taxpayer that the city was to comment on this company that we were talking about and if it is in compliance with both of these items in this process. Mr. Spillane asked the city manager to bring council up to date on that because he does not think it was brought up that the company was in compliance with their code and their current status of paying taxes on the Hearthstone Manor issue.

When asked to restate his question, Mr. Spillane said that on Hearthstone II, he read back over it and a couple of people called him and said they did not understand and thought we were supposed to bring it up that companies are paid up in code enforcement before council will approve anything. He said we didn't bring that up and he wants to clear it up that the company is up to date on the code and all of that. He just wants David to comment on that because he doesn't think it was talked about in the minutes. We didn't certify the company was up to date.

Mr. Baird said he is trying to find the place in the minutes that this relates to. When asked where in the minutes Mr. Spillane was referring to, he said it was in the Hearthstone II section in the October 13th minutes. He said he was just trying to clarify that the company was up to date on taxes.

Mr. Baird asked the exact location in the October 13th minutes. After several minutes, Vice Mayor Wilson said for lack

of not knowing exactly where this is located, she asked Mr. Spillane if it is something they can get back with him to prevent discussing a matter that no one is able to find. She does not want to speak incorrectly.

Mr. Ambrose said he is confused because we are in the process of approving the minutes. He asked if the minutes accurately reflect what was said. He explained approving the minutes has nothing to do with what Mr. Spillane thinks is in the code. The minutes need to be approved if they reflect what occurred. Mr. Spillane said he remembers someone asking a question if all of the codes were enforced and that it was paid up on all the taxes. He remembers hearing a response but he does not see it in the minutes. He is just trying to clarify it and that we are clear on this.

Mr. Oechsler then advised Mr. Spillane that Hearthstone II was discussed during the October 27th meeting. He believes it starts on page one or two.

Mr. Starling suggests that if someone wants to discuss or question something and it is brought before council, that information needs to be ready to be presented. By looking for this, council is wasting time because of how long it is taking to find where Mr. Spillane is talking about.

Mr. Spillane then said it starts on page 109. He said he was questioned about that by several people and he wants to make sure it is in the minutes.

Vice Mayor Wilson directed the city clerk to go back and review the previous recording for the missing information Mr. Spillane is referring to.

Mr. Spillane then apologized for giving the wrong page number and then said it actually starts with the extension request on page 115. Mr. Spillane asked Mr. Baird to just tell us real quick.

The city solicitor then explained that from what has been said, it appears to be a compliance issue and the motion was to grant the extension with this condition. If the approval was based on that issue, the recording needs to be reviewed. He agrees that if the minutes do not have this in them, then the tape will need to be reviewed to determine what information is missing.

Mr. Spillane emphasized that if it does not have it in it, we will need to go back and address it again.

Vice Mayor Wilson asked Mr. Spillane if it would be all right for Mr. Baird to get back with Mr. Spillane at a later date. Mr. Spillane said yes.

Motion then carried with no one opposed.

Mr. Spillane then confirmed that this matter will be checked into.

Mr. Brooks questioned the solicitor as to what just occurred. Mr. Willard said there was a motion on the table to approve the minutes which was seconded. When the vice mayor asked for questions, the motion was called and then carried unanimously. In between, there was a discussion to check the tape to see if something is missing in reference to a condition on Hearthstone's taxes. If that is what happened, after reviewing the tape, the city clerk will need to report on whether or not those minutes should be amended to reflect the missing information. Council approved the minutes except for that discussion item.

Mr. Workman said with that in mind, we should look back over this. However, he agrees with Mr. Starling that if a councilperson brings an issue before council, they need to be prepared with the information so it can be addressed right away so that council can attend to the business of the meeting. In that way, we will save a lot of time.

RECOGNITION

Vice Mayor Wilson then recognized the officers from Carlisle Fire Company.

MONTHLY POLICE REPORT

Mr. Starling moved for acceptance of the monthly police report submitted by Chief Hudson, seconded by Mr. Workman. Motion carried.

The vice mayor acknowledged Lieutenant Kenneth Brown who was present on behalf of Chief Hudson who was attending an out-of-state training conference.

CITY MANAGER'S REPORT

City Manager Baird submitted the following report for November:

Residential Rental License Ordinance

A public hearing has been scheduled on this issue for Monday, November 24, 2008.

FOP Negotiations

I have met twice with the new negotiating team representing the FOP. I am pleased to report that progress is being made toward reaching a resolution. The negotiating team is in the process of sharing the proposals with the bargaining unit and I am awaiting their response.

Electric and Sewer Bond Issue

We continue to stay in regular contact with our bond counsel on the issuance of the bonds for these projects. We continue to hold our position on not issuing the bonds until the municipal bond market rates improve to a level that are appropriate for the City to issue the bonds. This is not causing any delays to the projects as we continue to move forward on the planning for the water, sewer and electric improvements.

Leaf Collection

City crews have started leaf collection. Residents are reminded to place leaves on the curb for collection by the City.

UD Milford Campaign

David Stevenson has asked Mayor Marabello and me to sit on the steering committee for this campaign. The committee met for the first time on Wednesday, November 5th to discuss opportunities that exist for such an effort in Milford. The committee is expected to meet for the next three to four months and plans to present its findings and recommendations to City Council in early 2009. In the interim, I will continue to keep the Council updated on the progress of the group.

Mr. Brooks asked the status of any new electric contract due to the decrease in fuel prices. Mr. Baird advised that DEMEC President Pat McCullar continues to purchase power as he indicated when he last spoke to council. They are working on purchasing up to 90% versus 70% on our current contract. At last report, he was just above the 70% level and DEMEC meets again on November 19th. Another update will be provided at that time.

Vice Mayor Wilson said she is pleased that discussions continue with the University of Delaware and is anxious to hear that they have agreed to build a campus in Milford.

Mr. Ambrose moved to accept the city manager report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Charter Review Committee

Chairman Spillane advised the committee is moving slow even though it has been a very thorough review. The next meeting is Wednesday, December 3rd at 10 a.m.

Mr. Brooks noted there have been four two-hour meetings and the city clerk has done an outstanding job with the minutes which accurately reflects the discussion and proposed changes and recommendations.

City Hall Needs & Assessment Subcommittee/Relocation of City Departments to Lower Level

Chairman Workman reported a committee meeting was held on October 30th. There is still a great deal of information being collected though a lot of useful information was provided at that time.

He announced that at 6:00 p.m. on Tuesday, November 18th, the committee will hold a second meeting at which time public comment will be taken on which direction they feel the city should go. He asked the newspapers to publish this date and time.

COMMUNICATIONS

Vice Mayor Wilson announced the following upcoming events included in the council packet:

*Sussex County Council Night of Tribute to Outgoing Council Members - Saturday, November 22, 2008

*Chamber of Commerce Mixer Hosted by Gooden's Florists - Thursday, November 13, 2008

*Chamber of Commerce 2008 Holiday Auction and Tastes of Milford - Thursday, November 20, 2009

She also referred a letter of appreciation from Milford Public Library for the city's support in their expansion project.

UNFINISHED BUSINESS

Adoption of Ordinance 2008-12/Subdivision Code/Chapter 200

The city manager recalled the numerous discussions that have taken place regarding this ordinance. He added that public comment has also been taken and this is being presented for councils' discretion at this time.

Mr. Spillane said he has several issues. He advised we had the open space and the storm drainage and things like that can't count as open space. Then we go down to the topsoil ordinance, which he said was on page 72 and is number G. He said he discussed this several times and came in and council said we were going to look into this.

He said he had done quite a bit of work on what topsoil is because there were problems in several areas. Some people said topsoil is the earth on the top of the ground. So he went out and did a lot of work and talked to quite a few people and came up with what topsoil should be and how much topsoil should be put on the ground so that sod and grass seed can grow and have a chance.

Mr. Spillane then said it is still not in the ordinance and he knows he talked about it several times and discussed about bringing the paperwork to write it up. He said things were sent back and forth and it was almost done and he was supposed to see it but nothing was changed on it.

The city manager recalled that during the past few meetings when this issue was discussed with council, it was explained this specific language would be included in the standards specs and not in the subdivision code. Mr. Spillane again indicated that a lot of people don't know where the other specs are and he can't find them in there so it isn't in that area.

Mr. Baird explained that section is currently being changed by City Engineer Mark Mallamo. Tonight the subdivision code is being considered. Mr. Spillane said he thought it was going to be changed and it was agreed it would be put in this.

Vice Mayor Wilson confirmed that the standard specs were previously discussed as the document the developers or builders use. Mr. Spillane noted that section G was changed though he does not know why because six inches was in there before and a lot of the homeowners don't get to see it and don't know where the other part is. He said, we, as a homeowner, need to have it where the homeowners can go to the code section.

When Ms. Wilson asked the reason it was removed, the city planner also recalled the previous discussion about including the topsoil requirements in the specifications which contains similar information. The two major amendments to the ordinance, since it was originally presented, are to the definition of open space which Mr. Spillane recommended as well as adding the requirement for curbs and sidewalks on both sides of the streets.

Mr. Ambrose also remembered those conversations and feels that specific building requirements such as lumber and insulation requirements should be included in the standard specification document. He does not understand why topsoil requirements should be included in the subdivision code. The contractors and builders are aware of the specification manual which is referred to in the subdivision code.

Mr. Spillane referred to section G which he said had six inches taken out and is now left up to the city to determine how much soil will be put on the ground. He does not understand how you can put six inches in one section and put here that the city can determine the amount that could be put on the ground. He said some people are confused and he wants it clear.

Mr. Oechsler asked why a line wasn't drawn through it if it had been removed. Mr. Spillane said that other areas of the ordinance were stricken through and he is worried about council saying one thing and the city coming back with another thing.

Mr. Willard said that generally when an ordinance is amended, you italicize what is added and the item being removed is crossed through. However, he thought the six-inch topsoil issue was originally not in this amendment.

Mr. Baird advised it is in the current ordinance, but was never proposed in the code.

Mr. Baird then said that language could be added that says **THAT NO TOPSOIL SHALL BE REMOVED FROM THE SITE OR USED AS FILL. TOPSOIL MOVED DURING THE COURSE OF CONSTRUCTION SHALL BE REDISTRIBUTED SO AS TO PROVIDE ADEQUATE COVER AS DETERMINED IN THE CITY'S STANDARD SPECIFICATIONS.**

Mr. Spillane said he prefers that the six inches stay. Mr. Workman asked Mr. Baird if the specifications state six inches of topsoil; the city manager explained that City Engineer Mark Mallamo is currently revising the standard specification manual. However, he does not know exactly what language is proposed though it will address adequate cover to ensure it is stabilized. Mr. Workman then asked if six inches can be added.

Mr. Baird asked if that is the wishes of city council. Mr. Spillane said yes and asked why we are changing the ordinance because the six inches needs to stay. Ms. Wilson asked if it is possible our city professionals may not have felt six inches was adequate. Mr. Spillane said he has all the experts agreeing it is six inches and everywhere he goes it is six inches. In section G, the city can decide on the amount of topsoil which does not address the six inches.

Mr. Starling asked how much topsoil it should be and would two, four or eight be better.

It was explained that the current ordinance required six inches of topsoil and the new draft did not state six inches. Mr. Workman feels it should be put in there. Mr. Baird again explained it was proposed to be added to the specs because that is where most of these details are located.

Mr. Spillane then said there is also a problem with what topsoil is so he got what it is from the experts and it needs six inches. He said it is not just what someone else said because he went to the experts.

After a lengthy conversation regarding how to amend an ordinance, Mr. Willard advised the ordinance can be adopted after a motion is made for an amendment to the proposed ordinance with the six-inch topsoil requirement.

Mr. Spillane moved to amend the ordinance and put in the six inches and what topsoil is as it says in the letter from the experts, seconded by Mr. Starling. When asked for questions, Mr. Baird referred to Mr. Spillane's motion noting that the conversation referenced six inches of topsoil but he has now added additional information. Mr. Baird asked if council has seen the additional information Mr. Spillane is referring to. Mr. Brooks then asked who the experts are Mr. Spillane keeps referring to.

Mr. Workman believes Mr. Spillane gave that information to the city manager to be added to the specs. Mr. Baird added that is a separate issue which Mr. Mallamo is working on. Council members agreed.

The city solicitor directed Mr. Spillane that if a motion is made to amend a proposed ordinance, it needs to be specific and in reference to this section, it should include to DELETE the word ADEQUATE COVER, AS DETERMINED BY THE CITY ENGINEER and INSERT THE WORDS AT LEAST SIX INCHES OF COVER.

Mr. Spillane again asked Mr. Baird why this was not done. Mr. Workman explained it is being included in the specs which the city engineer is working on.

Mr. Spillane then revised his first motion and moved that the part of the city engineer be taken out and six inches of topsoil be put in. Mr. Willard added that specifically, the language be stricken from ADEQUATE to ENGINEER, and to INSERT THE WORDS AT LEAST SIX INCHES OF COVER. Mr. Starling seconded the motion.

Motion carried.

Therefore, the section would read as follows:

Section 200-5 (H) Improvements

(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,~~ (INSERT) AT LEAST SIX INCHES OF COVER to all areas of the subdivision and shall be stabilized by seeding or planting.

Mr. Willard then referred to the revised definition of open space:

Open Space-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. Wetlands or storm water management facilities, etc. cannot be counted as open space. 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.

The solicitor recommended that the word "etc." be removed from the section because it is ambiguous. Mr. Norris said he was referring to drainage easements. Mr. Willard recommends drainage easements be added.

Mr. Willard also questioned the last sentence that states '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.' He does not feel that is clear. Mr. Norris explained this was the result of a developer who had counted a flag pole area as open space and signage areas. Mr. Willard also asked how 'and are maintained by an HOA' fits in. He feels that 'and are maintained by an HOA, not any individual property owner' be removed for clarity.

Mr. Norris feels that some language should be added that open space is not counted as land maintained by an HOA. Mr. Willard feels that most open space is generally maintained by an HOA as it would be a common area. His suggestion is to DELETE 'Open space prohibits' and in the spirit of parallel structure and INSERT 'FLAG POLE AREAS, MEDIANS, SIGNAGE AREAS OR REQUIRED FRONT, SIDE OR REAR YARDS OF PROPOSED RESIDENTIAL DEVELOPMENTS CANNOT BE COUNTED AS OPEN SPACE.

Mr. Willard then referred to the following section:

§ 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.

Mr. Willard said the current subdivision code has a section that allows the planning commission to recommend variances and waivers from 'these regulations'. The new section states ' *Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 230*'. Mr. Willard feels it could be troublesome because Chapter 230 is the zoning code. If a developer wants to subdivide and asks for consideration of a waiver in Chapter 230, it could be almost anything. The current code referred to 'these regulations' which limits the regulations in the subdivision code. He does not feel that the planning commission or council should be given the right to waive the provisions of the zoning code.

Mr. Norris said he believes there is a variance procedure in the subdivision ordinance. Mr. Willard agrees that exists in the current code but only refers to a variance or waiver for 'these requirements'. He noted there is a very specific provision for the board of adjustments for variances in the zoning code which is also dictated by state statute. He asked why that was changed to Chapter 230.

It is Mr. Norris' opinion that if there is a proposed waiver or variance from the rules of the subdivision ordinance, it may also reflect the rules contained in the zoning ordinance, for example, lot size, front and side yard requirements, etc. There could be a situation in which it was explained to council and recognized as a waiver from the subdivision and zoning ordinance, instead of going through the variance procedure.

Mr. Willard's concern is Title 22 of Delaware Code which establishes the board of adjustment along with a great deal of case law dealing with hardships, which is a higher bar because there are more important regulations dealing with land use which council has authority over. The subdivision regulations may be more specific to engineering systems and those type matters. He feels there the variance waiver should be limited to the subdivision code only.

Therefore, it is Mr. Willard's recommendation to delete the number '230' and replace with '200'.

Mr. Workman moved to delete the word 'etc.' in Section 200-3, Definitions, Open Space, and change the next sentence by removing 'Open Space Prohibits' so that it reads '*Flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments*' and insert '*CANNOT BE COUNTED AS OPEN SPACE*' and delete 'and are maintained by an HOA, not any individual property owner' and in Section 200-6. Variances and waivers, Delete 'Chapter 230' in the first sentence and insert '*Chapter 200*', seconded by Mr. Oechsler. Motion carried.

When asked for questions, Mr. Spillane asked to discuss swales and sidewalks again. He wants to make sure sidewalks are allowed. Council agreed that it was included in the ordinance and pointed out to paragraph B of Section 200-5 entitled sidewalks and curbs.

Mr. Ambrose then moved that Ordinance 2008-12, Subdivision Code, as shown below, be adopted in its entirety, seconded by Mr. Workman:

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 — Open Space—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. Wetlands or storm water management facilities (INSERT) OR DRAINAGE EASEMENTS etc. cannot be counted as open space. ~~Open space prohibits~~ Flag pole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments (INSERT) CANNOT BE COUNTED AS OPEN SPACE 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, throughway, 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 strip 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 nonaccess 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 centerline 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)
-------------------	------	--------------------------

<i>North and south</i>	<i>Streets</i>	<i>Places</i>
<i>East and west</i>	<i>Avenues</i>	<i>Courts</i>
<i>Diagonal</i>	<i>Roads</i>	<i>Ways</i>
<i>Curving</i>	<i>Drives</i>	<i>Lanes or circles</i>

(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 on both sides of the street. 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,~~ (INSERT) AT LEAST SIX INCHES OF COVER 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 crossroad 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 (INSERT) 200 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

Adoption Date: November 10, 2008

Effective Date: November 20, 2008

Motion carried by unanimous roll call vote.

It was asked if the swales changed from 3:1 to 4:1; Mr. Spillane confirmed it was 4:1.

In regard to the questions about why the changes were not indicated by strikeouts, the city clerk explained that as is noted in Section 1 of this ordinance, the previous subdivision ordinance was repealed and Ordinance 2008-12 completely replaces it in its entirety. The only strikeouts and additions are those areas changed to the newly proposed ordinance since

it was originally presented. In cases where specific areas or sections are changed in a proposed ordinance, they are highlighted by strikeouts and italics or underlined and/or bold text.

NEW BUSINESS

Lynwood Properties LLC/Amberwood/Extension Request #2/Preliminary Major Subdivision/Tax Map No. MD-16-182.00-01-14.00-00.001

The following letter was submitted for council consideration:

September 24, 2008

*Subject: Forest Property
Preliminary Plan Approval Extension*

On behalf of our client, Mr. Lynn Baker of Lynwood Properties, LLC, and in regards to the above referenced plan, we hereby formally request a 12-month extension for the previously approved preliminary plan. The Preliminary Plan was approved by the Milford City Council on December 27, 2006. This 12-month extension is necessary in order to obtain all necessary State, County and City approvals for the final engineering plans.

Phillip L. Tolliver, P.E.

Charlie Barnett of Morris and Richie Associates presented the request for the Amberwood Subdivision. He advised they are continuously working on the project and are very close to submitting. They have the fire marshal plan of approval and letter of no objection from DELDOT though there are some small issues they are still working on with the conservation district. As soon as they receive that approval, they will submit the application to the city. He is unsure exactly how long this will take, though he hopes this can be accomplished within the next couple of months.

Mr. Norris advised that he received a phone call from the Delaware Economic Development Commission. They wanted assurance the residential development will not hinder the industrial activities at Baltimore Air Coil (BAC) which is adjacent to this property.

The city planner explained that he previously met with BAC and the developers to discuss the associated noises and potential emission issues. Delaware Economic Development wanted the developers to understand that BAC has been at this location for a long time and they hoped it would not be a detriment to the residential community.

Mr. Barnett said that BAC informed them a few months ago they were aware of the plans when they went for preliminary approval. Mr. Ambrose and Mr. Brooks recalled previous discussions about buffering and related noise issues.

Council agreed that as this property is developed, any potential property owners need to be informed the BAC property is adjacent to this development.

Mr. Workman asked if the plant expands in the future, will there be any potential hazards to the residents of Amberwood. Mr. Barnett advised he is unable to speak on behalf of BAC, however, any expansion would have to comply with their zoning regulations. During the preliminary process, a number of these questions were asked. At that time, fencing and landscaping was added as a buffer between BAC and Amberwood. It was confirmed the setback is almost 75 feet from the property line of which that entire area is being used for fencing and landscaping which includes a berm as well.

Mr. Spillane asked if the company is up to date on everything they owe the city. When asked who Mr. Spillane was referring to, Mr. Spillane said the owner. Mr. Baird said he does not have those records at this time. Mr. Spillane said he is worried about taxes and codes being up to date.

Mr. Starling moved to approve the 12-month extension for Amberwood, seconded by Mr. Ambrose.

Mr. Workman said the city requires the developers to be current before we give an approval. He said this is the second time tonight this has been brought up. If there is something in our code that states a developer must be current on these matters, then the city manager should get that information to council before an approval can be granted.

Mr. Baird confirmed that information will be provided on future applications.

The city clerk advised that the planning department reviews that information at the time an application is submitted. Mr. Workman said the original application was submitted in 2006, but questioned whether they are still current in 2008. The vice mayor advised that an application is now required for extensions so it can be easily checked at that time. Mr. Baird added that it is also possible an application can be submitted but not seen by council for four or five months. At that time, it will need to be verified to ensure it is current.

Mr. Workman asked that the current information be provided at the council meeting if it is required by code. If that information is unavailable, council should not take action.

According to Mr. Oechsler, the minutes state that anyone purchasing a home is to be informed that Baltimore Air Coil is an adjacent industrial site and that no action can be taken against them after the information is divulged.

Motion carried by the following 6-1 roll call vote:

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

Mr. Spillane said he needs to know they are up to date on everything and wants that first.

Mr. Workman votes yes. He said that hopefully, they will not return for another extension next year and believes the developer wants that as much as the city.

Mr. Brooks referred to the number of extension requests council is addressing now because of not being able to get their approvals in a one year period. He asked why the city does not allow them two years. Mr. Workman answered that council wants to keep control.

Mr. Brooks agrees that when they asked for an extension, instead of giving them two years, we gave them one to keep updated. However, the city has no control over the approvals that are needed. Mr. Workman recalled discussing this in detail though council decided to keep the one year time frame. Mr. Brooks has heard from a number of developers it takes two years to get these approvals.

Mr. Ambrose feels that though council understands it takes more than a year, by coming back every year, the city is kept current on their status and if nothing else, are able to determine they are still interested and planning to build.

Mr. Brooks referred to the number of subdivisions that have been approved but are vacant or are for sale. Mr. Ambrose agrees but feels that at least in this manner, council is provided an update on any subdivision that is still active.

Revised Contract of Purchase and Sale/Milford Greater Business Park & Independence Commons

The city manager recalled council approving this contract a month ago, along with a number of documents related to the business park. Since that time, we were informed the following Notice to Buyer was required when selling vacant land though it was an oversight when the original contract was prepared:

"NOTICE TO BUYER: If the property being purchased hereunder is an unimproved parcel of land, buyer should consult with the appropriate public authorities to ascertain whether central sewerage and water facilities are available, or, if not, whether the property will be approved by appropriate public authorities for the installation of a well and private sewerage disposal system. If central sewerage and water facilities are not available, then this Contract is contingent upon: 1) a

satisfactory site evaluation that will allow the installation of an approved on-site disposal system, in accordance with the regulations promulgated by the Department of Natural Resources & Environmental Control, that is acceptable to the buyer; 2) the availability of a water supply; and 3) the lot conforming with the local zoning ordinance; or this Contract shall become null and void and all deposits shall be returned to the Purchaser. The Purchaser shall request the site evaluation on or before (date) _____ . Purchaser shall pay all costs of complying with these provisions. The Purchaser and Seller may modify these provisions or the Purchaser may waive these provisions of the Contract by attaching an addendum signed by the seller and the buyer." (65 Del. Laws, c. 306, § 1; 66 Del. Laws, c. 396, § 1.)

He feels it is really a non-issue because the city provides water, sewer and other utilities though it needs to be included in the language. Mr. Willard agrees with Mr. Baird though the language is required when selling unimproved land.

The solicitor then referred to Paragraph 14:

(14) BINDING COVENANTS: This agreement shall be binding not only upon the parties themselves, but upon their heirs, executors, administrators, successors or assigns as well. This Contract of Purchase and Sale constitutes the entire agreement among the parties and may not be modified or changed except by written instrument executed by all parties.

He pointed out that the first sentence refers to the agreement being binding on assigns, heirs, executors, etc. The second sentence should be a separate section. His suggestion is to break that paragraph out and have the successor and assigns paragraph separate.

Mr. Willard said that more important, this property is subjective to some significant restrictive covenants. He recommends another paragraph is added referring to the covenants and the page number of the Kent County Deed Book they were recorded in. They should also be at attachment to the agreement.

Mr. Workman asked why the city solicitor did not review this contract before it was presented to council to ensure the language is correct. Mr. Baird said those items were presented to Mr. Willard prior to the three documents being presented to council and this was just an oversight.

Mr. Workman added that any legal document or contract needs to be reviewed by the city solicitor. Mr. Willard said he has spoken with Dianne Betts several times regarding the covenants and related issues. When he received the packet, he had these comments which he suggested be changed and/or added. In addition, the covenants are significant and need to be added. Mr. Baird feels the covenants would be picked up though Mr. Willard prefers they be included in the contract.

Mr. Oechsler moved to approve the revised contract with the Notice to Buyer clause along with the recommendations made by the city solicitor which will make paragraph 14 two paragraphs and language added to address the covenants, seconded by Mr. Workman. Motion carried by unanimous roll call vote.

Payment & Account Approval/Signs-Business Park & Independence Commons

An invoice from Kent Signs for the labor, equipment and materials to fabricate two entrance signs at Independence Commons and the Greater Milford Business Park in the amount of \$12,000 was submitted for approval. The suggested account has been used for previous expenses in the business park.

Mr. Ambrose moved for payment of the two signs in the amount of \$12,000 to be paid from General Reserve Capital Fund 101-1110-413-70-44, seconded by Mr. Workman. Motion carried.

FY 2008-09 Budget Amendment/Transfer General Fund Capital Reserves

Vice Mayor Wilson announced this matter will be deferred to ensure all invoices have been included.

MONTHLY FINANCE REPORT

Through the third month of Fiscal Year 2008-2009 with 25.0% of the fiscal year having passed, 34.5% of revenues have been received and 25.5% of the operating budget expended.

Mr. Ambrose pointed out that power purchase costs are 6% over the anticipated costs for the month.

Mr. Brooks referred to council expenses of which 92.8% or \$11,157 has been expended for the year and \$5,269 was spent during the month of September. The budget of \$12,000 has a balance of \$843.

Mr. Baird reported there are three areas where expenses are up. He said that currently three council members are traveling. Two are attending the National League of Cities Conference and another one is at the annual IACP conference. Our legal fees are also higher than were anticipated.

Mr. Ambrose said that generally council expenses are higher in the earlier months because the majority of the annual dues are due the beginning of the fiscal year. These include both Delaware League and National League of Cities though the budget is much higher than previous years.

Mr. Brooks confirmed that SCAT and Delaware League meetings are also paid from this account. It appears to him that council is going to run out of money very shortly. Mr. Baird advised that an amendment will have to be proposed to move additional monies into that line item.

Mr. Workman moved to accept the monthly finance report, seconded by Mr. Oechsler. Motion carried.

ADJOURN

Motion to adjourn the Monthly Council Meeting at 9:28 p.m. made by Mr. Workman, seconded by Mr. Oechsler. Motion carried.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 10, 2008

On Monday, November 10, 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: Honorable Vice Mayor Katrina Wilson

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr., Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Lieutenant Kenneth Brown and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

At 8:07 p.m., Vice Mayor Wilson announced that no one from the public had signed up to speak. As a result, no public comment session was held.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 10, 2008

A Public Hearing was held before Milford City Council in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 10, 2008 to allow public comment on the Five-Year Update to the City of Milford Comprehensive Plan as was developed, reviewed and approved by the City of Milford Planning Commission. This document serves as a guide to all future action concerning land use and development regulations and the revised plan shall become the force of law. No development shall be permitted except as is consistent with the plan.

This update was originally scheduled for adoption, but is being deferred until a later date.

PRESIDING: Honorable Vice Mayor Katrina Wilson

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, James Oechsler, Jr.,
Owen Brooks, Jr. and James Starling, Sr.

STAFF: City Manager David Baird, Police Lieutenant Kenneth Brown and City Clerk/
Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Vice Mayor Katrina Wilson called the Public Hearing to order at 7:07 p.m.

City Planner Gary Norris reported the process started more than a year ago with a vision meeting with the planning commission. Following, three meetings were noticed to the public during at which time Bayhealth Hospital, Greater Milford Chamber of Commerce, Parks and Recreation Department and Milford School District provided significant input.

The planning commission then held three workshops and two additional public hearings. Public comment and written comments were taken into consideration. Mr. Norris has also met with the Office of State Planning; the plan has also gone through the PLUS process.

On October 20th, 101 property owners east of Route 1 were invited to a meeting at Milford Public Library. At that time, the open space land designation was discussed. Today, a meeting was held with Kent County and Sussex County Planning Commissions and the Office of State Planning. In addition, one hundred surveys were mailed of which twenty-five went to residents in each of the four wards. Forty completed surveys were received back.

An executive summary of the comprehensive plan was then presented.

Mr. Norris advised the introduction states comprehensive planning is a continuous process and the formation of text and maps is not the ultimate objective. The use of the plan is what is important and it is only as good as the measures used to implement the plan. No single document can pose solutions to all community needs. The comprehensive plan must be a flexible, continuous and periodically updated based on changing conditions and shifting of resources and allocations of goals.

The comprehensive plan is composed of four books. Book one contains twelve chapters and provides a variety of information on Milford. It includes the introduction, planning purpose, location, history of Milford and economics of Milford. From 2003 to early 2008, there were an additional 1,100 new jobs created in the city. Chapter 6 deals with demographics and shows an increase in population from 6,732 in 2000 to an estimated 8,288 in 2007 which approximates to a continuous growth of 2.2% per year. Chapter 7 addressed public services, Chapter 8 includes the elements of community development, Chapter 9 includes city infrastructure, Chapter 10 includes environmental issues, Chapter 11 addresses the community development plan and Chapter 12 includes the land use and annexation plan.

The vision for Milford was contained in Book Two along with the goals and objectives and the implementation strategy.

Mr. Norris encouraged council to take a close look at the vision for Milford and the subsequent matrix regarding the objectives, implementation strategies, participants and time frame and provide comments.

He explained the most important issue of book three is the future land use map and subsequent text which includes the urban growth boundary and various land use categories. The urban growth boundary was a composite of input from city council, the planning commission and various property owners included in the urban growth boundary for the City of Milford in the future.

In Kent County, we received input from land owners who wanted to be included in the urban growth boundary and possibly annexed into the city. Mr. Norris referred to an area excluded from the comp plan because it is currently in ag preservation. A meeting took place with the Secretary of Agriculture for the State of Delaware and the Office of State Planning. Their recommendation was to delete that area with a note that when and if it comes out of ag preservation, it would then be considered for land use determination by the city.

Comment was received on the Fry property whose original concept was for the continuation of the business park. Considering comments from surrounding neighbors, the developer changed a portion of the property to residential or PUD. There are existing commercial uses along Route 14 with approximately one-quarter of the site being designated as a continuation of the industrial park. The property owner has asked the area between Route 14 and Holly Hill Road be designated as moderate residential density.

Going south into Sussex County, property was included in the urban growth boundary only because of the potential that on site septic systems would fail and consideration could be given to those properties. The Hall property has requested inclusion in the urban growth boundary with the potential of being annexed into the city.

The area shown as light green on the map represents the open space category. He explained the first priority is this would be a sending area for a potential transfer of development to other developments in Sussex County. It would remain open and a farmer could sell the development rights by sending it to other areas.

Today, Mr. Norris received an inquiry from Mary Lee Krauss whose property is shown in the open space designation. Ms. Krauss wants it changed to PUD or moderate residential density so further discussions will follow on that matter.

The second priority identified is the area that would become rural zoning, similar to Sussex County that allows approximately two dwelling units per acre. The third concept explained to the Office of State Planning is the \$100,000 in the current budget available for open space acquisition. This is an area that could be designated for passive or possibly active recreation.

Mr. Norris explained that also applies to the open space area shown in Kent County. There is also a property owner there who has asked an area be designated as highway commercial. There remains five or six properties that still need to be resolved in regard to future land uses.

A letter from Clifford Crouch was received expressing concern about the open space designation east of Route 1 and subsequent development of that area. The only minor change is an area where the highway commercial designation may be extended somewhat further for one or two properties in that vicinity.

When questioned about the transfer of development rights, the city planner explained a Transfer of Development Rights Ordinance would need to be developed and a sending and receiving area established. If two dwelling units per acre were allowed on a one hundred-acre farm, then fifty development rights could be sold. The development would be taken from a sending area to a receiving acre to allow a higher density.

Mr. Oechsler confirmed the open space would be transferred out of that area which could never be developed. Mr. Norris agreed explaining it would become a deed restriction or covenant that no more development rights would be permitted

once they were given away.

Mr. Spillane asked how that would work with land where eight homes are allowed if more homes could be added to that acre if they bought the rights to the land or open space area. He said if it has eight homes to an acre and he bought a farm and got another two homes to an acre, he can build ten or fifteen homes to an acre. Some of the land cannot support that development now so how can ten or fifteen homes be permitted.

Mr. Norris explained it would apply to less dense areas such as an R-1 which allows four dwelling units to the acre. If it is designed correctly, units can be taken from the open space into the R-1 with the possibility of getting six or eight units to the acre.

Mr. Spillane asked if he is able to get R-2 or R-3, then why go to R-1 and spend money to buy land to add two more homes. Mr. Norris explained the receiving area must have very low density.

City Manager Baird added that if the city was going to establish some sort of transfer development rights (TDR) program, the entire zoning ordinance would have to be overhauled from a density standpoint. There would be lower based densities in what would be established as our receiving areas to prevent running into scenarios where people are buying up to ten, fifteen or greater units per acre. The base zoning in those receiving areas may be two, three or four though they could buy up to six. Council would have to establish such terms in a transfer of development rights ordinance.

Mr. Baird advised that all the TDRs in the comprehensive plan is doing is allowing the open space area to be used only and when city council decides to establish a transfer of development rights program.

Mr. Spillane feels we should talk about that now before the comp plan is approved. Mr. Baird explained that if that occurs first, the comprehensive plan will not be adopted for a year and a half to two years. He reiterated the comprehensive plan is only indicating this as a conceptual idea and something the city may be interested in pursuing. That debate will take place over the life of this land use plan the next five years.

Mr. Oechsler then verified that no one would be able to transfer development rights until the ordinance was adopted.

Mr. Baird added that there is currently no provision to allow the transfer of development rights. This is only a plan for the city to explore a TDR program with this area identified as a potential sending zone.

Mr. Brooks questioned the request from Mrs. Krauss who was asking the land use designation of their 115 acres be changed in the draft comprehensive plan. Mr. Norris explained that land has not yet been annexed. They had spoken with the former city manager sometime ago about their land being designated for residential use. Their letter had been written last week but was only received by Mr. Norris earlier today. The plan has not yet been finalized so proposed changes to the future land use map can still be considered.

Mr. Brooks then referenced the number of public hearings and workshops that have been held on the comp plan.

Mr. Spillane said that on November 10th, Mr. Norris met with Kent County and Sussex County. Mr. Spillane asked what the three of them were saying about the plan because the state was upset during the PLUS hearing because they did not want any more homes or anything else built east of Route 1. If the state is telling the county and the city they don't want any more homes or more people going across Route 1 to build, why wouldn't the county and the city own up to the state to what they are saying that we wouldn't be growing in that direction which is the problem.

Mr. Norris explained the November 10th meeting was a coordination meeting to tell Sussex County where our urban growth boundary was and where we intended to potentially annex land. The comprehensive plan states the city is not a proponent and not actively pursuing annexation in that urban growth boundary. The city would entertain annexations which would be reviewed by the annexation committee, planning commission and city council. It was a collaboration meeting between the city and the county. Sussex County recognized the urban growth boundary and designated it as a town center. Any

land not in the city can be developed in Sussex County. The city prefers to have control of that area so that if and when it is developed, we can have an active role in playing whether it should be annexed or not. Milford serves areas not in the corporate limits of the city for electric and water which is why we would prefer to have that control.

Mr. Baird explained Mr. Spillane is referring to the September meeting with the State Planning Office at which time concerns were expressed with the growth area because it was east of Route 1 and included many lands currently in ag preservation districts or ag preservation easements. Also at that meeting, they requested a follow up with the city and additional information was provided to them during the month of October. A meeting was then held with State Planning Director Holland and Secretary Scuse who is now the Chief of Staff, Governor Minner and Kent County Circuit Rider David Edgell along with Mayor Marabello to discuss more specific details about the open space program contained in the land use plan. At that point in time, the state fully embraced what Milford is trying to do with open space and where our urban growth boundary is with the exception of the one property Mr. Norris pointed out on the north side of town which the note covers from the state planning office.

Mr. Spillane said open space to him means people can go there and play or take a walk. Now we are back to open space and he asked if Mr. Norris changed it to say private open space or public open space.

Mr. Norris explained that open space, as defined, has at least three priorities. One, it would be a sending area for any development to another area. Therefore, it may not be developed. Two, some type of rural zoning would be encouraged which could be two dwelling units to the acre. Three, is the potential of acquisition of open space and the development of open space for active or passive recreation. Within that urban growth boundary, there are approximately three properties in ag preservation. The concept of open space is 'open and not developed' which could be farmland. Various cities have acquired a farm. There can be nature trails which can also be considered recreation or open space.

Mr. Spillane wants to put something on that green area to make sure people look at the map and understand we are not going to leave it open for people to build on.

The city manager explained those details have not been provided yet. It will be up to the planning commission and city council, as well as the public and property owners in that area, to further define what open space is. Mr. Baird said that the city planner is referring to the land use plan identified as open space. Some sort of zoning classification will be established in regard to open space that meets the three priorities spelled out in the plan. The land use plan only sets the framework for which the city will operate in that area over the next five years.

When asked if anyone in the audience wished to comment on the comprehensive plan, Clifford Crouch of 424 South Walnut Street addressed council as a private citizen and a Key Properties Group representative. He agrees with City Planner Norris that this is a very well written plan. He has read the objectives which he found to be very good as well as the plan that was laid out.

Mr. Crouch said he has a problem with Figure 10-Future Land Use/Open Space. He thinks it is very short sighted on the part of the city to restrict that for several reasons. If people in that area are unable to develop their own land as they wish, they can always go to Sussex County and develop. As has been discussed many times, the city does not want Sussex County approving developments outside of our city with wells and septic systems and using our city services without obtaining any revenues. This would limit the city's future revenue and potential to grow. Looking at the map, he only sees open space on one side. When he met with Mr. Norris this week and asked why this was being done, Mr. Norris explained the state strongly suggested it and indicated they would not certify the plan unless it is there.

Mr. Crouch then referred to Chapter 22 and Chapter 29 of the Delaware Code that states the responsibility for the comprehensive plan is the city's and the city's alone. It says they have the right to accept or reject any recommendations and are only required to adopt a comprehensive plan.

He feels the open space designated in this areas defies Livable Delaware which is Governor Minner's initiative that developments are built close to the center of the city. He said when you mention TDRs, they are a commodity that would

not be worth two cents right now because no one wants to buy and there are no sending areas. In researching the matter, Mr. Crouch saw some TDR plans done in 1985 that have not been used at all. He is willing to provide that information to the city. He thinks the City of Milford has a legislative procedure in place to annex lands into the city. Therefore, it is the decision of the annexation committee, planning commission and city council and not the State of Delaware which is dictating that open space be in the city's plan.

Mr. Crouch advised that of the 105 letters sent to east of Route 1 property owners inviting them to attend a meeting at Milford Public Library, only five of those area residents attended. All others in attendance were city officials or someone else. Some of the people he has spoken to indicated they did not receive the letter. Mr. Crouch obtained a list of the names mailed out and this person's name was on there though he is unsure why they did not receive the notice.

Mr. Crouch reported that Key Properties has 200 acres that has been zoned institutional services. The plan is to develop the land as Innovation Park. If it takes off like they believe it will, it will provide good clean jobs for people in an environmentally safe manner. They will need room to expand but that is not possible if this remains. That expansion would then need to be developed somewhere else.

Mr. Brooks questioned the number of people present at the October 20th workshop. He said the minutes only reflect one sign in sheet though at least two other sheets were used. The city clerk will follow up on this matter.

Mary Lee Krauss of 6058 Cedar Neck Road stated she is the owner of the 115 acres in this open space referred to earlier in the hearing. She advised they applied for annexation three years ago. At the time, they were in farmland preservation and were required to wait until they were out. The petition and supporting documents were submitted at that time. They have a letter in return from City Manager Richard Carmean saying he received the appropriate paperwork and as soon as they were out of farmland preservation, they would be considered for annexation into the City of Milford. She added they are contiguous with both the Dugan and Isaac properties.

Ms. Krauss said that they did not receive a letter about the meeting at the library though they were one of the addresses on the list. The only reason they were not present is because they were unaware of the meeting. If they had, she would have sent a letter stating her concerns long before Friday which is when she learned of this and presented her letter to the city clerk.

Mr. Brooks recalls three years ago, Mr. and Mrs. Krauss coming before council to express their interest for annexation.

Paul Goldstein of 15 West Thrush Drive says he has many times criticized the council and many times they do things correctly. The city manager, the planning department and City Planner Gary Norris have devised a great program for the expansion of Milford over the next five years. He said there will be changes and yes, we will add or subtract. If he has heard one thing the last five years in Milford from a lot of people is the need for green space. He said we don't have parks for the people and children of Milford. He thinks council owes an obligation to the future. The future is our children. He looks at the map and he sees that the city is a developed city. He looks at Route 14 and looks to the south, to the north, toward Harrington. There is no open space. The only open space is east of Route 1. For many years the state left it in a rural development status. There is nothing wrong with that. He said we are citizens of Milford and we are citizens of the state.

Mr. Goldstein then said the state came along and strongly said try to keep it open as much as possible. He said so our city fathers, including our city manager, let's have open space. We annexed several farms and we are going to have industrial and we are going to have colleges and we are going to have the world. There are others areas east of Route 1 that can be developed and will be developed. As he recalls, when they approved the Isaacs and Mills and Dugan Farms, we had ourselves up to 16 homes to an acre and we have thousands of homes, which he thinks is 8,000 to 10,000 approved east of Route 1. He would not be surprised if Milford has between 14,000 and 25,000 homes approved. He wants to know where are the parks. So the city manager wants to take that area and make it open space. As soon as he heard that, he said wouldn't that be grand. We would have something for the children of Milford to do. They could develop it for the city and do all kinds of things. He said don't commercialize the open space before we have the open space. Our mayor fought

to get \$100,000 put aside for open space. He did it because he is looking to the future of Milford and said let's make it a livable Milford, a livable Delaware.

Brendon Warfel of 916 N.E. Front Street, also Chairman of the City of Milford Planning Commission, said he has talked to the city planner about this and believes it was discussed during a recent planning commission meeting when he was absent. Mr. Warfel said that overall, Mr. Norris has done an excellent job and tonight there is a lot of discussion about the green space.

He agrees with Mr. Crouch that we be very careful not to restrict ourselves in the future. The concept of TDRs is very good but has not been proven to work as well as many hoped it would.

Mr. Warfel then referred to the Woodshaven development, the controversial Tenth Street area and the needed overpass for that area. He said now we are going to ask the state to build an overpass that will go into open space. He is somewhat confused about that and thinks we may want to restrict ourselves on that.

Mr. Brooks recalled the state coming to the city saying they would build the overpass, but the city did not go to the state.

Mr. Warfel said that at a recent council meeting, it was said the city was going to try to work with the state to get an overpass. Everyone agrees the city wants an overpass which has been on the books since 1972. He feels that if the state sees we are going to leave most of that open space, it may be hard to convince them to get the overpass.

Mr. Brooks wants it clarified the city did not ask for the overpass, but the state came to the city with that offer. He recalled that 30 years ago, the state promised an overpass on Tenth Street though it has never happened. The same thing happened on New Wharf Road.

Mr. Warfel said that because everyone in the city wants an overpass and several council members have made that statement, he is asking council not to restrict their thinking on that. He does not believe there are 14,000 homes ready to be built in Milford.

Mr. Crouch spoke again to clarify the green space will not be used for a park. If this remains, it will be farmed or left as forest land but it will not, as was earlier referenced, be used as parkland that people use for walkways. If he remembers what the city manager said at the October 20th meeting, that is not the purpose of that green space. That land is to remain for agricultural uses and forest land and is not something the city can place a park on unless they purchase it which the \$100,000 will not buy for that purpose.

City Solicitor Tim Willard stated the areas identified outside the city for future annexation are identified by categories such as open space and others are shown as low density. He asked if a property owner outside town wanted to annex into the city but are unable unless zoned at the same time, does the comprehensive plan identify what categories they would be eligible for. The city planner said it would be very similar to the existing zoning. He believes the categories are low density residential.

Mr. Willard said he has represented applicants in other towns where there has been a generic category as the property cannot be zoned inconsistently with the comp plan. Therefore, the comp plan would have to be amended which should be avoided. In looking out for the city and the property owners who are eligible to annex, he does not want it to be ambiguous what the zone would be. If it is not in there, it should be added.

Mr. Norris believes it is included. The low density residential is between one and eight dwelling units per acre which is similar to the R-1 and R-2. The moderate density would be between eight and sixteen and is similar to R-3. There is proposed highway commercial, which would be similar to C-3. Future employment centers would be similar to Perdue and the industrial zone. The gray area is business park or OC-1. He believes they are similar to Milford's zoning classification but agrees the land use categories should be similar to our existing zoning categories.

Mr. Willard agrees it can be a more general category but should include R-1 and R-2 for example. Mr. Norris said the previous comp plan had an urban mix designation which was very confusing and no one knew what that meant.

Mr. Workman said it is odd that the state directed the city to designate that area as open space. He recalled that before the city annexed any land east of Route 1, the state was totally against any development in that area. Then suddenly, something changed and they were in favor of development east of Route 1. Tonight, he is hearing the state wants it limited. He asked how involved they were in the designation of the land as open space.

Mr. Norris said there was considerable pressure from the Secretary of Agriculture to make the city designate those areas as open space. The agriculture department is very concerned about any development east of Route 1 and the ramifications it has over there. They tried to resolve that issue by designating it as open space with those provisions mentioned earlier. He said that staff feels it is within the sphere of influence of the City of Milford because of potential utilities to that area. He agrees there was pressure to designate that as open space in order to get our plan certified or approved. In addition to what he has already said, it contains at least two or three farms in ag preservation.

City Manager Baird reiterated the Department of Agriculture did not want the city to include any ag preservation lands or ag preservation easements within the city's growth area.

Mr. Workman asked if they are totally against this now, where were they when the process started. Mr. Baird asked if Mr. Workman was referring to the three properties annexed the last couple of years. Mr. Workman said it was actually prior to that. He recalled the issues he had about this which he expressed during that time.

Mr. Baird said that depending on when this plan goes for certification, the position of the administration may be completely different than it is today. He explained it was accepted by state planning and the department of ag because they had more faith in the city's proposal in this area than they did in either Kent or Sussex County's proposals. They felt the city had a much better handle on how this area could be protected to meet the goals and intentions of the Department of Agriculture, but also how it could fit in with the city plan being proposed.

Mr. Spillane asked if the state can come down here and tell council what they want to do across Route 1. He has gone to things the town was involved in with the state and the counties.

Mr. Norris recalled they met with Secretary Scuse and the Office of State Planning in October. They seemed to support what the city was proposing in terms of open space and the urban growth boundary to the east given the categories and priorities established in the open space designation.

Mr. Baird said he can invite them to attend a future council meeting to speak if council wishes. Mr. Workman emphasized that the comprehensive plan is Milford's comprehensive plan. He asked why we are allowing the state to have so much influence on these decisions.

Mr. Norris reiterated that the annexation is a legislative process. It has no bearing on the state if the city feels strongly these lands should be annexed and developed. It is a legislative process which goes through the proper channels in the city. It begins with the annexation committee and eventually comes back to city council for a final vote. He agrees with Mr. Workman.

Mr. Baird said that Mr. Workman's comment is a debate that took place five years ago when the law was passed that required municipal comprehensive plans to be certified by the governor's office. That certification was the big issue which the League of Local Governments and Sussex County Association of Towns fought. However, they fought them unsuccessfully. He agrees with Mr. Crouch that the law states it is the final decision of the local jurisdiction; however, there is a certification clause that was hung over our heads. We are addressing certification on properties east of Route 1 as well as certification on the source water protection ordinance. That ordinance was passed by city council earlier in 2008 as was required by federal and state law. The state law says local jurisdictions must have a source water protection plan in place and the City of Milford does. It was reviewed by DNREC prior to Milford adopting it and some of their

comments were incorporated in the ordinance. A couple of weeks ago, further comments were submitted and DNREC has now stated that unless the ordinance is modified, DNREC will not recommend certification of the City of Milford's Comprehensive Plan.

Mr. Workman asked if this is the comprehensive plan of the state or the city. It sounds to him it is both, but the state has the upper hand though they should not be controlling the city.

Mr. Baird said it is the city's comprehensive plan as long as it is in accordance with state policies.

Mr. Willard added the law says that local governments, whether it is the county or the city, is in charge of land use. Then the comprehensive scheme requires certification. The question is what if. There has been some case law but very little. He feels the law still needs cleaning up to make it clear. He added there is case law on state strategies.

He then recalled a situation in Smyrna where the town was bucking the comp plan in an annexation issue and the state withheld some resources.

With no further comments, Vice Mayor Wilson closed the public hearing and declared the meeting adjourned at 8:06 p.m.

Respectfully submitted,

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

Terri K. Hudson, CMC
City Clerk/Recorder