

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 23, 2010

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, August 23, 2010.

PRESIDING: Mayor Joseph Ronnie Rogers

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

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

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 7:02 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

COMMUNICATIONS

None to report.

UNFINISHED BUSINESS

Planning Commission Vacancy

Mayor Rogers submitted the name of William J. Lane of 7 Hickory Branch Lane, Hearthstone Manor, for appointment to the planning commission.

Mr. Grier moved for appointment of Mr. Lane to the City of Milford Planning Commission for a three-year term beginning August 31, 2010, seconded by Mr. Pikus. Motion carried with no one opposed.

NEW BUSINESS

St. John's Oktoberfest/Road Closings/Beer Sales

Mr. Morrow moved to approve the request of St. John the Apostle Church to close a portion of School Place and allow the sale of beer at the 20th Annual Oktoberfest on October 1, 2010 and October 2, 2010. Mr. Pikus seconded motion. Motion passed by the following 5-1 roll call vote:

Yes-Grier, Pikus, Adkins, Brooks, Morrow

No-Starling

Mr. Johnson and Ms. Wilson arrived at this time.

Award/2010 Road Improvements Bid

Sealed bids were received, publicly opened and read on August 19, 2010 for the City of Milford Road Improvements Project. The following bids ranged from \$147,244.24 to \$178,623.51.

George & Lynch	\$174,126.72
Jerry's Paving	\$157,595.70
Harmony Construction	\$178,623.51
Delmarva Paving	\$149,880.50
David A. Bramble, Incorporated	\$176,990.00
C&J Paving	\$147,244.24

Consulting with City Engineer Mark Mallamo following a thorough review of the bids, Mr. Baird reported the recommendation is to accept the proposal offered by C&J Paving in the amount of \$147,244.24.

Mr. Brooks moved to award the Road Improvements Project bid to C&J Paving as presented, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Award/2010 Curb and Sidewalk ADA Ramp Bid

Sealed bids were received, publicly opened and read on August 19, 2010 for the Curb and Sidewalk ADA Ramp Project. Bids ranged from \$38,632 to \$50,380 as follows:

Grassbusters Landscaping	\$48,540
Shea Concrete	\$38,632
Aztech Contracting	\$50,380

Mr. Pikus moved to award the curb and sidewalk bid to Shea Concrete as presented, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

The city manager noted that in addition to city money being used, local legislators also contributed financially toward the projects.

Award/Progressive Engineering Consultants, Inc./Cost Revision/Design & Installation Delivery #2 Proposal

Mr. Baird reported this is for the second delivery point for the interconnection with Delmarva Power just south of the transfer station. He said the transmission lines, new substation and distribution coming out of the substation are all part of the new project the city is preparing to move forward on. The total estimated project is \$6.18 million and the scope of their work is defined in the proposal.

The city manager recommends moving forward with the contract for the design and installation supervision.

Mr. Pikus moved for approval of the Progressive Engineering Consultants proposal in the amount of \$300,000, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

Award/Water Facilities Plan Update Proposal

The city manager explained the last time the city completed a water facility plan was in 2006. Since that time, a number of improvements have been completed. In addition, a number of regulatory changes have been implemented and are now being proposed. Many of the changes were not part of the 2006 plan though they are critical components. They include the Washington Street Water Plant, the Kenton Treatment Plant on the east side of town as well as some additional wells that have been installed.

Mr. Baird advised the total cost of the proposal is \$20,000. Of that, we are applying for a \$10,000 grant from the Delaware Office of Drinking Water. The \$10,000 balance would be paid from water expenses.

This will identify the future needs for Milford and improve maintenance and operations as new technologies are considered as the facilities are built.

During this process, our older infrastructure will be reviewed and a determination made whether to reinvest and rehabilitate or consider new wells and new treatment facilities.

This will be the catalyst to developing a five to ten-year capital improvement project for the water system. This is also being reviewed on the sewer side though we plan to immediately proceed with the water facilities plan first.

Mr. Adkins asked if there is a chance we may not receive the \$10,000 grant; Mr. Baird said there is always a chance, but through conversations with the Office of Drinking Water, there is money in the account that is awarded on a first-come first-serve basis. In this case, Milford is first in line; therefore, it is anticipated the application will be funded upon receipt.

Mr. Brooks moved for approval of the DBF engineering proposal for the Water Facilities Plan in the amount of \$20,000, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Adoption of Resolution 2010-14/Water Facility Planning Grant Application

Mr. Adkins moved for adoption of Resolution 2010-14, approving the submission of the grant application, seconded by Ms. Wilson:

WHEREAS, the City Council of the City of Milford have approved a project to update the City's General Water Facility Plan; and

WHEREAS, the State Office of Drinking Water has funding available for such projects in their Water Facility Planning Grant Fund.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford, that approval was granted to submit an application to the State Office of Drinking Water for a Water Facility Planning Grant to assist in funding the cost of updating the City of Milford's General Water Facility Plan.

Motion carried by unanimous roll call vote.

Introduction of Ordinance 2010-13/Zoning Designation of Annexed Lands of Walter N. Thomas II

The following ordinance was officially introduced this evening:

Ordinance 2010-13

An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Walter N. Thomas II, Tax Parcels 5-00-173.00-01-62.00-00001 and 5-00-173.00-01-62.02-00001, situated south of State Route 14 and north of County Road 447, Kent County, to be annexed into the City of Milford by resolution, hereafter adopted by the City Council of Milford, Delaware.

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owner, thereof, has petitioned City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed to and become part of the City of Milford and that a zoning classification is required, and

WHEREAS, the land owned by Walter N. Thomas II is presently zoned by Kent County as "AC" (Agricultural Conservation), and

WHEREAS, the City Council referred the zoning of the affected territory for report and recommendations to the Planning and Zoning Commission and after a due hearing as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, after a Public Hearing held on September 27, 2010 and after considering the recommendation of the City Council Annexation Committee, the City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Kent County, Delaware:

Tax Parcel 5-00-173.00-01-62.00-00001

64.362 Acres Parcel of Land

State Route 14, North of Delaware County Road 447, Kent County, Delaware

BEGINNING for the same at a rebar and cap set at the intersection of the division line between the land conveyed by and described in a deed from Myra H. McIlvaine to Howard F. Morton and Phyllis Ann Morton dated July 31, 1959 and recorded in the Office of the Recorder of Deeds in and for Kent County, Delaware in Deed Book C, Volume 22, Page 447 and the land conveyed by and described in a deed from Walter N. Thomas to Walter N. Thomas and Walter N. Thomas II dated November 4, 2005 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2521, Page 141 with the southern right of way of Delaware Route 14, eighty foot wide, thence binding on southern right of way of Delaware Route 14, as now surveyed, with bearings referred to the Delaware Coordinate System (NAD '83/86)

CONTAINING 64.362 acres of land, more or less, BEING part of the land conveyed by and described in a deed from Walter N. Thomas to Walter N. Thomas and Walter N. Thomas II dated November 4, 2005 and recorded in the Office of the Recorder of Deeds in and for Kent County, Delaware in Deed Book 2521, Page 141. BEING currently known as Tax Map Parcel 500-17300-01-6200-00001.

Tax Parcel 5-00-173.00-01-62.02-00001

7.556 Acre Parcel of Land, Land of Walter N. Thomas, II

State Route 14, North of Delaware County Road 447, Kent County, Delaware

BEGINNING for the same at rebar and cap heretofore set on the southern right of way of Delaware Route 14, eighty foot wide, said rebar and cap being the northeast corner of Lot 1 as shown on a plat entitled "Minor Subdivision Plan, prepared for Walter N. Thomas II dated October 27, 2009 and recorded in the aforesaid Office of the Recorder of Deeds in Plot Book 101, Page 96, thence binding on the outline of Lot 1, as now surveyed with bearings referred to the Delaware Coordinate System (NAD '83/86)

Dates:

Planning Commission Public Hearing: August 17, 2010

Introduction to City Council: August 23, 2010

Projected Date of Adoption by City Council: September 27, 2010

Projected Effective Date: October 7, 2010

City Planner Norris advised a public hearing was held before the Planning Commission on August 17, 2010. Though the request was for an R-3 zone, the planning commission recommended R-8. He explained that the R-3 allows a maximum of 16 dwellings units to the acre, single family detached dwellings, duplexes, townhomes and garden apartments.

The R-8 only permits 8 dwelling units to the acre and also allows single family detached dwellings, duplexes, townhomes and garden apartments.

Mr. Pikus recalled that at the planning commission meeting, the applicant indicated that if R-3 was not accepted, it was

a no-go project. He asked if they are proceeding with the application; Mr. Norris said he was unaware of that and has not heard from the engineer or applicant.

Mayor Rogers advised a public hearing is scheduled for September 27th at which time council can take the appropriate action if the plan of services has been received back from state planning.

Mr. Morrow pointed out the comp plan designates this area as R-3 and asked if there are any repercussions by changing the zone to R-8. Mr. Norris stated the planning commission based their recommendation on the public comment and overall agreed that R-3 was too high a density because it allowed 16 dwelling units to the acre. He recalled the proposal submitted is for 768 units on 72 acres which is a density of slightly more than ten units to the acre.

Council agreed to bring the ordinance back before council at which time, public comment will be taken.

Introduction of Ordinance 2010-15/Realignment of Ward Boundaries/Ward I & Ward III

Mayor Rogers advised that this ordinance is being introduced this evening and addresses the fact that portions of the third ward that were not contiguous with the remainder of that ward. It provides the noncontiguous portions of the third ward be moved to the first ward where they are contiguous. This adjustment is being proposed so the city is in compliance with the city charter.

He said that during the meeting on August 9th, members of city council and the public expressed concern over using registered voters or number of parcels to determine the boundaries of the wards. Once available, the city will revisit this issue and utilize the 2010 census information to reapportion the city's election wards.

Ordinance 2010-15 was officially introduced; voting is scheduled at the September 27th meeting:

*CITY OF MILFORD ORDINANCE
Realignment of Boundary Lines of Ward I and Ward III*

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2010-15

Section 1.

WHEREAS, an error was discovered by the Charter Review Committee in which it was determined that lands in Ward 3 were not contiguous with other lands in that ward but did share a common boundary with Ward I; and

WHEREAS, this resulted in a failure to comply with the contiguous and compactness requirements of Article II, Section 2.07 of the City of Milford Charter; and

WHEREAS, this matter was presented to the City Council who recognized the need to protect communities of interest; and

WHEREAS, adjustments to the City Council Districts ensures fair representation for all citizens and conforms with the requirements of the United States Constitution and federal statutes; and

WHEREAS, upon completion and distribution of data from the 2010 Census, additional examination by the Districting Commission may result in an overall Redistricting Plan for the City of Milford.

Section 2.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

- 1. Portions of Ward I and Ward III, southeast of Milford, are hereby realigned by excluding therefrom Ward III, those lands not contiguous and including therein and therewith subject lands into Ward I.*

2. *Attached maps display current Wards (#1) and revised Wards (#2) comprised of four contiguous Council districts.*
3. *This Ordinance has been properly advertised and copies of the Ordinance and related materials made available to the public on August 23, 2010.*
4. *By a vote of _____, Milford City Council approves the realignment of Council District Boundaries, specifically Ward I and Ward III, and whose legal descriptions, in their entirety, as shown below:*

CITY OF MILFORD-DESCRIPTION OF WARD BOUNDARIES

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limits to the western most point of Shawnee Country Club; thence along the corporate limits in a generally southeasterly direction to the point of intersection of Johnson Road; thence continuing with the corporate limits in a northeasterly direction to the intersection with DE Route 1; thence continuing with the corporate limits in a northwesterly direction to the point of intersection on the easterly R.O.W. of Route 1 and Business Route 1; thence continuing with the corporate limits in a northeasterly direction 2,150 feet to the intersection of Beaver Dam Road; thence along the corporate limits in a southeasterly direction to the point of intersection with Sharps Road; thence with the corporate limits and Sharps Road in a Northeasterly direction 2,700 feet; thence leaving Sharps Road and continuing with the corporate limits in a generally northwesterly direction to the intersection with the centerline of Deep Branch; thence with the corporate limits and along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U. S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U. S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern point of what is known as the Susan & Bruce Geyer property; thence in a northeasterly direction along the corporate limits of the City and Herring Branch to the intersection of the corporate limits and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U. S. Route 113; thence along the centerline of U.S. Route 113 and U.S. Route 1 in a northerly direction to the intersection of the City limits; thence along the corporate limits in a northerly direction to the northern most point of the City limits; thence along the eastern boundary of the City in a southeasterly direction to a point on the southeast corner of U.S. Route 1 and State Route 36; thence along the

corporate limits in a southwesterly direction to the point of its intersection with U.S. Business Route 1; thence with the corporate limits in a northwesterly direction to the center of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U. S. Route 113; thence along the centerline of U. S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U. S. Route 113); thence in a generally northerly direction along the western boundary of the City to a point where said line would intersect the northerly boundary of the Third Ward; thence southerly along the aforesaid line of the Third Ward, to the point of intersection of the centerlines of North Walnut Street and U. S. Route 113; thence by the centerline of North Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

Section 3. The new Council districts and boundaries shall supersede previous districts and boundaries and whose legal description, contained herein, and official map shall be filed in the Office of the City Clerk.

Section 4. Official Maps (see attached).

#1 Current Wards

#2 Proposed Wards (Ward I and Ward III realigned)

Section 5.

Dates.

Ordinance & Map Publication Dates:

Milford Chronicle 08/25/10

The Beacon 08/26/10

Introduction - City Council: 08/23/10

Adoption - City Council: 09/27/10

Effective - 10/07/10

It was confirmed that the only issue being addressed is the area not contiguous with the balance of the ward.

Bob Connelly of 107 Barksdale Court, Hearthstone Manor, said that residents from Meadows at Shawnee are being moved from ward 3 into ward 1. He said only part of the charter is being honored. He argued this is a change and the second part of the charter that says one district cannot be 10% larger than the smallest district is not being honored.

City Manager Baird then explained the matter was raised by the Charter Review Committee that portions of the third ward are not currently contiguous with the third ward. Therefore, they are out of compliance with the charter. This ordinance brings them into compliance by making them part of I.

He added that we do not have sufficient data to make a judgment on whether or not one ward is 10% larger or smaller than another. That decision will be made once the census data is available. This corrects the area not in compliance with the charter that we have the ability to correct.

Mr. Connelly asked if there is any way to obtain that data. Mr. Baird reiterated that information is not available at the level needed to make this decision. Once that information becomes available, city council can establish a Redistricting Committee and review that information in relation to the charter requirements.

Mr. Connelly said the city does a hundred things a month based on estimates of population. Water, sewer and electric needs are all based on population. But there are no estimates that can be used to put people in compliance with the code. Mr. Baird answered not that are accurate at this point when the census data is more than ten years old and new data will be available within the next year.

Mr. Connelly said the city is willing to comply with part of the code and ignore the other part. He thinks this is setting the city up for the next election to be challenged.

The city manager pointed out there are also people that feel by not addressing a known error that was raised through the charter review process that is able to be corrected, is also setting the city up to be challenged as well. Mr. Connelly said that they may be subject to past elections being challenged but now the city is stepping into an area where they are willfully ignoring part of the charter. The one before was an accident but this is a willful decision.

Mr. Pikus then explained to Mr. Connelly that we have an illegal ward area and all the city is doing is correcting a problem the charter requires, which charter was recently passed by the general assembly in the State of Delaware. We are correcting the part that can be corrected.

Mr. Pikus said that Mr. Connelly pointed out that the city deals with figures all day long, but those figures relate to the entire town in relation to the water, sewer and electric needs which he believes is a little more than 8,000 residents.

Mr. Connelly pointed out that council just budgeted money for streets in certain areas based on assumptions of the traffic needs in those areas.

Mr. Adkins then added that over a ten-year period, whether it involves general assembly seats or senatorial seats, there will be disparagement among the percentage of voters. He said that gradually happens which is why the charter requires council to look at that every ten years. Technically, he believes we are in the eighth or ninth year. The way the city has grown, it appears that ward 1 will have the largest percentage of population. But this is fixing what should have occurred originally; until the census data is received, that cannot be fixed because the information is unavailable.

Mr. Connelly said he will agree to disagree reiterating the city is setting itself up for someone to challenge the next election—pointing out it will not be him and this is not a threat by him. But if that person ends up not liking that outcome, he feels this will give them grounds to challenge the election.

Dan Marabello of 1 Windy Drive, Meadows at Shawnee, then stated this has not been in compliance with charter for years. He said if we use a percentage of the registered voters and put approximately 25% of the registered voters, even though it should be done by population, but using that as an example, into the first ward, that will give the first ward almost 60% of the voters but only 25% of the population. He suggests going to the state legislator or governor and request a waiver until the census is done and leave the wards as they are. He feels this one election will be so disproportionate it is not right. He said there will be two choices--the 10% factor or the one-vote one-person rule.

Jim Higgins of 20 Meadow Lake Drive, Meadows at Shawnee, said he will say again what he said two weeks ago noting that people did not understand what he was saying. He said if they move him from ward 3 to ward 1, he did not vote for his representative. Therefore, his representative should not be able to tax him. If this is done, a special election should be held and a re-vote held for the mayor and the councilmen in the wards affected. He said taxation without representation is what this country was built on.

Mayor Rogers explained that one of their representatives would be voted on at the upcoming election; Mr. Higgins argued by stating he was not afforded the chance to vote for him. He then pointed out the term of the other representative expires in eighteen months and did not have the opportunity to vote for him.

Mayor Rogers said this was discovered in 2009 at which time it should have been addressed. Mr. Higgins said that is not his problem and the councilman he voted for is in ward 3. Now he is being moved from ward 3 to ward 1 and he did not have the opportunity to vote for either of those people. Therefore, he should not be taxed because he was not represented in that voting booth when they were elected. If this move is done, he calls for a special election in both ward 1 and ward 3, but especially in ward 1 because there are 183 houses that did not get a chance to vote for their representative. They are being asked to trust what is going to happen when the census comes in. He does not trust that.

Mike Kerrigan of 114 East Street asked if there are degrees of lawlessness adding that council is very concerned and

rightfully so about this infraction of the city charter in relation to contiguity. He feels council is willing to be in violation of two subsequent sections of the charter that spell out the 10% variance rule and the procedures that should be followed when redistricting. He said it is redistricting no matter how it is characterized.

Mr. Kerrigan continued by saying if the city is in violation of the city charter, does the city have say over the degree of enforcement and punishment so it could be a misdemeanor offense where the U.S. Constitution one-man one-vote rule and the 14th Amendment in terms of the changes being proposed. This is taking a situation where approximately 265 voters in the first ward are disenfranchised because of the variance in numbers between the districts and will bump up the number to 617 voters who will be disenfranchised. The concern seems unbalanced because this is the city charter versus the U.S. Constitution.

Richard Carmean of 101 McCoy Street then stated that everyone in here knows that at one time he was in law enforcement and he never arrested anyone without evidence. Currently, there is no evidence that these wards are out of balance in relation to voter numbers. However, there is obvious evidence there is a violation of the charter geographically.

Mr. Carmean also pointed out that if argument is going to be made that he cannot be taxed by someone he did not vote for, then he is not paying another tax in the City of Milford because he was unable to vote for six of the eight members of city council. He could come in here any given night and the six he did not vote for could support a tax increase though he had no right to vote for those six. The only ones he had a right to vote for are the candidate running for mayor and his two ward representatives. Therefore, he cannot understand that argument.

Mr. Carmean agrees that the numbers need to be considered, but between now and April, people in any ward have the ability to go out and through a voter drive get people in their wards registered which could result in the numbers being totally skewed by April again. He emphasized the numbers that need to be considered are the number of eligible people in a ward and the city simply does not have those numbers right now.

Mayor Rogers reiterated this ordinance is only being introduced this evening and will be back before council in September. In the meantime, they will check with the attorney general's office to assure this was done properly.

Mr. Brooks then pointed out that for years, Gary Simpson was his senator. When the state did their redistricting, all of a sudden, Senator Bonini became his senator as was the case in a large part of northern Milford.

Mayor Rogers again stated that this should have been addressed when it was discovered in 2009. Mr. Brooks said it should have been corrected prior to that.

Mayor Rogers noted that this will not be voted on until September 27th; by that time, we should have a legal opinion.

Introduction of Ordinance 2010-16/Property Tax Due Dates & Penalty

The following ordinance was introduced:

AN ORDINANCE TO AMEND CHAPTER 204 OF THE CODE OF THE CITY OF MILFORD, TAXATION, FOR THE PURPOSES OF ESTABLISHING A DUE DATE FOR PROPERTY TAXES AND PENALTIES FOR NON-PAYMENT.

WHEREAS, the City recognizes many of its citizens are experiencing financial challenges; and,

WHEREAS, both the County and City property tax bills are due and can be paid without penalty by September 30, 2010; and,

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 III—Property Taxes

§204-10 Due Date for Payment of Property Taxes.

Property taxes shall be payable on or before September 30 of each year.

§204-11 Penalties.

To every tax not paid after the said date established in §204-10, there shall be added and collected a penalty, for each month that the said tax remains unpaid. A penalty of one percent per month or fraction thereof shall be charged on all unpaid property taxes. City Council, by resolution, may impose a date later than that established in §204-10 for the addition and collection of penalties.

Section 2. Dates

Introduction to City Council—August 23, 2010

Projected Adoption by City Council—September 13, 2010

Projected Effective Date—September 23, 2010

Mayor Rogers recalled Mr. Brooks asking council to consider a different due date for property taxes, because of the hardship created with county taxes being due on the same date.

Mr. Baird explained the charter requires council to establish a due date and a penalty rate for property taxes through an ordinance. The ordinance clarifies both issues by giving council the authority to change the due date and allow some additional time for tax payments. Any dates other than September 30th would need to be addressed through a resolution of council. Following final action on this ordinance, council will take action waiving the September 30th due date through the adoption of a resolution.

Mayor Rogers then asked for a recess of the council meeting to go into the workshop session. Mr. Pikus moved to temporarily recess the council meeting, seconded by Ms. Wilson. Motion carried.

A recess was taken at 7:45 p.m.

Council reconvened at 8:09 p.m.

Executive Session

Mr. Morrow moved to go into Executive Session pursuant to pursuant to 29 Del. C. §10004(b)(4) strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, seconded by Mr. Pikus. Motion carried.

Mayor Rogers recessed the Council Meeting at 8:09 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 8:52 p.m.

No action required.

ADJOURN

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

Mayor Rogers adjourned the Monthly Council Meeting at 8:53 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive, flowing style.

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
August 23, 2010

The Milford City Council met in Workshop Session on Monday, August 23, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Joseph Ronnie Rogers

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

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

The Workshop Session convened at 7:45 p.m.

Ordinance 2009-10/Lighting Code/Update

City Planner Gary Norris advised the proposed ordinance has been worked on extensively by the planning commission and reviewed by Electric Superintendent Rick Carmean. Some of the high points are energy conservation and the reduction of unnecessary lighting and reflections into a residential area. The intent is for light to be directed downward and the promotion of efficient and cost effective lighting. The planning emphasized that sufficient light will continue to be provided where needed to promote safety and security.

It was confirmed this will not impact any current facilities and will only apply to new construction or an expansion and/or redevelopment when a building, structure or parking lot is expanded by 25% or more.

Mr. Pikus said it is obvious there was a lot of work done on the ordinance and though it appears this may be the case of over-regulation, obviously there is a need for light pollution and the objective is to promote quality of life, though he remains cautious.

City Manager Baird recalled an issue about whether this should be added to the zoning or subdivision code. However, the city solicitor's intent is to make this a stand-alone ordinance in the city code. He agrees with Mr. Pikus there is a great deal of regulation in relation to what is necessary to review these plans. He said we will be at the mercy of the applicant to be sure what they are submitting is within the regulation. It is technical and he does not believe we have that type of staff available to review these plans, though he does not expect a lot of plans on a large commercial scale. At that point, we will need some assistance until such time our staff is capable of those reviews. He also agrees this will add another step in the plan review process.

Mr. Pikus pointed out enforcement will also be necessary to comply with the ordinance. Mr. Brooks agreed and recalled asking who would be responsible for enforcing the ordinance.

It was the consensus of council to add Ordinance 2009-10 to the September 13th council agenda.

Revised Ordinance 2009-22/Zoning Code/Billboards

City Planner Norris recalled that this newly proposed ordinance was introduced as a three-page document which council requested be reduced. The new ordinance provides a definition and previous requirements have been removed. Also added was that billboards must be in accordance with Delaware Code Title 17, Highway Chapter 11 Regulations of Outdoor Advertising.

He reiterated the billboard would be by conditional use in a C-3 zone and prohibited in other zoning districts.

The general consensus of council was they were pleased with the amendments feeling this was a more workable document.

Mr. Baird reminded council this ordinance was originally proposed in 2009 and has been amended several times. A public hearing was held and the proposal presented tonight is a result of previous discussions. He then asked if this language is what council is prepared to vote on. It was agreed the ordinance would be added to the next agenda.

Ordinance 2010-14/Zoning Code Amendment/Parking Spaces

City Planner Norris advised that Ordinance 2010-14 reduced the number of required parking spaces for developments such as shopping centers and commercial developments requiring fifty off street parking spaces or greater. He recalled a few instances where the number of parking spaces required was excessive in comparison to the number of employees and potential clients. This would allow additional green space to be used for future parking should it later be determined that more parking was needed.

The developer would have to provide 80% of the required off street parking spaces with 20% kept in green space.

The ordinance was introduced at the August 9th meeting with final action anticipated following a public hearing on September 27th.

Parking Lots

Mr. Pikus again asked if action can be taken on parking lots that are in a state of disrepair. He noted that many are safety hazards with the public impacted because of their daily use. Mr. Norris said it is his impression they fall under the city's property maintenance code and can be addressed by the city.

Ms. Wilson recalled that in the past, the code officials have contacted the parking center owners and in most cases, responded and reacted accordingly. Mr. Brooks said that in the past, he would simply contact the city manager who always took care of the problem.

Mr. Pikus asked the city manager to do whatever is necessary to facilitate the problem.

With no further business, the Workshop Session concluded at 8:09 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder