

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 9, 2010

The 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, August 9, 2010.

PRESIDING: Mayor Joseph Ronnie Rogers

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

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

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:03 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilwoman Wilson.

APPROVAL OF PREVIOUS MINUTES

Motion made by Ms. Wilson, seconded by Mr. Pikus to approve the minutes of the July 12, 19 and 26, 2010 meetings as presented by the city clerk. Motion carried.

RECOGNITION

No guests were present to be recognized.

Mayor Rogers advised that he will be honoring an Eagles Scout this Sunday.

POLICE REPORT

Mr. Morrow moved to accept Chief Hudson's report, seconded by Mr. Brooks. Motion carried.

CITY MANAGER REPORT

City Manager Baird read the following report into record:

Community Transportation Funding

The City will be receiving \$425,000 in Community Transportation Funds from Senator Simpson, Senator Bonini, Representative Walls and Representative Carey. The funding will be used for Street Paving (\$275,000) that are now out to bid and for the next phase of the Riverwalk project (150,000) that will be discussed later this evening. On behalf of the City, I would like to thank each of these gentlemen for their continued support of projects within the City.

Neal Moore Lease

Upon request of Mr. Moore, the City and Mr. Moore have exercised the option in the current lease that will keep the lease in place through December 31, 2010.

Can Do Playground

We have met with representatives of the area Rotary Clubs sponsoring the Can Do Playground about the possibility of further collaboration by incorporating the City's existing and proposed playground facilities at the Tony Silicato

Memorial Park. The Can Do Consultant provided by Rotary will be working with Gary Emory and our playground facility representative to explore the four options being considered. With this in mind, the City will be delaying moving forward on the \$35,000 capital expenditure for a second playground until a decision has been reached on the partnership.

205/207 N.W. Front Street Condemnation Appeal

The Board of Appeals met on three separate occasions (2 hearings and 1 site visit) to consider the appeal of the condemnation order by the property owners. The last hearing was held on Wednesday, August 4, 2010 and the board completed presentations by all parties involved. The Board will be reconvening in the next two weeks to render a final decision on the matter.

Water Facilities Plan

The City has requested DBF prepare a water facility plan that incorporates a review of all of the City's water facilities. The plan will include an evaluation of current and proposed wells, treatment plants, and towers and examine the operational efficiency of each. The purpose behind this is to gain a clear understanding of what improvements should be made to our system to gain efficiencies and develop a schedule for capital investment to the water system.

Impact Fee Waiver Report

Since the start of the incentive in June, four projects have qualified for the impact fee waiver and the amount of the waived fees is \$17,415 (Water-\$7,664; Sewer-\$4,051; Electric-\$5,700). The projects included a commercial fit out for Nemours Healthcare Dental Office, Avenue United Methodist Church expansion and renovations, a new single family home in Lighthouse Estates and Interior and Exterior Renovations to a Duplex on Carlisle Ln.

NE Front/SE Front Street Projects

Councilman Pikus and I recently met with members of Downtown Milford, Incorporated regarding the possibility of funding approximately \$3,000,000 for improvements to NE Front Street and SE Front Street. In order for the City to take on this type of project, it should be expected a referendum may be necessary. I will continue to work on this issue and recommend the Finance Committee work with DMI on possible funding options.

North Front Street Sewer Project

DBF continues to coordinate corrective action with JJID on this project. JJID will be submitting options to the City on Friday, Aug. 6, 2010 for review by DBF. We are stressing the impact this delay has on local business and traffic in the construction area and that work needs to progress on the project.

Bid Openings

*The City has bid openings scheduled for the following
Street Paving/Curbing—August 19, 2010
Garbage Truck—August 24, 2010*

Mr. Pikus asked if the clock has started on the time frame to finish the North Front Street project; Mr. Baird advised it is on hold until there is an amiable solution. However, the city manager expects that work to resume within the next ten days.

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

COMMITTEE REPORT

Annexation Committee

Annexation Committee Chair Wilson presented the following report on behalf of the Walter N. Thomas II petition:

A public meeting was held in Council Chambers on July 19, 2010 to consider the annexation request for lands described as:

<i>Property Owner:</i>	<i>Phillip Tolliver of Morris and Ritchie Associates on behalf of Walter N. Thomas II</i>
<i>Location:</i>	<i>The south side of Milford Harrington Highway near the intersection of Canterbury Road/Holly Hill Road and Milford Harrington Highway.</i>
<i>Size:</i>	<i>72 +/- Acres</i>
<i>Existing Zoning:</i>	<i>AC: Agricultural Conservation</i>
<i>Proposed Zoning:</i>	<i>R-3, with a maximum of 768 units</i>
<i>Tax Map and Parcel Number:</i>	<i>MD-00-173.00-01-62.00, MD-00-173.00-01-62.02</i>

APPLICANT

An application by Phillip Tolliver of Morris and Ritchie Associates on behalf of Walter N. Thomas II for the annexation of 71.92 acres into the corporate limits of the City of Milford.

LOCATION

The property is identified as Kent County tax parcels MD-00-173.00-01-62.00 and MD-00-173.00-01-62.02 and would be located in the Fourth Ward of the City of Milford.

STREETS

The property fronts the Milford-Harrington Highway which is maintained by the State of Delaware. Access approval will be required from DelDOT. There is one single family detached dwelling located on the property.

DRAINAGE

Storm water management on the parcel will be controlled by the Kent County Soil Conservation District at the developer's expense.

ZONING

The area proposed to be annexed is currently zoned AC in Kent County under the Kent County Zoning Ordinance. The application requests the property to be zoned R-3 Moderate Density Residential under the City of Milford's Zoning Ordinance. Proposed development is a residential community with 768 residential units.

SEWER

The area proposed to be annexed would be connected to the City of Milford's sewer system and then be treated at the Kent County Regional Sewer Authority. All costs for utility extensions to this property shall be completed at the expense of the developer and upon completion, the utility lines transferred to the City for incorporation into the City's wastewater system. Wastewater capacity cannot be guaranteed until a final site plan has been approved by City Council, building permits issued, and the scheduled impact fees are remitted to the City.

WATER

The area proposed to be annexed would be connected to the City of Milford's water system. All costs for utility extensions to this property shall be completed at the expense of the developer and upon completion, the utility lines transferred to the City for incorporation into the City's water system. Water capacity cannot be guaranteed until a final site plan/subdivision has been approved by City Council, building permits issued, and the scheduled impact fees are remitted to the City.

ELECTRIC

The Electric Department has 3 phase electric currently running down RT 14. It would make it easier to get to the development beside the BAC plant on Holly Hill Road if we could get an easement.

TRAFFIC

The Department of Transportation may require a traffic impact study and entrance permits for project. The developer will pay the related costs.

ENVIRONMENTAL ISSUES

The U.S. Army Corp of Engineers will control provisions under Section 404 of wetlands on the parcel. The applicant has not determined if wetlands are on the property at this time, however according to maps in the 2008 Comprehensive Plan there are wetlands shown on this site. This parcel is located in an excellent and good recharge area. The southern third of property is located in an excellent recharge area and the northern part of the parcel is in a good recharge area. The developer will have to comply with the Excellent Recharge Area Ordinance of the City of Milford and conform to the provisions of this ordinance. According to Map 3A Natural Features, of the 2008 City of Milford Comprehensive Plan, this property is not located in a Well Head Protection Area.

AREA LAND USES

The area proposed to be annexed is located on the south side of the Milford-Harrington Highway or Route 14. Lands to the north are located in the City of Milford, undeveloped, and zoned R-3 with a PUD designation. Lands to the west and east are out of the City's limits with scattered single family home sites on parcels of land and are zoned AC under the Kent County Zoning Ordinance.

FIRE AND POLICE

The Carlisle Fire Company, Inc. currently provides and would continue to provide fire protection. Police protection is primarily provided by the Delaware State Police with assistance from the Milford Police Department. Upon annexation, primary police service would be provided by the City of Milford Police Department. The Carlisle Fire Company would provide ambulance service. The State Fire Marshall's Office would regulate construction issues relating to fire protection

COMPREHENSIVE LAND USE PLAN

The City of Milford's Comprehensive Plan identifies this section as the Neighborhood North. The property is recommended in the Comprehensive Plan as Moderate Density Residential or R-3.

PROPERTY TAXES AND OTHER ECONOMIC CONSIDERATIONS

According to John Darsney, Land Management Data Manager for the City of Milford, there are no farmland assessments or preservation districts on the parcels under consideration. The site as surveyed, 72 acres at the requested R-3 zoning district, with no subdivision approval, would have an assessment estimate of \$600,000, with an annual tax liability of \$2,760. It is anticipated that the property taxes, after development, will increase on this property and the City would benefit from the revenues received from building permits and real estate transfer taxes. Construction costs as well as user service fees cannot be determined at this time, as the applicant has not proposed a project to assess.

ADVANTAGES TO THE CITY

1. The property would be within the planning area of the City of Milford.
2. The City would receive revenues (property tax, real estate transfer tax, building permits, etc.) for activity on the property.
3. Potential for additional water, sewer, and electric customers.
4. Identified within the Urban Growth Boundary Area of the 2008 Comprehensive Plan.
5. Increases the amount of development opportunities within the City limits, which have the potential to spur other economic benefits to the City.

DISADVANTAGES TO THE CITY

None.

RECOMMENDATION

Based on the issues and comments discussed in this report, the Annexation Committee of the City of Milford recommends approval of the application, following a 3-1 vote, with the following comments:

1. Annexation is consistent with the "Comprehensive Land Use Plan".
2. Property is contiguous to existing City Limits.

3. *Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.*
4. *Property will be served by City Electric, Sewer, and Water. At present, these utilities are not available to the site.*
5. *An executed Annexation Agreement is required prior to final City Council approval.*
6. *Upon Council approval, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.*

The property should be annexed with the following zoning classification: R-3 with a maximum of 768 units.

Signed:

*Council Representative/Committee Chairman Katrina Wilson
 Council Representatives Douglas Morrow and S. Allen Pikus
 Planning Commission Chairman Charles Rini*

Mayor Rogers advised that public hearings are scheduled before the Planning Commission and City Council in July and August 2010 respectfully.

Ms. Wilson then moved to proceed with the annexation with an R-3 zone, seconded by Mr. Morrow. Motion carried with Mr. Pikus in opposition.

Mr. Pikus explained that he is a member of the annexation committee and recalled the meeting being extremely informational. Though he is in favor of the annexation, he is unable to support the R-3 zone at this location. He advised there are R-3 zoned parcels behind and across the roadway and neither has had any activity. Considering the feedback from the neighbors surrounding this parcel, including one of the potential owners, Mr. Pikus prefers a lower zone and favors R-1 or R-2.

COMMUNICATIONS

Nothing new to report.

UNFINISHED BUSINESS

Planning Commission Vacancy & Reappointments

Mayor Rogers hopes to fill the vacancy on the planning commission at the August 23rd council meeting and directed the city clerk to place the item on the agenda.

Planning Commissioner Term Reviews

Mayor Rogers presented the following names for reappointment to the City of Milford Planning Commission:

Dirk Gleysteen	426 S. Walnut Street	Term thru 08-31-2013
Karen McColley	416 N.E. Tenth Street	Term thru 08-31-2013
Arthur Campbell	6 Little Pond Drive	Term thru 08-31-2013

Mr. Pikus moved to reappoint the above three planning commissioners for a three-year term, seconded by Mr. Grier. Motion carried with no one opposed.

The mayor thanked the commissioners for their continued interest and for their time and effort.

Ward Redistricting

Mr. Baird presented two options for ward redistricting. This is the result of the Charter Review Committee discovering an area in the southeast portion of the city that was not contiguous with its assigned ward. Those areas affected include the Moose Lodge, Meadows at Shawnee, McColley, Dugan, Thawley, Isaacs, Mills and any other properties southeast of Route 1.

He presented a map of the current wards adding that he recommends they be changed because of the issue that has been identified and needs to be addressed. Currently there are approximately 819 registered voters in ward 1, 561 in ward 2, 554 in ward 3 and 447 in ward 4.

Option 1 incorporates all the properties noncontiguous with the third ward, into the first ward. All other areas remain the same at this time. According to Mr. Baird, the registered voters in ward 3 drops to 378 voters while ward 1 increases to 995 voters.

Option 2 creates the most parity between the four wards. Mr. Baird explained that ward 3 would stop at Marshall Commons. Everything to the south would be incorporated into ward 1 for a total of 566 voters. Ward 2 would have 575 registered voters with areas lost in the Northwest Front Street vicinity and west of Route 113. The boundary would follow the lake/county line and Route 113. The boundary that used to follow south Walnut Street will now be the railroad tracks.

The fourth ward would take in the west side of Route 113 and more of the downtown areas south to the railroad tracks/Causey Avenue.

The biggest change is in the third ward which incorporates the entire east side, most of which is considered the old part of Milford.

He advised the red dots depicted on the map represent the number of registered voters at each address.

Mr. Baird recommends moving forward with something similar to option 2. However, some minor work is still needed to reduce some of the ward 3 numbers by moving them to other wards. This is required to meet the 10% requirement also outlined in our charter.

The fourth map is the same breakdown as option 2, making all lands appropriately situated. It, therefore, corrects the problem that initiated this discussion but is based on a parcel count. He advised there are 816 parcels in ward 1, 1,176 in ward 2, 1,964 in ward 3 and 1,591 in ward 4. Mr. Baird explained there are many variables when considering parcel counts that it starts to skew the data. For example, there are several condominium lands in ward 1 on one parcel though there are many different units. In ward 4, there are several apartment complexes sitting on one parcel. Those are two reasons he feels that parcel counts cannot be used and why he prefers using registered voters as are shown in option 2.

He feels that if council prefers option 2, with the exception of some minor line readjustments, he will present that at the August 23rd meeting.

The charter requires a 30-day advertising period before council can take action. In addition, action must be taken six months before the next general election.

Mr. Adkins referenced the one-person, one-vote principle established years ago and asked if this should be based on the number of people or registered voters. Mr. Baird responded the language in the charter references 'qualified voters' which he interprets as a person of eligible voting age who is registered.

Mr. Adkins asked what would happen if we were challenged because the wards were not contiguous and conforming; he then asked what would happen if the population of each ward was determined with one ward having a 40% higher population even though the number of registered voters was much less.

Mr. Baird explained that cannot be done because we do not have the detailed census data though it is expected in the next year. Responding to Mr. Adkins, Mr. Baird believes that if council prefers to wait until we have more information from

the census before drawing lines in other wards, that is still an option.

Mr. Pikus pointed out that if there were suddenly a mass push for registration, that could change the entire picture. Mr. Baird agreed adding that is why it is required to be done every ten years. It is needed to recognize an influx of new registrations or mass development in one ward and not in the others.

Mr. Pikus asked if a public hearing was required that would need to be advertised at least thirty days in advance; Mr. Baird believes that is needed.

Mr. Baird asked which option council prefers and whether all four wards should be realigned or a simple correction of the contiguous item at this time only. Mr. Morrow believes it will be easier to correct the first problem at this point.

Mr. Brooks pointed out there are two issues; one is the contiguous issue and the other the balancing of the four wards. Mr. Baird added it should be within 10% of one another.

Mr. Brooks recalled the Charter Review Committee having many discussions on this once the problem was discovered. Both former Mayor Marabello and Councilman Spillane agreed it should be corrected and brought before council. He does not feel there is any other choice but to correct it at this time.

Mr. Baird said his recommendation is to adopt option 2. He said there is no question the boundary problem needs correcting and this would place the number of registered voters close to the 10% requirement.

Mayor Rogers agreed it would be close to the percentage requirement and each council representative would be representing a similar number of constituents. Mr. Morrow agreed that once the census numbers are available, the wards could be tweaked appropriately. By addressing this now, we are half way there.

The mayor agrees it should be within 10% though the contiguous problem needs to be solved and should have been done a year ago.

Mr. Brooks is unsure if it will need to be tweaked noting the large number of voters who are registered and no longer live at their registered address as was confirmed by present and previous elected officials.

It was reconfirmed that option 2 and 3 had the same alignment but option 2 showed registered voters and option 3 showed parcels.

It was suggested that options 2 and 3 will be considered on August 23rd; Mr. Baird said that in the meantime, he will move some of the boundaries around in an attempt to change some of the numbers.

Mike Kerrigan of 114 East Street asked how long it has been since this discrepancy was discovered and how many elections have taken place since. He said it is a rush to judgment and we need to take our time and do it as the charter lays it out. He advised council the charter requires them to become the redistricting committee, adding he is surprised there is not an independent commission to handle it.

Mr. Kerrigan asked if this is an emergency and how long this has existed; Mayor Rogers stated two elections have taken place since its discovery.

Mr. Kerrigan then asked why there are one or three options, where did they come from and why this is limited to these options and why others cannot be considered. The mayor said that could be discussed during a public hearing. He further explained the charter requires the wards be within 10% of the smallest ward. The land in each ward must be contiguous which we know we are in violation of.

Mr. Kerrigan said we are not talking about that because we are not talking about population numbers that are needed. He said even if we go by registered voters, this does not address the 10% requirement. He said ward 3 is very heavy and well

over 100% and would need to be at 617 instead of 679.

Mayor Rogers said that is why it will continue to be looked at. Mr. Kerrigan expects it to be a lengthier and more considered process. He agrees that we should comply with the city charter, but we must also comply with state and federal laws. He feels that one consideration needed should be communities of interest and this will break up communities of common interest that need to be represented within one district. He has not heard any considerations other than the number of registered voters.

Mr. Kerrigan asked why population numbers are not being considered versus registered voters. A much larger populated district is at a disadvantage in terms of representation on council.

Mayor Rogers agrees that will also be considered when redistricting.

Bob Connelly of 107 Barksdale Court, Hearthstone Manor, said he spoke with Bill Patterson at the State Election Office. He recalled the city manager referencing registered voter numbers which seem odd. He always thought voting was based on population and not registered voters. Mr. Patterson informed Mr. Connelly that elections fall under the city charter which allows each town to do what they want. However, he added that using registered voters is not a good idea because they are not representing everyone in the district. He suggests someone from the city confer with the state election office.

Mr. Brooks pointed out that he is the Third Ward Councilman, but has citizens call him from throughout the city. In his opinion, he feels he represents everyone in the city, in addition to his constituents. The mayor agrees that is what the other council members try to do as well.

Jim Higgins of 20 Meadow Lark Drive, Meadows at Shawnee, said that his development will be moved to ward I if this is done. He asked if this will put all the council members up for reelection because Meadows at Shawnee did not get a chance to vote for the ward I council members and will not have another opportunity for two more years. It was pointed out that the realignment would be effective with the April 2011 election. At that time, the Meadows at Shawnee residents would have the opportunity to vote for their next representative. They would then vote for the other council representative in 2012.

Hearthstone II Phase I/Major Subdivision/Final Plan

Mayor Rogers then announced this is not a public hearing and public comments were taken before the Planning Commission on November 17, 2008 and City Council on November 24, 2008. Tonight, council will be updated on the status of the development and will determine whether or not to rescind the November 24, 2008 vote. If the vote is rescinded, a second vote will be taken on the plan.

Since Mr. Johnson, Mr. Adkins, Mr. Grier and Mr. Pikus were not members of council on November 28, 2008, he would like to ask the applicant or the city manager to bring council up to date and explain what is being requested.

City Manager Baird said this project has been in the works for a number of years and first received preliminary major subdivision approval by the Development Advisory Committee (DAC) in April 2006. The planning commission initially denied the project on May 16, 2006. When the preliminary plan came before council, that denial was overruled and preliminary approval granted on July 10, 2006 (preliminary major subdivision-Hearthstone II). As the project moved forward, a number of extensions were granted on the project. Extensions were granted by the planning commission and city council in October 2008 for one year.

During that time, the applicant brought forth their final major subdivision plans for Phase I. They then obtained favorable comments from the DAC on September 24, 2008. Following the planning commission held a public hearing on November 17, 2008 and by a vote of 6-1, recommended approval of the application with the following conditions:

*\$400 per unit will be paid to the Parks & Recreation fund at time of building permit issuance.

*A note will be added to the plat specifying a 1:4 maximum ratio on all swales.

*Parking will be provided at no less than 2.3 spaces per unit.

*Sidewalks will be installed to city specifications, as presented on the plan shown on _____.

The project was forwarded to council. On November 28, 2008, a motion was made to approve the Final Major Subdivision, Phase I of Hearthstone II. That motion failed by a vote of 3-4.

Since that time, an extension for Hearthstone II's preliminary plan was granted by city council on October 26, 2009 and on March 10, 2010, an additional extension was granted for a period of seven months. That extension remains valid today.

Mr. Baird added that over the last couple of weeks and months, members of the applicant's team have put together a revised application that addressed the comments that were raised by the planning commission and city council during the public hearings in 2008. Many of those items included issues such as the ratio on the swales. A note will be added to the plat specifying a 1:4 maximum ratio on all swales.

He said that during the preliminary plan approval that council granted on the Hearthstone II project, council approved that project at 2.2 parking spaces per unit. Based on the new plans that are included in the council packet, the applicant is providing 2.3 parking spaces per unit.

In areas where sidewalks can be installed, as were requested by city council, the applicant has included a number of sidewalks throughout the residential subdivision and particularly in the areas of the multi-family units where they were easier to fit into the design. There are areas in the single family areas where they are not included. Had they been included in those specific areas, it would have an adverse impact on the drainage proposal system as it had been designed and laid out as part of the project.

There were also discussions on walking trails and tot lot recreation areas which have been enhanced and/or added to the project. In addition, the applicant has also met the open space requirements under the city code.

Both the city engineer and city planner had revisited the plans to confirm their findings and positions on the project. Those statements are included in the packets. The city manager emphasized that both reports concluded the plans sufficiently met the city's requirements from both an engineering and technical side, and land use and zoning side. Because of their recommendations, Mr. Baird also recommends approval of the project.

City Engineer Mark Mallamo and City Planner Gary Norris were both present should council have questions or comments.

Mr. Baird explained there are two issues before council. If council agrees to proceed, two actions will need to be taken. First, the November 2008 vote will need to be acknowledged with the option that council rescind that action. Should that be approved, council would then decide how to proceed with the amended application.

Mayor Rogers noted the applicant was in attendance and asked if any additional information needed to be provided. Jim Griffin of Griffin & Hackett, P.A. was present on behalf of the application; Mr. Griffin acknowledged that Mr. Baird had provided a very complete recitation of the sequence of events.

Mr. Pikus asked for confirmation that all demands of the previous council had been met; Mr. Baird stated that is correct and any items in question had either been incorporated into the plan entirely or as best as possible from a design standpoint. He added that is the reason he requested the city engineer and planner review the documents to ensure the changes were sufficient.

When asked if one of the council members who had previously cast a dissenting vote was required to rescind the motion, Mr. Baird said only if the motion was for reconsideration.

Mayor Rogers verified this has been reviewed by the city solicitor to ensure the proper procedure would be followed. Mr. Baird further explained that City Solicitor Willard is currently away on vacation, but that Mr. Willard, Mayor Rogers, the

city clerk and he have numerous conversations regarding procedure. He said Mr. Willard was very comfortable with this and quickly came to the conclusion this is not a new application and that the previous application was in good standing. All requirements in our subdivision code have been met. Additionally, conversations have taken place with Attorney Daniel Griffith who represents the city in this matter. Mr. Griffith is comfortable where the city is with this process and is comfortable with council taking action this evening.

Rescind Previous Action/Hearthstone II Phase I/Major Subdivision/Final Plan

Mr. Johnson moved to rescind the November 28, 2008 vote taken by city council, seconded by Ms. Wilson. Motion carried by a unanimous roll call vote.

Mr. Pikus votes yes based on the fact the developer has complied with all code requirements and conditions set forth by city council.

Mr. Brooks votes yes adding that he asked for sidewalks and they have been added.

Adoption of Resolution 2010-12/Approval of Hearthstone II Phase I/Major Subdivision/Final Plan

Mr. Baird explained this resolution includes the conditions of the planning commission that were part of their original proposal. The \$400 per unit requirement is no longer needed, because the plan now meets our open space requirements. Therefore, that item should be removed.

Ms. Wilson moved to adopt Resolution 2010-12 as amended with the removal of the \$400 per unit requirement, seconded by Mr. Pikus.

The city manager then recommended the parking requirement of 'no less than 2.3 spaces per unit' be reduced to '2.2 spaces' which complies with the preliminary approval even though the application meets the 2.3 spaces. He explained this would make the action consistent with the previous action. Sidewalks will be installed to city specifications as is presented on the plans presented on this date. It should also be referenced the applicant has provided tot lot and additional walking trails as was requested by city council. He asked it also be noted the plan meets the open space requirements.

Mr. Baird recommends these items be included as part of any action.

Mr. Grier then moved that an amendment to the resolution be made and referenced the additional points outlined by the city manager in regard to the tot lots, walking trails, reduction from 2.3 parking spaces per unit to 2.2 parking spaces, removal of the \$400 per unit fee and a note added that the open space requirement has been met. Motion seconded by Mr. Pikus. Motion on the amendment to the original motion carried by unanimous roll call vote.

A vote was then taken on the original motion, as amended, with the following resolution being adopted by a unanimous roll call vote:

RESOLUTION 2010-12
Approval of Hearthstone Manor II, Phase I, Major Subdivision Final Plan
Tax Map 3-30-15.00-022.00

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application complies with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the project was reviewed for Preliminary Major Subdivision approval by DAC on April 26, 2006, received a recommendation to deny by the Planning Commission on May 16, 2006, and received approval from City Council on July 10, 2006; and,

WHEREAS, the project was reviewed for Preliminary Major Subdivision Extension approval and received a recommendation for approval by the Planning Commission on October 21, 2008, and approval from City Council on October 27, 2008; and,

WHEREAS, the project was reviewed for Final Major Subdivision, Phase I approval by DAC on September 24, 2008; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on November 17, 2008 and by a vote of 6 to 1, recommended approval of the application with conditions; and

WHEREAS, following a public hearing before City Council, a motion was made to approve the final plan for Phase I of Hearthstone Manor II but failed to receive a favorable vote by a 3 to 4 roll call vote; and

WHEREAS, an extension on the Hearthstone II Preliminary Plan was granted by City Council on October 26, 2009 with an expiration date of March 27, 2010; and

WHEREAS, a seven-month extension was granted on March 10, 2010 by City Council.

NOW, THEREFORE, BE IT RESOLVED, that by a vote of 8-0, Milford City Council is approving the Final Plan for Hearthstone Manor II, Phase I, Tax Map 3-30-15.00-022.00 with the following conditions:

- *A note will be added to the plat specifying a 1:4 maximum ratio on all swales.
- *Parking will be provided at no less than 2.2 spaces per unit.
- *Sidewalks will be installed to city specifications, as presented on the plan shown on August 9, 2010.
- *Tot lots and additional walking trails have been added.
- *Open space requirements meet those of the City Code.

Mr. Johnson then recalled the city considering performance bonds on all subdivisions and asked if this would apply. Mr. Baird stated that would depend on when the application was submitted in 2006 and whether or not the code required bonds. He added that if this was the case, a bond would be required. Mr. Johnson asked what that amount would be; Mr. Baird answered the value of the construction.

Mayor Rogers thanked council for correcting what has been a very costly mistake. He feels the Hearthstone community has been very beneficial to the city noting the property is well maintained and kept extremely neat and clean. He said the residents that have moved there have brought a great deal to the city with many volunteering throughout our community. He is proud of the fact that so many of these people liked Milford enough to want to move here and make Milford their home.

He concluded by saying he is pleased they remain interested in developing in Milford and continuing to work with the city. At the same time, he apologizes for the time, effort and money that has been put into this.

NEW BUSINESS

Adoption of Fiscal Year 2010-2011 Tax Warrant

Mr. Pikus moved to adopt the 2010-2011 Tax Warrant, seconded by Mr. Morrow:

GREETINGS:

The Charter of the City of Milford provides the following:

"Article X, Section 10.11: Attached to said tax list shall be a warrant, under the Seal of the City of Milford, Signed by the Mayor and Attested to by the Secretary, commanding the City Manager to make collection of Taxes as stated in the Tax Lists."

THEREFORE, YOU, THE CITY MANAGER, DULY APPOINTED BY THE COUNCIL OF THE CITY OF MILFORD, ARE HEREBY COMMANDED TO COLLECT THE TAXES AS LEVIED IN THE FOUR WARDS AS FOLLOWS:

Assessed Per Billing Register		\$774,617,267.00
Exemptions		[123,380,100.00]
TOTAL ASSESSED VALUE		\$651,237,167.00
	x .0046	
ESTIMATED TAX PER PROPERTY VALUES		\$2,995,690.98
Senior Citizen Discount		[11,592.00]
TOTAL TAXABLE (Fiscal Year 2010-2011)		\$2,984,098.98

Given this 9th day of August in the Year of Our Lord 2010

Motion carried.

Mr. Brooks recalled discussing if it was possible to change the due date for the payment of property taxes noting that both the county and city taxes are due the same date. He feels this is a hardship on a number of homeowners, particularly those on a fixed income.

Council members and Mayor Rogers agreed with Mr. Brooks and asked the city manager to follow up with Finance Director Jeff Portmann to see if this could be changed. Mr. Baird said it can be done but would return with a more definitive answer at August 23rd meeting.

Mr. Johnson asked when the penalty was assessed; Mr. Baird said October 1st. Mr. Morrow suggested the penalty be waived until November 1st.

Mr. Brooks stated he appreciates councils' support.

Local Service Function Concept

Mr. Pikus recalled that back in March, N. C. Vasuki, on behalf of the City of Dover, asked for Milford's support to petition local legislators and Kent County for a reduction in county taxes for residents in incorporated areas of Kent County to prevent the payment for services that are duplicated by the county and not used by municipal residents.

When asked the status, Mr. Baird advised it will require state legislation and New Castle County is the only eligible county at this time. He explained that this year is being used for education, fact-finding and gaining support from the communities, with a heavier push in next year's general assembly for both Kent and Sussex County.

Mr. Pikus emphasized the need for the same courtesy to be given to property owners in Sussex County.

Mayor Rogers agreed reiterating the financial difficulty many people are experiencing in today's economy and feels this would be another way to help our residents.

Landscape Architectural Services LLC Agreement & Preliminary Plan/Chaney-Wilmont Greenway/Parks and Recreation

Parks and Recreation Director Gary Emory asked for approval of this agreement which will allow the next phase of the greenway project. He explained the \$40,675 agreement for professional services is part of a \$280,000 project.

Of that, the city is receiving \$150,000 in CTF funding matched with \$140,000 in Land and Water Conservation Trust fund money. As a result, no city money is needed.

He then reported that Goat Island is the next project. That will allow a continuous greenway from the anchor at Silver Lake to Goat Island which is a one mile trail.

Mr. Pikus commended Parks and Recreation on the number of grants they receive. Mr. Brooks added he received a number of positive comments about the park and riverwalk at National Night Out last Tuesday.

Mr. Brooks moved for approval of the Landscape Architectural Services LLC Agreement in the amount of \$40,675, seconded by Mr. Morrow. Motion carried with no one opposed.

Downtown Milford

Mayor Rogers commented on how beautiful the downtown looks with the addition of the new flags and flowers and plants. He acknowledged the efforts of Dan Marabello, Irv Ambrose and others who are seen on a regular basis volunteering their time in that area.

Adoption of Resolution 2010-13/Halloween Events

Because October 31st falls on a Sunday, Mayor Rogers recommends that Trick or Treat be moved to Saturday. Mr. Brooks recalled the last time that trick or treat was permitted on a Sunday, a large group of people showed up at the next council meeting to protest.

Mr. Pikus moved that Resolution 2010-13 be adopted and amended to reflect that Saturday, October 30th be designated the official date for youngsters to observe Halloween Trick or Treat Night between 6:00 and 8:00 p.m. and that residents wishing to participate have their front door light on, seconded by Ms. Wilson:

WHEREAS, it has been a custom for many years for children and adults to celebrate the Eve of All Saints Day by costuming, masquerading and fun-making; and

WHEREAS, we would like to continue the celebration in an orderly manner.

NOW, THEREFORE, BE IT RESOLVED, I, Joseph R. Rogers, Mayor of the City of Milford, do hereby request and urge the observance of this annual period as follows:

WEDNESDAY, October 20, 2010 starting at 6:30 p.m. and ending at 9:00 p.m. shall be the time for the Annual Community Parade.

SATURDAY, October 23, 2010 shall be the official date for youngsters to make their annual UNICEF collections to be completed by dark.

SATURDAY, October 30, 2010 shall be the official date for youngsters to observe Halloween Trick or Treat Night.

AND, BE IT FURTHER RESOLVED THAT:

*only celebrants of 12 years and under will be permitted to engage in Trick or Treat between the hours of 6:00 p.m. and 8:00 p.m.

*all celebrants are requested to refrain from committing acts of vandalism or destruction.

*residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes so lighted.

Motion carried.

Introduction of Ordinance 2010-14/Zoning Code Amendment/Parking Spaces

Ordinance 2010-14 was officially introduced this date.

City Planner Norris advised this is a proposed change to the zoning in relation to off-street parking. This is being introduced and a public hearing scheduled before the planning commission and city council in September.

He reported that in the past, but there have been some concerns expressed about the required number of off-street parking spaces in certain instances. For example, a commercial development wanted to share off-street parking with another use. In another case, a proposed commercial development was required to go before the Board of Adjustment to reduce the number of spaces required and most recently, a site plan being reviewed for a dentist office with one dentist and possibly six dental technicians, required 54 off street parking spaces. The code requires one space per 100 square feet of floor area and the proposed dentist office had approximately 5,400 square feet.

The planner stated he is not a proponent of unnecessary impervious surfaces. This ordinance would address a site where more than fifty off street parking spaces are required. The developer of a commercial facility would have to set aside 100% of that space, but provide only 80% of the required off street parking spaces. The other 20% would remain green or grassy areas. If it is later determined that those additional parking spaces are needed, a six-month notice would be provided requiring the other 20%.

Mr. Norris advised the advantages of this proposal are 1) a reduction in development costs 2) reduction in the amount of stormwater generated 3) assists the Mispillion Tributary Action Committee by reducing run off into the Mispillion River.

The ordinance will be sent to the planning commission for their review and a public hearing. A second public hearing would then be held before council prior to formal action taking place.

Repairs to Commercial Parking Lots

Mr. Pikus asked if the city has anything in place that would require the owner of a parking lot in Milford to make repairs. Mr. Norris believes this falls under the Property Maintenance Code though he would need to clarify that. In the meantime, he is willing to contact the owner of any shopping center if there is a situation that he feels needs to be addressed. Mr. Pikus said there are a number of parking areas in despair and though he understands that is private property, some are dangerous to both vehicles and pedestrians.

Members of council indicated the city has made contact with shopping center owners in the past for similar issues and typically the response was positive.

FY2009-10 Budget Adjustment

Mr. Baird submitted a budget request for a transfer of \$200,000 from the sewer reserves into the Kent County I&I account.

The city manager explained this is the result of the I&I expenses paid to Kent County in last year's budget (FY2009-10). He referenced the sewer budget whose ending balance shows the line item in the hole by \$175,000.

Mr. Pikus moved for approval of the transfer of \$200,000 from Sewer Capital Reserves Account 203-0000-390-10-10 into the Kent County I&I Expense Account 203-3030-432-40-20. Mr. Morrow seconded motion. Motion carried.

MONTHLY FINANCE REPORT

Mr. Pikus reported that through the twelfth month of Fiscal Year 2009-2010 with 100% of the fiscal year having passed, 96.42% of revenues have been received and 94.58% of the operating budget expended.

He advised this is the last finance report for this fiscal year. He noted those areas above the 100% mark in personnel are the result of some retirement pay outs and the severance packages of some administrative employees in June.

Mr. Baird reminded council this is the unaudited report and there are still a few invoices coming in from June. Therefore, some minor adjustments will apply to these numbers and will be picked up in the final audit.

Mr. Pikus moved to accept the June 2010 Finance Report, seconded by Mr. Grier. Motion carried.

ADJOURN

Mr. Pikus moved to adjourn the meeting, seconded by Mr. Grier. Motion carried.

The Monthly Meeting was adjourned at 8:27 p.m.

Respectfully submitted,

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

Terri K. Hudson, CMC
City Clerk/Recorder