

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 13, 2010

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 13, 2010.

PRESIDING: 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 Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:04 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Pikus to approve the minutes of the August 9, August 23 and September 1, 2010 council and committee meetings as presented. Motion carried.

RECOGNITION

No special guests were in attendance.

CORRESPONDENCE

Harrington Prayer Breakfast

Mayor Rogers advised the Harrington Prayer Breakfast will be held October 7, 2010 at 7:00 a.m. at Harrington Fire Company. The deadline to respond is September 24, 2010.

Riverwalk Festival

The Mayor then commended the Chamber of Commerce and Parks and Recreation for another successful festival noting that this year's event was largest yet. He also has received numerous comments about the outstanding fireworks display.

Delaware/Maryland Revitalization Conference

Downtown Milford, Incorporated will receive four awards on September 28th in Rehoboth Beach.

POLICE REPORT

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

Since school is back in session, Mayor Rogers reported he has received a number of complaints from several bus contractors whose buses are having trouble getting through the light when turning onto the Airport Road at Route 113.

The timing on the light needs to be changed to allow more vehicles to get through the intersection. He advised that in addition to this being a safety issue, it is also creating delays with the bus schedules. He asked if the timing of the green light could be increased.

Chief Hudson offered to contact DelDOT who has jurisdiction over the lights and intersection.

CITY MANAGER REPORT

City Manager Baird read the following report into record:

(Ms. Wilson arrived at this time.)

Road & Utility Work

As part of the street paving and sidewalk/curbing work approved by City Council at your last meeting, City utility and street crews have started preparation for this work by beginning the replacement of water services on the streets to be paved. Work is about to be completed on NE 10th Street and then they will be moving to complete the same work on N. Church Street. An appropriation for funding for the utility work is a part of the agenda for this meeting.

Demolition of 125 NW 2nd Street

City Code Officials are moving forward with the demolition of the condemned structure located at 125 NW 2nd St. (See attached engineers' report and photos). Mrs. Thomas has removed personal belongings from the property and utilities are in the process of being disconnected. Code Enforcement will be utilizing funds budgeted for demolition and the property owner will be billed and/or the property lien for the cost of demolition.

Recycling

On August 1, the City Solid Waste Department began the collection of curbside recycling.

During the month of August, the Solid Waste Department collected 394.31 tons (355.29 tons of Solid Waste; 39.02 tons of Recycling)

	<i>Recycling Tons</i>	<i>Recycling Rate</i>
<i>Aug-09</i>	<i>31.76</i>	<i>7.00%</i>
<i>Aug-10</i>	<i>39.02</i>	<i>9.90%</i>

Earlier this year, SB234 was signed into law and part of the legislation establishes diversion rates of 50% by January 1, 2015 for Municipal Solid Waste being disposed of at the landfill.

	<i>Recycling</i>	<i>Solid Waste</i>	<i>Total</i>	<i>Diversion Rate</i>
<i>2009</i>	<i>442.44</i>	<i>4684.38</i>	<i>5126.82</i>	<i>8.63%</i>
<i>2010 YTD</i>	<i>291.15</i>	<i>3175.31</i>	<i>3466.46</i>	<i>8.40%</i>

Impact Fee Waivers

Since the waiver of impact fees was implemented in June, the City has waived \$97,356.84 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$5,626,808 (based on building permit values) during the months of June, July and August. This is an increase of \$2,206,006 from the same period in 2008 and an increase of \$4,427,380 from the same period in 2009.

Electric Rate Comparison

I have attached the electric rate comparison as of September 12, 2010 as prepared by DEMEC (see below). Milford's residential electric cost of \$155.27 for 1,000 kWh ranks 5th out of the 11 electric utilities in Delaware.

<i>De Co-op</i>	<i>\$122.50</i>	<i>0%</i>	<i>-21%</i>
<i>Dover</i>	<i>\$147.38</i>	<i>20%</i>	<i>-5%</i>
<i>New Castle</i>	<i>\$152.13</i>	<i>24%</i>	<i>-2%</i>
<i>Delmarva Power</i>	<i>\$154.48</i>	<i>26%</i>	<i>0%</i>
<i>Milford</i>	<i>\$155.27</i>	<i>27%</i>	<i>1%</i>
<i>Lewes</i>	<i>\$156.44</i>	<i>28%</i>	<i>1%</i>
<i>Middletown</i>	<i>\$156.76</i>	<i>28%</i>	<i>1%</i>
<i>Smyrna</i>	<i>\$158.48</i>	<i>29%</i>	<i>3%</i>
<i>Clayton</i>	<i>\$162.70</i>	<i>33%</i>	<i>5%</i>
<i>Newark</i>	<i>\$163.71</i>	<i>34%</i>	<i>6%</i>
<i>Seaford</i>	<i>\$164.45</i>	<i>34%</i>	<i>6%</i>

Mr. Baird advised winter rates go into effect in October and will go down by one cent.

Bid Openings

The City has bid openings scheduled for the Substation Power Transformers on September 23, 2010.

Mr. Baird noted that beginning January 1, 2011, yard waste can no longer be co-mingled with regular trash. A separate collection will be required by city crews but should help in the diversion numbers needed to reach the 50% requirement by 2015.

Regarding the increases in building permits, Mr. Pikus asked the breakdown of commercial and residential; Mr. Baird answered that the majority of projects seen over the past two to three months have been new commercial buildings. Included are the Nemours Dental Clinic, Grottos and a new condominium. There have also been some renovations to existing duplexes and three to four new single family homes.

It was also noted the old I.C. Isaacs (Sussex Company) building was sold, which will create some new jobs in Milford.

Mr. Pikus moved to accept the City Manager Report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Finance Committee

Chairman Pikus advised he will be meeting with the Finance Director and City Manager monthly to review the finance report. In addition, the finance committee will meet quarterly for a review of the overall budget.

Police Committee

Chairman Morrow asked Committee Member Wilson to report on the recent meeting held. Ms. Wilson advised the police committee met on September 1st at which time Chief Hudson provided some information from two architectural firms interested in the preliminary work for a new facility. It was noted that Redstone Architects, who are experts in planning public safety facilities, is affiliated with local firm French and Ryan.

Once this preliminary work is completed, they will present their findings and proposals to city council.

As a reminder, \$50,000 was allotted for the needs and feasibility study.

UNFINISHED BUSINESS

Adoption of Ordinance 2009-10/Lighting Standards

Mayor Rogers asked council members with concerns regarding this ordinance to present their views.

Mr. Pikus noted there has been a lot of work put into this ordinance though there is a lot of red tape and bureaucracy tucked into this ordinance. In addition, there are concerns about safety because of the requirements for lower lighting. He then commended the planning commission for the amount of work that was put into the ordinance.

His concern is we are becoming over-regulated. Another concern is who is going to enforce these new regulations. After speaking with a number of residents, most of whom are in his ward, he is having second thoughts on whether this type of regulation is needed in the city. He does not ever recall the city having a problem with lighting in the past. He then noted the board of adjustment is in place should someone have a problem.

When questioned, Chief Hudson agreed there is some concern about the reduction in lighting particularly in parking lots after a business closes. He feels there is the potential for increased criminal activity particularly in these commercial areas.

When asked the history behind this ordinance, Planning Chairman Chuck Rini explained it began with the comprehensive plan. During the review, state planning suggested the planning commission review current ordinances to determine what needed to be tweaked or updated. This was the result of the National Lighting plan being adopted by other states that prevents lights from projecting unnecessarily into the sky. He explained this would not only save energy, but minimize the impact of artificial light on wildlife habitat because darkness is needed for animals to hunt, conceal their location and navigate.

However, Mr. Rini agrees that Chief Hudson's concerns are valid and supports his opinion in this matter.

Mr. Grier asked if Mr. Rini is aware of any place in Milford where lighting is a problem. Mr. Rini answered no, this would only be considered for new construction or major renovation projects. This was being considered by the planning commission as a design feature of the Dark Sky Awareness Policy being implemented throughout the country. The intent was not to create a public safety problem.

Mr. Pikus asked if there have been problems with any of the major housing developments constructed in the last few years; Mr. Rini said that in Knotts Landing, there are street lamps that not only shine on the ground and outward, but upward as well. The only change is to redesign future street lamps which still allows the safety aspects to remain though the amounts of light projected into the sky will be reduced. It would also prevent such things as a sign light from shining into passing vehicles or prevent the lights from a parking lot from shining into a residential development.

When asked if the ordinance is mirrored from other ordinances, Mr. Rini explained the regulations came from the National Dark Sky Report supported by National Geographic. This was also used as a model by the State of Arizona as a way to classify dark sky cities.

Mr. Wilson said it appears we are being proactive when considering future development and growth. Mr. Rini said yes that is a major goal of the work the planning commission is charged with.

Mr. Baird said this will add another layer of regulations as was discussed at the last meeting which is a concern he has. One option is to use this as a guidance document if council does not want to adopt this as an ordinance. For anyone bringing projects into the city, the guidelines will be in place and recommended as something the city would like incorporated into the design.

The city manager feels the lighting contractors will implement this type of product into their business models as well which will most likely become more of the norm used in future projects.

Mr. Pikus agrees the planning commission could incorporate some of these guidelines into the planning commission review when developers are applying for land development applications. The restrictions could be considered during that review and then passed onto council as part of their recommendation.

He agrees with Mr. Brooks' concern about who would enforce all the restrictions noting this only adds more bureaucracy.

Mr. Rini said one of his preferences is to add a school bus shelter and not just a bus stop for children to use during inclement weather. He said they have received a very positive response from most developers on this subject though that is not a requirement in our zoning ordinance either.

Though he understands the skyward effect, Mr. Pikus hears many comments about the lack of streetlights in Milford and believes reduced ground lighting would become a safety hazard. Many people walk in the evening and he encourages more lighting.

Bob Connelly of 107 Barksdale Court, Hearthstone Manor, said it sounds to him like the city is going to be managed by personal preference of a board member which is not governance. Mr. Pikus explained Mr. Rini is the chairman of the planning commission who is charged with overseeing and having input in site design of developments.

Mr. Pikus then moved to remove Ordinance 2009-10 from the agenda, seconded by Mr. Brooks. Motion carried by unanimous roll call vote.

Mr. Johnson recommends the wording causing the problem be reconsidered and believes it is a good thing when you can look to the future which is something the city needs to do. He prefers this be sent back to the planning commission. He votes yes to remove it from tonight's agenda.

Mr. Adkins pointed out that many aspects of the ordinance have a lot of merit. If a large shopping center is being developed near a subdivision, there is a lot of merit by not having the lights shine into that housing development. He would like to see the planning commission at least use this as a guidance tool during reviews of new construction; he also does not want to abide by this permanently. One part is that everyone must be in compliance by 2025. He does not believe we have any violations per say. He votes yes to remove it as an ordinance but feels it has a lot of merit as a guidance document.

Ms. Wilson votes yes though she agrees this should not totally disappear either. She prefers it be used by the planning commission and become part of their review process when considering applications.

Mr. Baird asked if there is any objection from city council if this were used as a guidance document. Council had no problem with that suggestion.

Mr. Rini asked for clarification as he heard a couple of council members who recommended it go back to the planning commission which he personally is not in favor of it because if they came up with the same exact wording, they would just be going around in circles.

Mayor Rogers suggests it be changed from an ordinance to a guidance document for future reviews and consideration.

Adoption of Ordinance 2009-22/Zoning Code Amendment/Billboards

Mr. Baird then clarified the intent of the ordinance is to establish a definition for billboards which will permit billboards in a C-3 zone as a conditional use which are to be constructed and maintained in accordance with Delaware Code.

Dan Marabello of 1 Windy Drive, Meadows of Shawnee, said he is against this ordinance which will be bad for the city in the long run. He recalled the meeting in 2006 at Carlisle Fire Company where Keynote Speaker Ed McMahon presented a "Better Models for Development in Delaware/Ideas for Creating more Livable and Prosperous Communities". He then referenced some of the highlights stating that billboards are out of place in most locations, billboards are a form of visual pollution, billboards are the only form of advertisement you can't turn off or avoid, billboard companies are selling something they don't own, billboard companies exercise almost no restraint in the placement of outdoor pads, billboards are both the cause and symptom of community blight. He said they also impact the value of homes that are close which local real estate agents will confirm.

He continued by stating that billboard companies destroy trees on public land. Billboards are ineffective and unnecessary especially in the light of new technologies. He said he has never bought anything based on a billboard and has used directional signs to restaurants which are effective and neat. He noted that interstate roadways with small blue signs are more beautiful than those with billboards. They get you to restaurants, hotels and gas stations without lighting up the community.

Mr. Marabello said the most effective billboard regulations are those that are enacted locally adding we should not rely on Title 17. He suggests deferring action on this tonight.

He recalled that billboards were never allowed and the only problem in litigation was a definition was needed. He remembers an applicant coming before the board of adjustment who wanted three more signs on Route 1 and felt it was clear a billboard was not allowed without a hardship.

Mr. Marabello asked that the focus of the local people working downtown be on a broader scale with the whole city.

Joe Palermo of 5 Misty Vale Court, Meadows at Shawnee, said that as was stated at the previous meeting, the majority of the signs will not benefit Milford. He said Pot Nets, Beebe Medical Center, Harley Davidson and Grottos do not reflect on Milford but on other areas for vehicles passing through Milford. He said there are a number of homes that border Highway 1 that will be impacted by these signs if permitted.

Mr. Morrow feels the challenge is to define billboards as the court directed. In addition, if there is a process in place, either through the board of adjustment, or by way of a review by the planning commission and city council. Either way, this will not allow a flood of billboards. He is more comfortable allowing the final decision to be made by eight people rather than by three members of the board of adjustment.

Solicitor Tim Willard feels there is a misunderstanding. He said this ordinance was drafted to namely define a billboard. Prior to this, it was understood that billboards were not permitted. The problem was our ordinance was vague or ambiguous. In the section that prohibited signs, billboards were not listed. In the chart that described where certain signs were allowed, it stated "n/a" or non-applicable under billboards which does not mean they were prohibited. This ordinance clarifies these issues by defining them and by stating that billboards are prohibited in every zoning district except in the highway commercial district. The only way it is permitted in a highway commercial zone is through the conditional use process which requires the planning commission, as well as council to approve it.

In addition, Mr. Willard explained the rules of Title 17, Chapter 11 will apply. He also noted that in Milford, all highway commercial is on a state road which gives the state jurisdiction over signs adjacent and up to 660 feet. The city only has exclusive jurisdiction beyond the 660 feet. He does not believe there is much property beyond that distance that would apply.

He also advised the conditional use standard is a fairly broad standard which allows city council to consider things like adversely affecting developments or neighborhoods and whether it is appropriate. In that manner, it gives council the discretion to deny. Mr. Willard emphasized this ordinance will not open the door to let everyone simply come in.

Mr. Adkins said if someone came in and requested a billboard within 505 feet of a previous one, and council felt they did not really want it and there was no development or no justified reason to deny it, does the conditional use still allow it to be denied. Mr. Willard answered that if you look at the conditional use language, it is broad enough that courts have found that if it logically makes sense, you can articulate having another billboard that close would adversely affect . . . which talks about safety and if there is an objection to it. He advised that courts have upheld 'if it logically makes sense'. The only check is if there were a long history of decisions and applicants were being treated differently and not in a uniform manner.

Mr. Brooks stated he would like to see billboards continue to be reviewed by the board of adjustment because it has worked for years. Mayor Rogers agreed noting they are also only permitted in the C-3 District.

Mr. Brooks recalled the former city manager stating in 2006 there will be no more billboards. The mayor is unsure where more billboards could be added noting that Meadows at Shawnee is zoned residential.

Mr. Brooks moved to leave the ordinance as it currently exists with the requirement it go before the board of adjustment.

Ms. Wilson noted that part of this ordinance provides a billboard definition which as was required by the court. She asked if the ordinance could be adopted and the language be changed from the planning commission back to the board of adjustment.

Mr. Willard explained the reason it was going to the board of adjustment was because the applicant was applying for a variance of laws that exist in the zoning code. If there is a billboard law, a person may ask for a variance because of a hardship adding it is very difficult to prove that. However, if an ordinance is needed to protect the status quo, it would still need to be defined and instead of being permitted in a C-3, it would simply be prohibited.

The solicitor explained it would then be listed as the last sign in the prohibited section. If an applicant has an unnecessary hardship, they would then apply for a variance. Mr. Brooks stated that is what he wants and then moved that Mr. Willard draft the ordinance as he suggested.

Mr. Baird then recommended that section 2 of the proposed ordinance that allows it as a conditional use be stricken; the sign table that is being proposed to read it is allowed as a conditional use in a C-3, per DelDOT standards, would then read prohibited. Mr. Willard agreed that in addition, billboards would need to be added to §230-24(b) 'signs prohibited in all zoning districts'.

Mr. Baird asked if this will need a new document; Mr. Willard feels this is a substantive enough change to draft a new ordinance.

Council then discussed whether it would be more appropriate to address this through the planning commission and council or through the board of adjustment process. For the board of adjustment to address, Mr. Willard explained it would have to involve an unnecessary hardship or exceptional practical difficulty. In this manner, it cannot be considered for economic reasons and cannot be self-created.

Mr. Johnson asked if a motion needs to be made to go back to the city solicitor or can it be changed to say prohibited everywhere in the city. Mr. Willard suggests it be tabled with instructions to draft a new ordinance based on tonight's discussion.

Mr. Johnson then moved to table action and added if that was Mr. Brooks' motion, he will second it.

If it is tabled, Mr. Mr. Pikus asked if another ordinance would be prepared whose intent was to define a billboard as was needed from the beginning; Mr. Willard said the chart would have to be amended with billboards added to the prohibited section. Mr. Pikus confirmed the proposed ordinance would prohibit them in every district with the exception of the C-3 zone.

Mr. Pikus then referenced the amount of money that was spent on a lawsuit that was the result of the omission of a definition. He stressed the need to accomplish that. Mr. Willard agreed that by tabling, the same definition will be coming back. Also by tabling, he recommends another ordinance be drafted for introduction with two other sections.

Mr. Grier prefers the ordinance that is being presented versus totally prohibiting billboards. In that manner, it will give council the opportunity, in unique situations and with a conditional use, for someone to advertise a local business. Otherwise, the opportunity is completely eliminated.

Mr. Baird then asked if council prefers billboards be through a conditional use process or through the variance process which involves the board of adjustment. His concern is that drafting another ordinance will present another version.

The previous motion was then withdrawn by Mr. Brooks and Mr. Johnson.

Mr. Grier then moved to adopt the ordinance as is being presented, seconded by Mr. Pikus:

WHEREAS, the City acknowledges the current zoning ordinance does not adequately define and address the placement of billboards within the City limits;

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 230, Section 4 of the Code of the City of Milford, entitled Zoning, is hereby amended by adding the following definition:

BILLBOARD – A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained.

Section 2. Chapter 230, Section 14.C of the Code of the City of Milford, entitled Zoning, is hereby amended by adding the following language:

(18) Billboard, subject to the following:

(a) Shall be constructed and maintained in accordance with the Delaware Code, Title 17-Highways, Chapter 11-Regulations of Outdoor Advertising, Subchapter 1-General Provisions.

Section 3. Chapter 230, Section 26.B, of the Code of the City of Milford, entitled Zoning, is hereby amended as follows:

SIGN CHART

Section 4.

Motion failed by the following 3-4 roll call vote:

Yes-Grier, Pikus, Morrow
 No-Johnson, Adkins, Brooks
 Abstain-Starling

Mr. Adkins stated he is voting no and is in agreement with Mr. Johnson that he would rather see it tabled and rewritten so it is prohibited whereby it would go before the board of adjustment.

Mr. Morrow votes yes because he prefers that eight council members make a decision over a three -person board that consists of non-elected officials.

Ms. Wilson stated she has been educated on billboards from the public to council members noting there are a number of things she did not realize about billboards and how offensive or non-offensive they are and how they do not benefit our town. She liked Mr. Brooks' initial motion and votes no.

Mr. Johnson then moved that the city solicitor take the advice of the council and prohibit billboards in all zoning districts of the city and draft an applicable ordinance. Ms. Wilson seconded motion.

Motion carried by the following 4-3 roll call vote:

Yes-Johnson, Adkins, Brooks, Wilson
 No-Grier, Pikus, Morrow
 Abstain-Starling

Mr. Grier votes no stating he is not in favor of completely prohibiting billboards in every area of the city.

Mr. Pikus votes no because he does not want to completely prohibit billboards for the various reasons that have been discussed this evening.

Mr. Morrow agrees it needs to be rewritten and prefers it be required to come before the planning commission and city council for a final decision and votes no.

Mr. Baird asked for confirmation that by voting this ordinance down, will the process start again as an amendment to the zoning code. Mr. Willard responded that his recommendation is it go back before the planning commission for another review.

NEW BUSINESS

Proclamation 2010-15/Family Day

Mayor Rogers signed the following document proclaiming Family Day in Milford on September 27, 2010:

WHEREAS the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children;

WHEREAS 15 years of surveys conducted by The National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs;

WHEREAS frequent family dining is associated with lower rates of teen smoking, drinking, illegal drug use and prescription drug abuse;

WHEREAS the correlation between frequent family dinners and reduced risk for teen substance abuse is well documented;

WHEREAS parents who are engaged in their children's lives – through such activities as frequent family dinners – are less likely to have children who abuse substances;

WHEREAS family dinners have long constituted a substantial pillar of family life in America.

NOW, THEREFORE, BE IT RESOLVED, I, Joseph Ronnie Rogers, Mayor of the City of Milford, do hereby proclaim Monday, September 27, 2010 as

Family Day – A Day to Eat Dinner with Your Children

and urge all citizens to recognize and participate in its observance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 13th day of September in the Year of our Lord Two Thousand and Ten.

Award of Bid/Trash Truck/Street Department

Sealed bids were received, publicly opened and read on August 24, 2010 for a 2010 International Trash Truck and Chassis. The following proposals were submitted:

Barr Truck Group	\$149,330.00
GranTurk Equipment	\$137,757.00

It was noted that \$190,000 was budgeted for this vehicle. Following a review of the proposals, the recommendation is to award the bid to the low bidder.

Mr. Pikus moved to award the Trash Truck Bid to GranTurk Equipment in the amount of \$137,757.00, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Tenth & Church Street Water and Sewer Connections/Water and Sewer Capital Reserves

City Engineer Mark Mallamo had reported that prior to paving, aged water and sewer services on 10th Street and Church Street needed to be replaced in addition to old and leaking manhole frames, covers and water valve boxes. The estimated cost is \$26,000.00 for water upgrades and \$9,000.00 for sewer upgrades. Because city crews are performing the work, the estimated costs are for materials only.

Mr. Pikus moved for payment from Water Capital Reserves in the amount of \$26,000 and from Sewer Capital Reserves in the amount of \$9,000 for the Tenth and Church Street Water and Sewer Project, seconded by Mr. Brooks. Motion carried with no one opposed.

Tenth Street Road Improvements/Municipal Street Aid

The city manager asked for council to approve the funding source for the paving and curb/ADA ramp work on Tenth Street, approved at the last meeting, in the amount of \$54,000.

Mr. Pikus moved for payment from Municipal Street Aid in the amount of \$54,000 for the Tenth Street Paving Project, seconded by Mr. Brooks. Motion carried with no one opposed.

Boys and Girls Club Agreement/Amendment No. 1

Mr. Baird presented a proposed agreement to the original Boys and Girls Club Agreement dated September 18, 2008. That agreement provides \$527,000 to the Boys and Girls Club over a five-year period. Two of the five year payments were already made. The amendment provides the club with an additional \$175,000 as indicated below:

WHEREAS, the City intends to provide an additional \$175,000 to the Boys and Girls Club; and,

WHEREAS, the City and Boys and Girls Club desired to modify the remaining payment schedule.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained, the parties hereto agree as follows:

Section 1 of the agreement shall be deleted and replaced with the following language:

CITY will provide a total of \$703,000.00 to the Boys and Girls Club payable in five installments of \$105,400 per year for years one and two, \$163,734 in year three and \$163,733 in years four and five. The annual distribution by the CITY will be made on or before October 1 of each year.

Mr. Pikus then explained the additional \$175,000 will come from monies given to the city from Senator Colin Bonini whose intent was it be used in this area. It also enables the city to live up to its original obligation.

Joe Palermo of 5 Misty Vale Court, Meadows at Shawnee stated he did not think it was appropriate for this money to be paid out of the city treasury to the Boys and Girls Club and asked for confirmation we are using Senator Bonini's money.

Mr. Pikus then moved for approval of Amendment #1 to the Boys and Girls Club Agreement, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Mr. Pikus reported that through the first month of Fiscal Year 2010-2011 with 8.3% of the fiscal year having passed, 9.12% of revenues have been received and 8.12% of the operating budget expended. He advised that through regular meetings, the finance committee will report back to keep council and the public well informed as to the savings, investments and expenditures in the city.

EXECUTIVE SESSION

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.

Mr. Wilson moved to go into Executive Session reference potential litigation, seconded by Mr. Pikus. Motion carried.

Mayor Rogers recessed the City Council Meeting at 8:26 p.m. to go into a Closed Session.

Return to Open Session

City Council returned to Open Session at 8:57 p.m.

In reference to the urgent situation affecting public health and safety in the city, Mr. Pikus moved for approval of a change order to the original contract, not to exceed \$115,000, to complete the North Front Street Sewer Project, in which ample money is available, seconded by Mr. Brooks. Motion carried by unanimous roll call vote.

Mr. Morrow stated that in the interest of public safety, this verges on being an emergency situation and votes yes.

Adjourn

With no further business, Chairman Pikus moved to adjourn the Monthly Council Meeting, seconded by Ms. Wilson. Motion carried.

The City Council Meeting was adjourned by Mayor Rogers at 8:59 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder