

*MILFORD CITY COUNCIL
MINUTES OF MEETING
May 24, 2010*

Milford City Council held Public Hearings on Monday, May 24, 2010 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

ALSO: City Manager David Baird, Police Captain Dion Brooks and Recorder Christine Crouch

COUNSEL: City Solicitor Timothy Willard

Mayor Rogers called the Public Hearings to order at 7:03 p.m.

*Minor Subdivision & Conditional Use
Bob Nash Associates, Incorporated on behalf of Matthew & Jennifer Feindt
302 Carlisle Lane
Tax Map 3-30-7.17.138.00; 3-30-7.17.145.00
Area of Petition .8181 +/- Acres
Adoption of Ordinance 2010-6*

(Ms. Wilson not in attendance for this hearing.)

City Planner Norris reported this application is for a minor subdivision and conditional use for two duplexes or four units and the conversion of an existing building previously used as a drycleaning business. It meets all conditions of the subdivision and zoning ordinance. The planning commission recommended approval of both the subdivision and conditional use by a vote of 7-0.

Bob Nash, representing Matthew and Jennifer Feindt, informed council this will improve the area and renovations have already begun. The intent of the minor subdivision was to allow the duplexes to be sold individually. There are four lots, in addition to the residual lot for the existing two-story building. Currently, utility plans are being finalized with the Public Works Department.

The mayor then opened the floor for public comment; no one responded. The public comment portion was then closed.

Mr. Morrow moved for approval of the minor subdivision and conditional use application as presented, seconded by Mr. Brooks. Motion carried by a unanimous roll call vote.

*Ordinance 2010-1
An Ordinance to Amend Chapter 230, Zoning Code of the City of Milford Relating to Article VI - Signs
Adoption of Ordinance 2010-1*

Ms. Wilson arrived at this time.

Planner Norris reported the planning commission has worked diligently to revise the sign section of the city zoning ordinance. Numerous discussions have taken place over a period of time; input has also been obtained from the Chamber of Commerce.

The planner noted that this section of the code addresses EMB's (electronic messaging board signs). Presently, those requests go before the Board of Adjustment. To render that, the planning commission is recommending an amendment to regulate the signs which would only be permitted in the C-3 zoning district. Messages or graphics are prohibited from

changing within eight seconds. The owner would coordinate with local authorities to display appropriate emergency messages as needed. Each sign on a state-mandated roadway would need to comply with all Delaware Department of Transportation rules and regulations.

Planning Chairman Chuck Rini thanked the local businessmen who were involved in the subcommittee noting the end result was well worth the effort.

Mr. Pikus confirmed this type of sign currently exists at the middle school and asked how many are now in the city; Mr. Norris estimated six. Mr. Norris advised that any application meeting the rules and regulations would be issued a permit but again emphasized they are only permitted in C-3. Those in another zoning district will still have to go before the BOA.

Mr. Adkins asked if the existing signs are required to comply with the eight-second delay; Mr. Norris stated no because they would be grandfathered.

Mayor Rogers asked for public comment; no one responded. The floor was then closed for comment.

Mr. Pikus moved to adopt Ordinance 2010-1, seconded by Mr. Grier. Motion carried by a unanimous 8-0 roll call vote.

*Reconsideration-Change of Zone R-2 to C-3 - Lynn & Karen McColley
600 N.E. Tenth Street & 819 N.E. Front Street
Present Use Residential & Agricultural; Proposed Use Highway Commercial
Tax Map MD-16-174.19-01-01.00; MD-16-174.19-01-01.01;
MD-16-174.19-01-03.00; MD-16-174.19-01-04.00; MD-16-174.19-01-11.00
Adoption of Ordinance 2009-14*

Planner Norris recalled the planning commission's recommendation to approve was by a vote of 4 to 1 and advised the zoning is consistent with the 2008 Comprehensive Plan.

Bill Bachman represented the McColley application and noted that Lynn, Karen, Will and Sarah McColley were present. He advised their intent is to rezone the balance of the Sunnybrae property to C-3. Mr. Bachman also recognized several people present to support the application including Planning Chair Chuck Rini, Businessman David Kenton, Former Councilman Vaughn Webb and Businessmen Dan Kimmel, Butch Elzey, Rich Willey and Mike Kirby.

Mr. Bachman provided some background for the property advising that in February 2002, the McColleys purchased the Sunnybrae estate. They have worked on making the estate a more attractive place for citizens throughout the state. There are various social gatherings at the mansion including chamber mixers, business training sessions and research events. He said the McColleys have supported the local economy by using various businesses at these events.

He stated that most recently, the McColleys are working as a partner with Kent County by allowing easements and rights of ways to permit the sewer to cross the Sunnybrae property. He added the new system is scheduled to be installed in mid 2011.

Mr. Bachman said the McColleys are actively pursuing a state college/university for the Sunnybrae site. The mansion could be used as an administration building with dorms and classrooms built around it. He feels that would also complement the new Milford Academy. This would create new jobs for our residents and produce revenue for the city and higher educational opportunities in Milford. He believes this would make Milford a recession proof city similar to Newark as the University of Delaware has done there.

He then acknowledged the proposed zoning that complies with the 2008 City of Milford Comprehensive Plan which was approved and signed by Governor Jack Markell on July 7, 2009.

Mr. Bachman noted that the Sunnybrae site is completely surrounded by commercial properties including Silicato-Wood

Properties, Hitchens Tire Company, Warfel Construction, Atlantic Concrete, Milford Brick, Perdue Poultry, KSI, IG Burton, Milford High School and the future Milford Academy.

He said it is also important to note that with the recent commercial development in the east, the widening of Tenth Street has made it much safer for vehicles pulling onto the highways. He and the McColleys feel the state has done a great job improving that intersection.

Mr. Bachman understands the strongest objective to the proposed zoning change is the traffic issue. He said it cannot be overstated that the approval for a zoning change will not, in anyway, increase traffic on Northeast Tenth Street. After the approval, the property will continue to be used for agricultural purposes and special events. However, the change of zone will attract owners that will bring jobs to Milford who may otherwise overlook the property because it is zoned residential.

Mr. Bachman emphasized that before any construction occurs and the next step is taken, it will go before council for additional approvals. Business owners who are interested in the property will bring funds to help solve the traffic issues that are currently present. Without the funds, it will be a long time before the needed improvements are made and will further delay investments for the construction of any overpass.

He brought some articles from concerned citizens and referenced one from the Greater Milford Political Action Committee dated April 19, 2010. He said the letter states that during the past two years, the Milford Greater area has experienced a lack of business development. The city's growth has remained relatively dormant compared to Millsboro and feels that Milford needs a more proactive, with forward thinking, city leadership and one that acts in support of our current businesses and encourages future growth. He feels that the zone change to C-3 of Sunnybrae will move in that direction.

Mr. Bachman noted this is the second time this has been before council and asked that council vote yes with the proposal.

He also then reviewed the various platforms of the candidates recently voted into office and their support of business and economic development.

Mr. Pikus said he is very pro-business and supports as much business as the city is able to get. Though he was not on council at the time, he recalls when the DelDOT planner was here to comment on the project. He remembers Ralph Reeb discussing the access road going through the Silicato development which will belong and be controlled by the state when it is turned over. He added that Route 14 is a state maintained road and Tenth Street is controlled and maintained by the city. At that time, Mr. Reeb stated there would be no entrances permit issues until the overpass and traffic were able to access state roads.

Mr. Pikus asked that once the entire property is developed, how will that traffic exit if there is no access onto any of the state roads.

Mr. Bachman explained that currently there is no developer that has expressed any interest in the estate property. Once that occurs and before it goes before council, a traffic study would be required.

Lynn McColley of 416 N.E. Tenth Street then stated that he previously discussed this issue with Mr. Pikus at which time he agreed to support the commercial zoning. He agreed with Mr. Pikus that Ralph Reeb had indicated it could be a few years before the overpass was built though there has been a great deal of progress. The one at Dover Air Base is complete and work has started on the one at Frederica. He said to expedite this, the C-3 should be approved to allow a buyer to find it more attractive. We would then work with them to provide funds for the overpass. He said developers have heard rumors it is very tough for this council to approve an application, but if it is already passed, they will work on purchasing it. Their plans would then be brought before council for action. He said growth is needed to bring jobs to Milford.

Mr. Pikus asked if access is possible to the Sunnybrae property from the Silicato road; Mr. McColley said yes. Mr. McColley explained Mr. Silicato paid for the road himself and the developer that purchases the property would reimburse

him for part of the road. He advised there are three existing entrances—one at Sunnybrae, an entrance at 927 N.E. Front Street and an entrance off Crapper Lane.

Mr. Pikus referenced the entrance off Route 14 which is a state owned road. Mr. McColley responded there are four entrances that exist—at Sunnybrae, between the McColley and Tappan property at 819 N.E. Front Street (brick home), 927 N.E. Front Street and one at Crapper Lane. He noted that a portion of Sunnybrae is already zoned C-3.

Mr. Pikus reiterated that according to Mr. Reeb, the overpass on Route 14 is projected sometime between 2013 and 2015 and has not even been drawn yet. Also, the lack of funding that currently exists for such projects within the state should be considered. Mr. Pikus said his concern is if the property is developed over the next three years, how will vehicles enter and exit.

Mr. McColley explained that if a buyer came in with a new set of plans, by the time it gets to the planning commission and the state (noting the state has a waiting list), there are already existing entrances. Mr. Pikus pointed out they are currently used by residential properties zoned R-1. Mr. McColley recalled the trailer park that existed in the area which he feels was commercial because vehicles went in and out of it all the time.

Mr. Pikus said if the state says no entrances until the overpass is done, which was confirmed by Mr. Baird, and no entrances would be granted on any state roads, would traffic exit onto Tenth Street; Mr. McColley said they are not talking about traffic and are only asking for a C-3 zone at this time. Once they get that, the developer would meet with Ralph Reeb and his staff to determine how this could be done. He said if they are willing to provide \$2 million to build that overpass, he feels the state would expedite their funds because it is a cost sharing project. That, in his opinion, would be the fastest way to solve the traffic problems, which he understands is a concern of Mr. Brooks.

Mr. Pikus asked for confirmation the overpass would be cost sharing by the developer; Mr. McColley referenced the Lingo-Townsend situation in Lewes. He said those developers wanted to put up a 500,000 square foot mall. They went to Ralph Reeb, met with him and drew up their plans. They agreed to provide \$11 million of their own money to pay for the infrastructure and roads and whatever else was needed. Mr. Reeb agreed to proceed. Mr. Pikus stated the project was turned down.

Mr. McColley said he only wanted to use that as an example and stressed that roads and traffic is a mute point at this time. He said when the change of zone is approved tonight, Sunnybrae will have the same amount of traffic entering and exiting with the same fields being cultivated. Mr. McColley said that in the future, if a new university is developed which will bring new jobs, everyone will be happy.

When asked if there has been a traffic study done, Mr. McColley said it has been done, but it is a mute point. They are not dealing with traffic at this time. He is only concerned with C-3 to make the property more attractive to a developer. Once the contract is signed, they will draw up the new plans and meet with DelDOT and discuss a three-year deal.

Mr. Pikus stated he agrees, but traffic flow has got to be addressed. He said if there is no access onto any state roads, as was stated at a previous meeting by DelDOT, then no entrance permits will be issued until the overpass is done. He asked if Mr. McColley is able to market that land before the overpass is done.

Mr. McColley said he also owns 70 acres off Buck Road and the State of Delaware came in and closed the road onto Route 1 without any notification. IG Burton has been trying to get another entrance for a long time. Silicato came in and started to develop and was granted an entrance and exit. A lot of people said that no one was able to get an entrance onto Route 1 though Silicato did. Therefore, he feels it is possible. He reiterated all they want is a C-3 zone to create more jobs. He compared Milford to Millsboro and Smyrna and noted those towns are growing and businesses are moving there which is resulting in jobs and revenues.

When questioned, Mr. McColley said he has told the state that if they want a right-of-way through his property, he is willing to talk to the city manager. If they want a right-of-way, they will provide a couple of acres for an easement thru this land or whatever suits them. He said the county has already surveyed and at 927, which is the white house with a

barn behind it, they are going through it with city water and sewer and the house will be torn down for a road.

Mr. McColley said his intent is to attract a buyer to purchase the land, pay for the road and help buy some of the infrastructure for the overpass. This will then allow businesses as has been done in Smyrna and Millsboro. Mr. McColley reiterated the platform of candidates during the recent election was to bring businesses and jobs to Milford. He emphasized the change of zone will not increase traffic there tomorrow.

Mr. Pikus noted that he is still supportive of his platform but feels questions need to be answered to ensure the projects are done correctly and safely.

Mr. Adkins noted this is a large area of land and asked if there is a general plan for the whole area or does Mr. McColley plan to subdivide the property into smaller plats. Mr. McColley said if someone wants ten acres, they are flexible and would agree to subdivide it. That developer would then need to apply which means the new application would have to come back before council for approval. Right now, they want to do what is best for Milford and businesses.

Mr. Adkins said for the record, if someone wants to subdivide off ten acres, council is going to want to see something for the entire area as far as traffic.

Mr. McColley added they would love to keep forty acres for the mansion because they feel it is a big part of Milford. Many people believe it is the best property in Milford though he wants to do what is best for the town. If they were able to do that, they would take the other fifty acres and develop it into something though they prefer a college which would make Milford recession proof.

Mr. Brooks recalled Mr. McColley telling him at his house that they only wanted to change the zone to C-3 and then sell the property in two years. At that time, Mr. Brooks informed Mr. McColley that Ralph Reeb said nothing would be done to that property until the overpass was built. He said Mr. Reeb also indicated he had informed Mr. McColley of that intent, which Mr. McColley admitted to in the conversation. Mr. McColley said he does not recall that; Mr. Brooks referred to the minutes that reflect it.

Mr. McColley recalled that Ralph Reeb met with Dennis Silicato and he and his wife. They talked about improving the streets and they told Mr. Reeb they were flexible and wanted to work with DelDOT. He agreed that Mr. Reeb spoke with them numerous times.

Mr. Brooks said he wants to discuss traffic. There will be approximately 1,000 vehicles coming from the Lighthouse Church development, additional traffic will be generated from the Silicato development once the Royal Farms, Grotto Pizza, hotel and whatever has been constructed and now an additional eighty acres will be made commercial and sold to the first developer that comes along. At this point, no one knows what will end up there though there are many high volume uses permitted in a C-3 zone.

Mr. Brooks asked how all those vehicles will be able to access Route 1. He said that currently, local traffic is unable to get on Route 1 from Tenth Street or Route 14.

Mr. McColley answered that first of all, vehicles are speeding down Tenth Street. He suggests that maybe the police need to patrol Tenth Street a little more. He thinks that with the Silicato development, Tenth Street has been widened which allows more visibility which makes it safer and more open.

Mr. Brooks pointed out that the only area of Tenth Street that was widened is where it opens onto Route 1; no other area has been widened. The balance of the street is very narrow and because of that, 'no parking' signs are not even needed. If a vehicle parked there, it would block half the street.

Mr. McColley explained that once a developer purchases the property, they will have to go to DelDOT with a traffic plan that may require Tenth Street to be widened. He said a lot of those houses have a twenty foot right-of-way and DelDOT may use part of that as he claimed they did on his property. He indicated they do not have to ask for permission; they

simply widen the road and take the property.

He explained that no one from DeIDOT contacted them and suddenly one day, they found part of their fence was torn down. They then saw scrapers and other equipment widening the road. But they understand that is part of growth. He said that once they finalize the development at Sunnybrae, he expects DeIDOT to widen Tenth Street. At that time, he expects that fence to be moved back twenty feet in order to provide a wider and safer street.

Mr. Brooks emphasized that will not stop speeders and additional traffic from using Tenth Street. He stressed Tenth Street is unable to handle any additional traffic stressing there is difficulty handling what currently exists.

Mr. McColley agreed with Mr. Brooks stating the school has now doubled in size. He thinks the new football field and tennis courts are gorgeous though it will require some new infrastructure if Tenth Street needs to be widened.

Mr. McColley pointed out that former Superintendent Bob Smith came to the city with the plans. Mr. Smith has copies of traffic studies that were done. The streets were designed to handle the appropriate traffic according to Mr. McColley.

Mr. Brooks recalled when Kent County Commissioner Eric Buckson reported to council that the Tenth Street and Route 1 intersection was classified as 'just barely passing'. Commissioner Buckson added that when the Silicato development was completed, it would not pass. He feels that is a problem.

Mr. McColley explained that problem will be solved when someone purchases part of the Sunnybrae property and will then meet with DeIDOT and a new traffic count will be required. Recommendations will be made to widen the street, do more infrastructure and build the overpass. He said that will add a developer who will share the costs of the new overpass and will expedite the project and move it up.

Mr. Brooks said the plan to design the overpass is for 2015 as was noted in an article published in yesterday's newspaper. Mr. McColley said that is as of today, but is subject to change. He added that if Lingo and Townsend came to Milford and met with he and his wife and offered to buy their property because they were unable to do it in Lewes and they already have \$11 million set aside for new infrastructure, a new Tenth Street could be constructed which would widen the street and make it safer. He said that would bring jobs to Milford people and provide a better economy.

Ms. Wilson said she understands and respects the questions and concerns. She said she also understands councils' job is to ensure a land application meets the criteria. In this case, the planning department and commission has agreed it does meet the city requirements. Therefore, she feels council is obligated to make a decision. She believes it is the goal of Mr. McColley that his project enhance our community and bring jobs and revenues to the city. She also understands that DeIDOT has a responsibility to work out those traffic issues before anything can be developed at this site. The council has no control over what the state does in relation to traffic. However, the city needs to continue meeting with them to have input so everyone agrees what will benefit the town, though our concerns need to be expressed.

Mayor Rogers then opened the floor for public comment.

Emmett Venett of 810 N.E. Tenth Street, Woodshaven, advised he is a taxpayer and voter in the city because he owns rental properties. He said he is present to represent the neighboring community of Woodshaven. He recalled a meeting that was held during which time it was considered what impact this commercial endeavor would have. He said the residents in Woodshaven are very concerned. He said it is not that they do not appreciate what Mr. McColley has done nor what Sunnybrae has meant in the historical sense of this city.

Mr. Venett said the issue is that the city, in the past, may have made some hasty decisions which resulted in their community of 175 families having a drastic change in the way they go to work, to school, to town and the way they come home. He said vehicles are no longer able to come out of Milford on Tenth Street and cross over into Woodshaven. Vehicles now must go another mile to get to their residences. He also understands a number of their residents have already been ticketed because they went straight across.

He appreciates growth and jobs but noted that growth must be done correctly. He referenced the industrial park which was done extremely well. In that case, jobs were created and the infrastructure and roads were planned extremely well. However, he feels the city should be careful about rubber stamping projects and being intimidated by a plan. He said that when a plan is submitted, the city has the right to make changes. If additional information is needed, a decision can be deferred.

He also pointed out a hundred acre development Mr. Fannin is developing on the south side, another sixty acres on the Geyer property and ten acres at Walmart that have not proceeded.

Mr. Venett said it is not as if council has not exhibited a pro-stance for growth. The city has and many developments have been successful. In this case, he feels a hasty decision has been detrimental to Woodshavens' quality of life. He feels this perspective should be considered as well.

Sam Johnson of 104 N.E. Tenth Street said he knows Mr. McColley and thinks highly of him. However, no one on his street has received a notice that this was going to be heard tonight. He disagrees with Mr. Bachman who never mentioned the residential area that borders to the west directly up to Sunnybrae. That neighborhood has been there and he, personally, has lived there almost forty-six years. He said Mr. McColley indicated the street can be widened twenty feet. If that is done, both Mr. Brooks and his home will be on top of the street; some will be even closer. He likes the idea of what Mr. McColley is going to do, but he does not like not knowing what is being planned on the land.

Mr. Johnson feels that before council approves something, the plans should be presented, otherwise anything permitted in the C-3 zone will be allowed. There is a great deal of traffic on that road which has increased tremendously the past couple of years. As a result, vehicles are no longer able to cross that intersection and instead must go south and then make a u-turn to go north to into Woodshaven. That has impacted the residents from the life they have known for many years.

He does not understand why the residents were not notified and referenced the city's policy that requires it. The concern is they will not receive any future notices that something else may occur.

Mr. Johnson reiterated his concern for increased traffic. He said he was told one time if something was developed there, traffic would have to access it from Route 14 which he also prefers. He recalled Mr. McColley's statement there are three existing entrances and one is on Tenth Street. He said no additional traffic is needed and anyone that parks on that street, takes their own life into their own hands when entering or existing their vehicle.

David Kenton said he is a resident of Milford and does not have a special interest though he is a commercial realtor with property at the Mispillion Marina. He stated he is supportive of Mr. McColley's operation.

Mr. Kenton believes it was explained well and good reasons given for the C-3 zoning request. He is simply saying that nothing can happen on the property until an adequate subdivision comes before council. He said from everything he read, the city really wants traffic to go to New Wharf Road/Route 14 and go to the overpass where the interchange is planned. It was his impression the Silicato road was a temporary road until the overpass was constructed. He also agrees with Mr. McColley, which he has seen through his business, that people can expedite an interchange because of growth.

He added that if this area was entirely residential, Mr. Kenton would have some concern. Instead it is surrounded by a chicken eviscerating plant, concrete plant and a school which has tripled in size. Therefore, some growth can be expected. He alluded to Ms. Wilsons' comments that council do what Milford is allowed to do and allow DelDOT do what they need to.

He believes in the McColley plan for some sort of institutional or commercial development and DelDOT knows how to properly provide entrances from these roadways.

Mr. Kenton noted that for the past ten years, the Woodshaven residents have been told by DelDOT that traffic would have to go to New Wharf Road. He agrees that though N.E. Tenth Street is convenient, DelDOT will eventually put in the

overpass and interchange and is where traffic will be directed. He feels the one hundred acres the McColleys have will be a good addition to Milford. Therefore, he supports the change.

Sandra Webb of Lewes, Delaware, said she knows the McColleys and what they are trying to do is attract a higher learning institution. She is a commercial realtor also and she is unable to attract any interested developer without the zoning in place. She explained that is the number one criteria and noted that other towns are also trying to get their business. Those towns will have their zoning ready which will be easier to encourage economic development to their areas. The development plan for approval comes after that.

Butch Elzey of Jenkins Pond Road, Milford, stated if no access is possible to Route 1, how did Fred Hertrich obtain access. It is his understanding they are getting an additional entrance. He said if all this traffic is a big deal, how was the Silicato development approved. He said it appears the McColley site is an island with the majority of his land surrounded by commercial and industry. If the C-3 zone is approved, the city can then require him to do other things before it is developed. Council will be the judge and jury to decide what can be done at that point.

Mr. Elzey recently catered an event at Sunnybrae noting it is a beautiful site. He feels this zoning will attract new businesses which Milford needs. He is very supportive of the C-3 and any traffic problems need to be addressed by DelDOT.

Mr. Brooks pointed out it appears the high school has been forgotten and reminded council it has more than 1,000 students, many of whom drive to school. Besides that fact, they are also inexperienced drivers. He does not feel these streets should be used for these students to learn to drive because of the heavy traffic. He went to a Positive Growth Alliance meeting at Carlisle Fire Hall. He recalled Ed McMahan, Community Planner Expert, stating that when you plan a city, you place a high school in the middle of a residential area.

Mr. Brooks confirmed with City Planner Norris that was an appropriate plan.

Jim Clendaniel, Vice President of Woodshaven Association, said he was present to back Mr. Vennett, who did not state he was the president of the association, and that a vote was taken for the association, which he believes is on record.

When no one else indicated they wished to speak, the mayor then closed the floor to public comments and asked for a motion by council.

Ms. Wilson moved for approval of the change of zone as presented in the application from R-2 to C-3 as was reviewed and endorsed by the city planner and planning commission. Mr. Adkins seconded the motion.

Motion carried by the following 5-3 vote:

Mr. Johnson stated we all want to see development that will bring jobs to the city and a lot of things happen for the good. At this time, council has been told by Mr. Reeb from DelDOT that it would be in the city's best interest not to add any more development to that area. The last time they came to the city, they made it very clear what their wish was. If there were no concerns such as safety or traffic, he could consider this and possibly override it. But with the concerns this body has for safety, he has to vote no.

Mr. Grier said this is a very tough issue for him. He sees both sides of the argument but is going to vote yes simply because of what he has read from the minutes of the November 23, 2009 meeting. At that time, Ralph Reeb stated very clearly that the overpass needed to be in place as well as the service road to Front Street before anything could be developed to begin with. In his opinion, that will take care of the traffic issue. Also, city council has control over the next step and any site plan and subdivision will need to be approved again. Though it is tough, he will vote yes.

Mr. Pikus said from the conversations he has had with the state, the city planner and city manager, he has definite concerns about the traffic flow. He said he does not recall the entire conversation Mr. McColley is alluding to. However, the city will maintain control as far as any future development on those streets. He is confident there will be control over

the entrances and exits through the State of Delaware. However, the comprehensive plan does call for a C-3 zone for that area. Mr. Pikus agrees it is very difficult because safety is his main concern in addition to concerns about the lack of economic development. He is going to vote yes for the zoning change. His concerns will always be for the safety aspect but he must look on the positive side of what Mr. Reeb has assured him needs to be done. He also spoke with a higher authority and was able to get some positive response from that person at DelDOT, who should be there for at least three more years. But it needs to be watched very closely and therefore, he will vote yes.

Mr. Adkins said he also appreciates the traffic concerns at Woodshaven. He stated that a lot of damage has been done in Woodshaven with the prior development. He also thinks this will expedite the overpass on Route 14 which could make their lives a little easier. He very much appreciates the concerns on Tenth Street. As Ms. Wilson had stated earlier, he agrees this is only the zoning aspect. The planning phase is still to come. With the size of the property, its location and surrounding commercial properties, he believes there is great potential. He lends his full support to the idea of a college or university coming to Milford and agrees it would be a huge addition. Personally, he prefers to see a master plan for the entire ninety acres before he would be willing to approve any individual lot there and would like that statement on record. He feels that if it were to be divided into smaller lots that were being approved one by one, that could become a mess unless there was a master plan. He stated that for the record, any buyer that comes in and separates the land, will need to be asked to address that concern. He votes yes.

Mr. Brooks votes no stating that the University of Delaware and other colleges sound good, but he heard the same story about two years ago from another developer and those plans never materialized. He votes no and hopes there are no accidents and no kids are hurt in this area.

Mr. Morrow agrees this is a very tough decision adding he, too, supports growth and new business. It was passed by the planning commission, is in the city's comprehensive plan and overall, it would be good for the city if we were able to control traffic or had a plan in place. Both Mr. Brooks and he have concerns about the safety of the residents in the third ward and the traffic impact from a commercial development will simply be too much for Tenth Street or New Wharf Road at this time. So at this time, he has no choice but to vote no.

Mr. Starling said he has listened to both sides of this argument. Mr. McColley has asked for a change of zone to C-3 only to move forward. He agrees there are traffic problems all over town. Just yesterday, he and his wife wanted to go out do dinner. They live just off Route 113 and they observed three or four hours of cars backed up on that highway. There is additional traffic with vehicles from the high school which includes 11th and 12th graders driving to school eight months a year. He agrees our roads are going to get even more crowded but will vote yes so they can proceed.

Ms. Wilson votes yes based on the fact that the comprehensive plan, city planner and planning commission all supporting the change of zone to commercial.

Mayor Rogers announced the motion passed by a 5-3 vote.

The Mayor then adjourned the Public Hearings at 8:15 p.m.

Respectfully submitted,



Teresa K. Hudson, CMC
City Clerk/Transcriber

*MILFORD CITY COUNCIL
MINUTES OF MEETING
May 24, 2010*

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PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

ALSO: City Manager David Baird, Police Captain Dion Brooks and Recorder Christine Crouch

COUNSEL: City Solicitor Timothy Willard

Mayor Rogers called the Council Meeting to order at 8:15 p.m.

Correspondence

The mayor asked Recorder Christine Crouch to read the following letter into record:

Mayor Rogers,

My name is Joan King, and I am a Milford native. I have felt for some time I would like to write and inform you as to the exceptional city workers I have had the pleasure to interact with.

Denise and Susan are in the utility billing department. While not having the most pleasant of topics to discuss, we do consistently work out some compromise acceptable to everyone. I am grateful to them.

Recently, I was cleaning up a property/yard on South East Front Street. I was taking debris to the curb and, again, whether it was trash day or not, it was picked up. One day, there were some heavy logs in the back yard; I had not yet moved everything to the street. Four workers stopped, loaded up what was on the street and, then, went behind the property and helped me pick up the rest. Four nameless fellows who did an incredibly kind thing when they could just as easily have ridden by.

I was living temporarily at 400 Pierce Street in Milford. There was a tree close to the street that a city worker realized might pull down some power lines if it fell during a storm. Within a week, the men came and took it down. No, I don't know his name.

I also have had opportunity to interface with Brad Dennehy and CC Dennis. I had a question about a basement which, there again, they could have told me was outside of their job duties. Instead, they came, looked at it and gave, what I felt, to be very good guidance in resolving the situation.

I am grateful to each of these individuals and hope they will recognize themselves in this letter. Having been a public servant for almost a third of my life, I know all too well the thankless nature of some of these jobs. But, please know, that in these situations mentioned above, each of you has gone beyond what you had to do in making Milford a better place. Thank you, again, to each one.

Joan King

Mayor Rogers noted that council typically hears negative remarks and felt that a positive letter about our employees was something he wanted included in the council minutes.

Appointment of City of Milford Planning Commissioner

Mayor Rogers advised this matter will be deferred until the next meeting after some further discussions.

Cypress Hall Commercial Extension/Preliminary Major Subdivision

Timothy Metzner, Project Manager of Davis, Bowen and Friedel submitted a letter on behalf of Shawnee Farm, LLC clarifying the status of this project.

It noted that after the preliminary extension was granted on June 9, 2009, the contract between the prospective businesses and owner was abandoned. A buyer was interested in the site though not in the design of the original site plan. Working with the owner, DBF revised the site plan and a contract was secured. DBF then began the application process with the City of Milford, but tabled the application at the owner's request just prior to the public hearing because the buyer wanted to renegotiate the contract. A revised contract could not be agreed upon and the buyer walked away from the project and the application was withdrawn. The owner is now requesting the city revert back to the original application that received preliminary approval on June 9, 2008 which is current to date.

City Planner Norris advised the planning commission reviewed the request and recommended it be granted by a vote of 7 to 0.

Mr. Brooks moved to approve the extension, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Adoption of Ordinance 2010-7/Taxation/Chapter 204/Exemption

Mr. Adkins moved to adopt Ordinance 2010-7, seconded by Mr. Pikus:

ORDINANCE 2010-7

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent employment, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 204 of the Code of the City of Milford, entitled Taxation, is hereby amended to include a new Article to read as follows:

ARTICLE II—EXEMPTION OF NEW IMPROVEMENTS ADDED TO PROPERTY

§204-6 Eligibility for new improvement exemption of real property taxes.

The exemption shall apply to any improvement to any property (residential, commercial, industrial, etc.) located within the City limits that results in an increase in the improvement assessment as contained in the City's General Assessment Records. The building permit for the said improvements must be submitted to the City prior to June 30, 2011. The exemption shall be based on the change in the improvement assessment value only. The land assessment is not eligible for exemption under this Article.

§204-7 Amount of the exemption.

The amount of the exemption shall be determined by subtracting the improvement assessment value prior to the new construction from the improvement assessment value following the new construction.

§204-8 Application of the exemption and limitations.

The dollar amount of the exemption shall be multiplied by the property tax rate in the first full tax year following the issuance of a certificate of occupancy by the City. The dollar amount of the exemption shall be limited to a maximum of \$1,000 for residential properties and limited to a maximum of \$5,000 for all other properties. The exemption shall only be good for one year immediately following the issuance of a certificate of occupancy.

§204-9 Appeals.

An aggrieved taxpayer may appeal from the disposition of an exemption claim in the same manner as is provided for appeals from assessments generally.

Section 2. This article shall be deleted from the Code of the City of Milford one year after the expiration of the exemption eligibility period.

Section 3. Dates
Adoption May 24, 2010
Effective June 3, 2010
Motion carried.

*Adoption of Ordinance 2010-8/Sewer/Chapter 185/Impact Fee Exemption
Adoption of Ordinance 2010-9/Water/Chapter 222/Impact Fee Exemption
Adoption of Ordinance 2010-10/Electrical Standards/Chapter 192/Impact Fee Exemption*

The city manager noted that the amendment requested at the last council meeting has been included in each of these three ordinances. That amendment requires construction be completed for single family residential in six months and multi-family and commercial in twelve months in order to be eligible for the exemption.

Mr. Adkins moved to adopt the following three ordinances, seconded by Mr. Pikus:

ORDINANCE 2010-8

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 185 of the Code of the City of Milford, entitled Sewers, Article III §24 Impact Fee Established, shall be amended to add a subsection D to read as follows:

§185-24 D. The sewer impact fee described in §185-24C shall be waived for all permits issued between June 3, 2010 and December 31, 2010. The waiver shall be for a maximum of 5 EDUs per project. The City will continue to collect the impact fee charged by Kent County during this period.

§185-24 D (1) To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:

<i>Single Family Residential</i>	<i>6 Months</i>
<i>Multi Family Residential</i>	<i>12 Months</i>
<i>Commercial</i>	<i>12 Months</i>

§185-24 D (2) Any structure that does not receive a certificate of occupancy in accordance with this schedule...

Section 2. Dates.

Adoption Date: 05-24-10

Effective: 06-03-10

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Sewer Impact Fees, whose terms are defined in §185-24C, except as provided herein.

ORDINANCE 2010-9

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. §222-31 of the Code of the City of Milford, entitled Water, shall be amended to add a subsection I to read as follows:

§222-31 I. The water impact fee described in §222-31H shall be waived for all permits issued between June 3, 2010 and December 31, 2010. The waiver shall be for a maximum of 5 EDUs per project.

§222-31 I. (1) To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:

<i>Single Family Residential</i>	<i>6 Months</i>
<i>Multi Family Residential</i>	<i>12 Months</i>
<i>Commercial</i>	<i>12 Months</i>

§222-31 I. (2) Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 2. Dates.

Adoption Date: 05-24-10

Effective: 06-03-10

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Water Impact Fees, whose terms are defined in §222-31H, except as provided herein.

ORDINANCE 2010-10

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the

City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 119 of the Code of the City of Milford, entitled Electrical Standards, shall be amended to add a section to read as follows:

The electric impact fee established under this Chapter shall be waived for all permits issued between June 3, 2010 and December 31, 2010.

To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:

<i>Single Family Residential</i>	<i>6 Months</i>
<i>Multi Family Residential</i>	<i>12 Months</i>
<i>Commercial</i>	<i>12 Months</i>

Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 2. Dates.

Adoption Date: 05-24-10

Effective: 06-03-10

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Electric Impact Fees, whose terms are defined in the Electric Tariff of Chapter 119, except as provided herein.

Motion carried with no one opposed.

Adoption of Resolution/Adopting City of Milford Charter Amendments

When asked for comments, Mr. Pikus questioned the following change:

4.09 - Action Requiring an Ordinance

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

Mr. Pikus feels council needs to have this discretion and suggested the deleted language remain. Mr. Morrow agreed.

Synopsis

It was confirmed the synopsis was complete and summarizes the major changes in the charter. In addition, when Mr. Willard submits the bill to the general assembly, a tracked copy will be available for anyone wishing to review it.

4.06- Qualification for Mayor and City Council

(a) *No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided*

(b) *No person shall be eligible for election as a City Council member unless he or she is a citizen of the United*

States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

Mr. Morrow then pointed out some additional candidate requirements were added to comply with those in the state municipal election law. He said that while considering many situations that occur today, he feels we would be remiss if we did not require a background check be done on candidates. He pointed out that little league, pop warner and schools require them. He believes it would be appropriate and advantageous to the city. A background check would expose some serious criminal convictions that may otherwise be overlooked until a situation occurred where it may be too late.

Solicitor Willard advised that Delaware Code has various sections with this in it. Though he is unable to quote the best language, he will review the code and subsequently add what he feels is most appropriate to 4.06 (a) and (b).

Mr. Starling referenced the residency requirement to run for mayor or council that was changed from 30 days to one year and suggested it be changed to five years. He feels it is important to be familiar with the city and it takes that long for someone moving here to become acquainted and really familiarize themselves with the area.

Mr. Willard is aware the Supreme Court has ruled against some residency requirements for voters but is unfamiliar with such limitations for elected officials. If council agrees it should be changed, he will research the five years for any related case law. Mr. Starling urged him to check into it.

After some further discussion, Mr. Starling recommended it be changed from thirty days to two years.

Solicitor Willard asked if procedurally, would the candidate have the background check done when they filed or have it completed beforehand. Mr. Morrow feels it should become part of the candidate packet.

When asked how these amendments will affect the charter being presented for this general assembly session, Mr. Willard explained the legislators return to session on Monday. Mr. Willard explained that it goes to committee first, then to the general assembly.

Council agreed that Mr. Willard should prepare the revised document to include those changes discussed this evening. He advised that he will add the new language, present it to the city manager for him to provide to council. This will keep the process moving.

Ms. Wilson then added her thoughts on the vice mayor voting. She feels that when a council person is residing over a council meeting as the vice mayor, he or she should be allowed to vote as a representative of their ward. This was previously discussed and the decision was to leave the charter as it is currently written. When asked for Mr. Brooks' opinion, Mr. Brooks stated he has no problem either way.

The city solicitor said if the consensus of council is to allow the vice mayor to vote, that language needs to be added. Currently, the mayor does not vote though the charter is silent.

Ms. Wilson said over the past four years, she has voted and according to how the charter is interpreted, that was against the law. Mr. Willard pointed out that was the interpretation of Mr. Fuqua at the time. Mr. Willard added that his initial instinct is that the vice mayor should vote because they were elected by their constituents to represent them in a voting manner. They only fill in for the mayor in a procedural manner for the purpose of running the meetings.

Planning Commission Chuck Rini then confirmed that if a matter goes before council and ends in a 4-4 vote (the mayor is absent), that item is defeated because it did not receive the majority vote. It was confirmed that in that case, the matter does not pass and cannot be tabled until the next meeting.

It was then agreed to allow the solicitor to make these changes and present the document to the general assembly.

Mr. Pikus moved for approval of the charter with the previous amendments as were discussed and such changes are to be made by the solicitor for presentation to the general assembly, seconded by Ms. Wilson. Motion carried with no one opposed.

Mr. Morrow commended the Charter Committee and former Chairman Mike Spillane noting there was a lot of work put into this. Mayor Rogers agreed adding the group was very thorough in their review.

FY 2009-10 Budget Amendment/Legal Fees

Mr. Baird requested that \$25,000 for legal costs be transferred from General Fund/Fund Balance 101-0000-399.10.00 to Council/Legal Expense 101-1110-411.30.20.00. He stated that our policy allows our insurance company to make settlement on a legal case. This involved a \$40,000 claim in which the city is responsible for the \$25,000 deductible.

The city manager added there are still some questions about whether this even occurred on city property, but this payment will keep us current on our insurance claim.

Mr. Adkins stated that as a previous insurance agency, generally there is not much of a savings by increasing a deductible to that degree and asked that it be looked into. Mr. Baird said that is already being done.

When asked if the insurance company has some obligation to confer, Mr. Willard suggested he and Mr. Baird look into the matter more before the check is mailed.

Mr. Starling asked why council is no longer being informed of legal issues as they were in the past. The mayor agreed council should be advised of all legal actions and in most cases, the mayor and council are specifically named. Mr. Willard added there are ethical obligations to inform the client of the case. As he stated, he and Mr. Baird are looking into how this occurred.

Mr. Baird said on this particular case, the city received notification of the claim though they were unaware of the settlement until the bill was received for the \$25,000. Mr. Baird confirmed they will review it before the check is mailed.

In order to pay the deductible, Mr. Pikus moved to approve the budget transfer, seconded by Mr. Adkins.

Mr. Brooks asked if we should wait until the city manager and city solicitor looked into this. Mr. Baird said the city is contractually obligated to pay the deductible, per our contract, though he will continue to pursue it because we disagree with the charge.

Motion carried.

Civic Plus Agreement/City Website

Mr. Baird referred to the standard three-year agreement for Civic Plus who specialize in government websites. He advised there are a number of sites they maintain with other Delaware towns. Those towns were contacted and all came back with extremely positive recommendations. He reported that significant changes will be made to our website over the next few months. The agreement is for \$8,600 annually which is in line with our budgetary position.

When asked if the price was negotiable, Mr. Baird said this has been negotiated based on their initial proposal. Mr. Brooks confirmed it was in the budget.

Mr. Grier asked how this rate compares to our current carrier; Mr. Baird answered approximately \$1,000 more per year. He noted the services and support they provide are more than worth the price we are currently paying.

Mr. Pikus asked if the old company bid on the project; Mr. Baird explained that we moved away from the old company because of their lack of service and their product not meeting our current needs.

Mr. Pikus moved for approval of the Civic Plus Agreement, seconded by Ms. Wilson. Motion carried with no one opposed.

FY 2010-2011 Budget

Mr. Pikus then read the following statement into record:

The finance committee and all members of city council have received the proposed budget for FY 2010-2011. In a few days, the finance committee will begin working on this budget and welcome you to attend the meetings where they will be spending many hours reviewing it with a fine tooth comb. The economics today are not what they used to be. We would like to see them come back but our expenses will be looked at very, very closely. Cuts will have to be made. Decisions and changes may have to be made, some of which may not be very popular. Unfortunately, that is what council is charged to do. We are elected as councilpersons to be the overseers and watchers of the city's dollars.

We will work with our city manager, finance director and department heads to assure the citizens the City of Milford will be run like a business. We are a \$40 million a year plus entity which should be run like a business.

This is the pledge the finance committee will make. He considers the finance committee to be all members of council which he feels is important. We will work as hard as we can to come up with a good, balanced and fair budget.

The mayor announced he has moved the workshop session up and the executive session will follow in order to allow those present to hear the public business. Council will recess the current meeting and return upon the conclusion of the workshop for the executive session.

Mr. Pikus moved to recess the council meeting to go into the workshop session, seconded by Mr. Adkins. Motion carried. The meeting was recessed at 8:50 p.m.

The council meeting resumed at 9:15 p.m.

Executive Session -Executive Session-Pursuant to 29 Del. C. §10004(b)(2)Preliminary discussions on site acquisitions for publicly funded capital improvements.

Ms. Wilson moved to go into Executive Session reference 29 Del. C. §10004(b)(2) preliminary discussions on site acquisitions for publicly funded capital improvements, seconded by Mr. Starling. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:16 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:48 p.m.

Executive Session

No action required.

ADJOURN

Mr. Adkins moved to adjourn the Council Meeting, seconded by Ms. Wilson. Motion carried.

Mayor Rogers adjourned the Monthly Council Meeting at 9:49 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive style with a large, looping initial "T".

Terri K. Hudson, CMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 24, 2010

The City Council of the City of Milford met in Workshop Session on Monday, May 24, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

ALSO: City Manager David Baird, Police Captain Dion Brooks and Recorder Christine Crouch

COUNSEL: City Solicitor Timothy Willard

The Workshop Session convened at 8:50 p.m.

Ward District Realignment/Current Code

City Manager David Baird reported that this was discussed a few weeks ago and he needed concurrence of city council to make sure it was agreed on how to proceed.

During the charter review, it was determined that both the current charter and the proposed charter require election districts be contiguous. A situation arose where it was determined the Meadows of Shawnee was not contiguous with the third ward. Previously there had been discussions that Mr. Willard and Mr. Baird move forward to gather some options to be presented to council for their consideration. The intent was to make sure those recommendations were brought back for consideration in October so a final decision could be made by city council in November. That would allow current officials and candidates who were considering running for office to have adequate time to adjust to any modifications made to the election wards.

Mr. Baird advised that city council is charged with the responsibility of establishing the election wards. He wants to make sure that is the consensus of this council.

Mayor Rogers said he feels that redistricting is required and he sees a need for a better balance of the wards in relation to population. He feels it is important to the citizens that each ward is equally represented. Currently, one ward is much larger which gives them both some advantages and some disadvantages.

Mr. Brooks agrees and recalled that the last time it was done, the city solicitor, at that time, provided approximately six different scenarios. Mr. Fuqua provided a recommendation which is the one that was approved by council.

Mr. Morrow asked if all four wards will be redesigned, Mayor Rogers said there is only one area that needs to be addressed now because it is not contiguous with the balance of the ward. Mr. Brooks noted it will impact at least two wards.

Mr. Adkins asked if this major overhaul will be done before the census is completed. Mr. Baird answered the census figures will not impact this change. The charter states that each district must contain as nearly as possible the same number of qualified voters in districts, but districts shall not differ in population by more than ten (10) percent of the population in the smallest district created.

According to Mr. Baird, the current voter registration lists and number of residential units will be considered. By that point, we should start seeing some of the preliminary numbers coming out of the census as far as numbers of persons per household which he expects to remain at 2.3.

City Solicitor Willard explained the wards may not have to be redrawn, but they must comply constitutionally which

means they are equal and contiguous. There is a problem with the one island which was a mistake and contrary to the charter and federal law. The charter currently allows a fifth ward to be created or the rearrangement of wards upon an annexation which he feels caused this problem. Though it was not done in a timely fashion, it is his and the city manager's goal to correct this and in this case, move that portion of the third ward that is not contiguous which he does not feel will be a huge endeavor.

Next year in 2011, the wards can be revisited after the census is completed.

Ms. Wilson likes the idea the number of units will be considered instead of just using population numbers. She noted the number of people in Milford who are not registered which throws those numbers off.

Mayor Rogers agreed stating there are still a large number of people still on our voter registration who are no longer eligible for one reason or another. He also recommends that when new residents move into Milford and sign up for utilities, they be advised and given information on how to register to vote in city elections.

Follow-up information will be provided by Mr. Willard and Mr. Baird.

Solid Waste & Recycling Issues

The following memo was presented from City Manager Baird:

DSWA TIPPING FEES

As we have discussed, DSWA will increase its landfill tipping fee per ton from \$61.50 to \$80.00 effective July 1, 2010. In addition to this increase, the \$10.00 per ton rebate currently offered by DSWA will be reduced to \$4.00 per ton. This results in an increase of \$77,286 (47.5%) in tipping fees paid by the City for the fiscal year beginning July 1, 2010.

Over the past few months, municipal representatives that provide garbage collection (Milford, Dover, Bethany Beach, Rehoboth Beach, Newark, New Castle, and Wilmington) have been meeting with DSWA officials to explore alternatives to the large increase. After reviewing DSWA financial statements and other documents, we did concur that the increase can be justified by DSWA. Options we proposed included a five-year agreement that would allow for a more gradual phase in of the rates and a specific municipal rate since we are required by law to take our waste to DSWA, while private haulers do not have the same requirement. These and others were not acceptable to DSWA.

The DSWA option did not provide any rate relief as they would not agree to establish a separate rate for its municipal customers. The DSWA option calls for an \$8.00/ton deferral in year one that will be repaid in year 3 of the contract. This option will allow the City of Milford to also defer passing that cost along to our residents until year 3 of the proposed contract with DSWA. The old saying "you can pay me now, or pay me later" applies here.

Options regarding the rate structure will be discussed in more detail during the budget hearings on June 1 and 3.

RECYCLING

Earlier this month, the General Assembly passed SB234 that requires DSWA to cease curbside recycling collection and requires municipal and private haulers to provide the service. The City is currently under contract with DSWA through July 31, 2010 for curbside recycling at a cost of \$1.00/collection/household.

The City's options for complying with the law are to continue to contract recycling services or to collect it utilizing our existing solid waste personnel. While we can realistically expect to see prices between \$1.00-\$1.50/collection/household from a private contractor, after a thorough evaluation of our operations and these options, the staff and I have determined it to be in the City's best interest to collect the recycling ourselves.

This option works well for the City as we are able to incorporate the recycling collection utilizing our existing personnel

and equipment. We are also planning to maintain the Thursday as the collection day for recycling.

SOLID WASTE & RECYCLING

While comparing the recycling collection costs, it was determined the City's recycling costs will be more costly than that of a private contractor. However, the difference was removed once we evaluated the combined costs of solid waste and recycling. By collecting both solid waste and recycling, the City should be able to offset year one of the tipping fee increase imposed by DSWA.

Mr. Baird advised that these options will be considered over the next couple of weeks. A lot more detail on rates will be discussed during the budget hearings. He feels it will have a significant impact on city finances.

The city manager noted that several municipalities met with DSWA and after a review of their financial documents, determined that their rate increase is justified. They have discussed possible ways to address the 47.5% increase in year one and considered if it could be spread out.

Several options were considered. One was a five-year agreement that would allow a more gradual increase; the possibility of DSWA offering a specific municipal rate was another option.

Mr. Baird reminded council that the law requires municipalities to conduct business with DSWA. Private haulers have other choices. Those choices were not acceptable to DSWA for a number of reasons with the major being their immediate need for a rate increase which is why they were reluctant to go beyond a three-year term not knowing what could occur later.

The city manager stated they did offer a deferral and are proposing an \$8 per ton deferral in year one. That would even out to a zero deferral in year two with that \$8 coming back in year three.

Mr. Baird referred to a chart (see attached) showing the current costs, the three-year contract and a comparison of the municipal option which includes the \$8 deferral with their standard agreement option. By taking the deferral, the increase drops from 47.5% to 32% which is significant but an approximate \$37,000 savings. In year two, the increase would be 14.7%. In year three, the increase would be 12.8%. The overall costs are projected to increase from \$241,000 today to \$412,000 in year three. For comparison purposes, those assumptions were based on the annual tonnage collected in the city remaining the same over those three years.

He noted the city will be paying the same amount of \$1,096,056 with either option over the three-year term. This calculates to more than \$300,000 per year needed to make those payments.

Mr. Baird and Mr. Portmann both agree that taking the deferral the first year is preferred because it equates to a zero interest loan for two years, but also provides some relief to our rate payers. They believe that anything to offset costs right now is good for the city and the residents as well.

The other option is to pay the full amount in the first year which is a significant increase to cover the cost.

On recycling, the city is considering using city staff for this service. The city manager feels this can be done without increasing our labor force or making any significant capital changes because of our current collection schedule. Minor modifications will be needed to the work structure our solid waste employees follow today. Thursday would become the recycling day because it is currently the lightest day for collections. In that manner, everything will remain the same.

When asked how holidays would be handled, Mr. Baird explained the flexibility we have because of Thursdays would be diminished as the four-day collection period becomes a five-day collection period. Some route adjustment would be needed and some additional overtime incurred by those employees. Those numbers would be factored into the budget as part of the solid waste and recycling budget for the upcoming year.

Ms. Wilson questioned that no one else would need to be hired to provide this new service even to replace individuals who are no longer here. Mr. Baird reported it is a full crew with the exception of one temporary employee which he will be discussing in the budget process. From a staffing level, he said there are enough employees though it is being subsidized with a part-time person. He has talked to those workers and they feel they can take on this challenge. He also understands the first year will be a trial period with an option to reconsider our position next year.

The city manager added that if you compare the numbers for recycling side by side, it would be in the city's best interest to contract it out. However, when you package the solid waste and recycling together, it makes sense for the city to proceed.

Mr. Morrow asked the percentage of households recycling; Mr. Baird said that we have slightly over 4,200 trash customers and 1,981 recycled at the last count. There is 50% participation though we are only seeing about 6% utilization from what is being collected from a tonnage standpoint.

Mr. Baird explained the numbers on recycling really do not work even if the deferred option was considered. The net cost in year one is \$68 a ton. We are collecting just under 500 tons a year which diverts about \$30,000 a year from the landfill. Currently, our contract prices are \$45,000 to DSWA. Therefore, recycling does not pay for itself which is one of the reasons DSWA wanted out and was subsidizing between \$3.5 to \$4 million a year. The new bill passes that subsidy to the municipals.

Recyclables are being collected at the transfer station in Milford which prevents a lot of hauling time. In addition, DSWA has agreed to accept those recyclables at no cost for the first three years. After that, there will most likely be a cost added.

He advised there is a requirement the city provide curbside recycling whether it is directly from the city or through an outside contractor. For the residents, it remains a voluntary program.

DSWA owns the recyclable cans and will be giving them to the municipals or private haulers. They will continue to provide cans to new customers who subscribe until July 31st. After that, some of the small start-up costs, including the cans fees, will be passed on.

There have been discussions about DSWA equipment and vehicles that may be available to purchase after July 31st.

Part of the Senate Bill 234, which is tied in with the bottle bill, allows those dollars to be put into a fund to provide low interest loans and grants to companies that provide recycling services. The city will qualify as one of those eligible entities to help with the start up costs associated with the recycling. However, Mr. Baird does not expect it to be a sustainable fund because it may phase out over the two to three-year period.

He emphasized there is a lot of uncertainty in regard to solid waste and recycling rates over the next couple of years.

With no further business, the Workshop Session concluded at 9:15 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Transcriber

CITY OF MILFORD MEMORANDUM

TO: Mayor & City Council
FROM: David W. Baird, City Manager *DWB*
SUBJECT: Solid Waste and Recycling
DATE: May 17, 2010

DSWA TIPPING FEES

As we have discussed, DSWA will increase its landfill tipping fee per ton from \$61.50 to \$80.00 effective July 1, 2010. In addition to this increase, the \$10.00 per ton rebate currently offered by DSWA will be reduced to \$4.00 per ton. This results in an increase of \$77,286 (47.5%) in tipping fees paid by the City for the fiscal year beginning July 1, 2010.

Over the past few months, municipal representatives that provide garbage collection (Milford, Dover, Bethany Beach, Rehoboth Beach, Newark, New Castle, and Wilmington) have been meeting with DSWA officials to explore alternatives to the large increase. After reviewing DSWA financial statements and other documents, we did concur that the increase can be justified by DSWA. Options we proposed included a five year agreement that would allow for a more gradual phase in of the rates and a specific municipal rate since we are required by law to take our waste to DSWA, while private haulers do not have the same requirement. These and others were not acceptable to DSWA.

The DSWA option did not provide any rate relief as they would not agree to establish a separate rate for its municipal customers. The DSWA option calls for an \$8.00/ton deferral in year one that will be repaid in year 3 of the contract. This option will allow the City of Milford to also defer passing that cost along to our residents until year 3 of the proposed contract with DSWA. The old saying "you can pay me now, or pay me later" applies here.

Options regarding the rate structure will be discussed in more detail during the budget hearings on June 1 and 3.

RECYCLING

Earlier this month, the General Assembly passed SB234 that requires DSWA to cease curbside recycling collection and requires municipal and private haulers to provide the service. The City is currently under contract with DSWA through July 31, 2010 for curbside recycling at a cost of \$1.00/collection/household.

The City's options for complying with the law are to continue to contract recycling services or to collect it utilizing our existing solid waste personnel. While we can realistically expect to see prices between \$1.00-\$1.50/collection/household from a private contractor, after a thorough evaluation of our operations and these options, the staff and I have determined it to be in the City's best interest to collect the recycling ourselves.

This option works well for the City as we are able to incorporate the recycling collection utilizing our existing personnel and equipment. We are also planning to maintain the Thursday as the collection day for recycling.

SOLID WASTE & RECYCLING

While comparing the recycling collection costs, it was determined the City's recycling costs will be more costly than that of a private contractor. However, the difference was removed once we evaluated the combined costs of solid waste and recycling. By collecting both solid waste and recycling, the City should be able to offset year one of the tipping fee increase imposed by DSWA.

DSWA Tipping Fee Comparison
Municipal Proposal vs. Standard Option
2010-2013

Annual Tonage Used for Both Options: 4,684

	DSWA Municipal Option		Standard Agreement Option	
	Cost per ton	Cost	Cost per ton	Cost
Current Costs				
Tipping Fee	\$ 61.50	\$ 288,066.00	\$ 61.50	\$ 288,066.00
Rebate	\$ (10.00)	\$ (46,840.00)	\$ (10.00)	\$ (46,840.00)
Net Cost	\$ 51.50	\$ 241,226.00	\$ 51.50	\$ 241,226.00
Year 1 (July 2010-June 2011)				
Tipping Fee	\$ 80.00	\$ 374,720.00	\$ 80.00	\$ 374,720.00
Rebate	\$ (4.00)	\$ (18,736.00)	\$ (4.00)	\$ (18,736.00)
Deferred Cost	\$ (8.00)	\$ (37,472.00)	\$ -	\$ -
Net Cost	\$ 68.00	\$ 318,512.00	\$ 76.00	\$ 355,984.00
		32%		47.57%
Year 2 (July 2011-June 2012)				
Tipping Fee	\$ 82.00	\$ 384,088.00	\$ 82.00	\$ 384,088.00
Rebate	\$ (4.00)	\$ (18,736.00)	\$ (4.00)	\$ (18,736.00)
Deferred Cost	\$ -	\$ -	\$ -	\$ -
Net Cost	\$ 78.00	\$ 365,352.00	\$ 78.00	\$ 365,352.00
		14.70%		2.63%
Year 3 (July 2012-June 2013)				
Tipping Fee	\$ 84.00	\$ 393,456.00	\$ 84.00	\$ 393,456.00
Rebate	\$ (4.00)	\$ (18,736.00)	\$ (4.00)	\$ (18,736.00)
Deferred Cost	\$ 8.00	\$ 37,472.00	\$ -	\$ -
Net Cost	\$ 88.00	\$ 412,192.00	\$ 80.00	\$ 374,720.00
		12.80%		2.56%

TOTAL COST OVER 3 YEARS **\$ 1,096,056.00** **\$ 1,096,056.00**

