

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 8, 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, November 8, 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 Monthly Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Pikus, seconded by Mr. Brooks to approve the minutes of the October 4, 11, 20 and 25, 2010 council and committee meetings as presented by the city clerk. Motion carried.

RECOGNITION

Downtown Milford, Incorporated

President Irv Ambrose of 210 S.E. Front Street announced that on November 4, 2010 at DMI's Annual Meeting, he was elected President of the Board of Directors. Former Mayor Dan Marabello was elected treasurer and former City Manager Richard Carmean and Parks and Recreation Director Gary Emory became board members.

He then thanked the city, city manager and city employees for assistance with their projects. He acknowledged the help provided by city council and expressed his appreciation to Mayor and Mrs. Rogers for taking time from their schedule to attend every DMI event.

Mr. Ambrose announced three new businesses have located here while several others have expressed an interest. He looks forward to continuing to work with the Economic Development Committee headed by Councilman Grier.

He advised that Director Alan Levin, Delaware Economic Development Office reported that at a recent opening in Wilmington, Governor Markell commented that anyone who wants to see what a small downtown should be like needs to go to Milford.

He concluded by stating that Downtown Milford plans to move forward and make things even better than they are now.

POLICE REPORT

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

CITY MANAGER REPORT

City Manager Baird read the following report into record:

• **Solid Waste & Recycling**

On August 1, the City Solid Waste Department began the collection of curbside recycling. During the month of September, the Solid Waste Department collected 392.41 tons (357.95 tons of Solid Waste; 34.46 tons of Recycling)

	Recycling Tons	Recycling Rates
October 2009	42.78	10.26%
October 2010	34.46	8.78%

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.

Year	Recycling	Solid Waste	Total	Diversion Rate
2009	442.44	4684.38	5126.82	8.63%
2010 To Date	373.95	3918.04	4291.99	8.71%

• **Impact Fee Waivers**

Since the waiver of impact fees was implemented in June, the City has waived \$105,500 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$6,127,802 (based on building permit values) during the months of June, July, August, September and October. Currently, there is a slight slowdown though a lot of people are contacting our planning office about upcoming projects.

• **N. Front St. Sewer Project**

Progress continues to be made on the N. Front Street Sewer Contract by JJID, Inc. They are meeting the revised schedule that was developed when they resumed work in late September and the project should be completed over the next month.

• **S.E. Master Plan**

Representatives from the Office of State Planning and other State Agencies will be attending the Nov. 22 Workshop to present the S.E. Master Plan to City Council. You will recall this project was a condition imposed by the State when the City annexed property east of Rt. 1. We have also requested DelDOT representatives be in attendance to provide an overview of the Wilkins Rd./Rt. 30 Overpass and the role it plays in the S.E. Master Plan and the future growth of the City.

• **Economic Development Strategy**

John Rhodes of MSB Consultants spoke with approximately 50 business owners and members of the community during his visit to Milford on Oct. 28 and 29. Mr. Rhodes will be delivering his preliminary report to the steering committee on Friday, November 19.

The steering committee along with the Economic Development Committee will review and evaluate the recommendations and action items in the proposed strategy and make a final recommendation to City Council. It is anticipated these recommendations could come to City Council as early as December or January.

• **Street Improvements**

Paving work has been completed on Mastens Circle, Evans Street and Foster Street, leaving N. Church Street and NE 10th Street to be completed. Concrete work has been completed on Mastens Circle and Foster Street with work continuing on NE 10th Street and N. Church Street.

• **Electric Utility Rate Comparison**

The following Residential Utility Rate Comparison was provided from DEMEC for November 2010 for 1,000 kilowatts:

		% Difference	% Difference
De Co-op	\$112.91	0%	-25%
Milford	\$143.53	27%	-5%
New Castle	\$144.63	28%	-4%
Dover	\$147.38	31%	-3%
Delmarva Power	\$151.27	34%	0%
Lewes	\$152.36	35%	1%
Smyrna	\$152.48	35%	1%
Seaford	\$156.05	38%	3%
Middletown	\$158.70	41%	5%
Clayton	\$162.70	44%	8%
Newark	\$163.71	45%	8%

Comcast

Mr. Pikus asked if Tom Worley had gotten back to Mr. Baird with the various issues discussed at the workshop. The city manager said he has not received specific answers to some issues though he discussed setting up a community meeting for some of the Fourth Ward residents. However, the date and time has not yet been determined. He suggests that those residents with issues attend this meeting to speak with Comcast representatives.

Water Tower Maintenance

When asked the status of the water tower cleaning project, Mr. Baird explained we were trying to hold off to prevent having it cleaned twice knowing it would have to be done again before it was painted. However, based on the water flows we are experiencing, the tanks will have to be emptied because both the interior and exterior need to be painted. He advised that will be on hold until a new tank is constructed. In the meantime, we are exploring a contract to have them cleaned because we are unable to wait any longer. They would then be painted in a year to two years once the new tower is constructed.

Mr. Brooks said he has been to a number of other towns recently and has not seen any water towers that compare to the poor condition of Milford's as far as appearance.

Riverfront Shopping Center Improvements

The city manager advised that two years ago, Downtown Milford Incorporated talked to the property owner about making improvements to his parking lot. Slowly, the owner embraced the concept and is now in the process of installing curbed islands with landscaping to clean up the property and improve the overall appearance in the downtown area.

The State of Delaware has also leased a few offices at the far end of the shopping center next to Abbotts Grill.

COMMITTEE REPORTS

Community Affairs

Mr. Johnson advised the Downtown Holiday Stroll will occur on Friday night, December 3rd. City Hall will be open along with many other stores and businesses.

Finance Committee

Mr. Pikus advised the finance committee met October 20, 2010 and discussed a number of issues including downtown improvements. He reported that a lot of things are being considered and all involve considerable financing. Once the

figures are obtained, he will bring those matters before council. In the meantime, we are planning to go to the bond market in January 2011.

Economic Development Committee

Mr. Grier noted that the Steering Committee's experience with MSB Consultant John Rhodes has been very rewarding. A lot of good ideas and information were provided during the two-hour meeting on October 4th. Mr. Rhodes has also met with several other businesses and Downtown Milford. He will return November 19th for a second meeting.

When questioned, Mr. Baird confirmed there were minutes taken at the meeting which will be part of his final report. In the meantime, he will obtain a copy of those minutes for city council.

Homeless Problem

Ms. Wilson said that with all the discussions and attention on our downtown and the beautification projects, we still have other problems in our downtown area that should be addressed. She is talking specifically about the homeless problem in Milford. She feels that with the work being done downtown, it may be necessary to partner with some of the other agencies working on this. She reported there are several homeless people living in our downtown area, some in abandoned homes and some who are sleeping on our benches. She is aware the Milford Ministerial Group has formed a committee to work on this in conjunction with the police department. She suggested that a subcommittee be formed to explore some possible resources in order to provide some shelters, particularly during the winter months.

Mayor Rogers agreed noting he has spoken with several pastors, many of whom are actively working on this. Chief Hudson attended the previous meeting noting that most of the Milford churches had representatives attend; a lot of information was provided in hopes of attracting more interest about the possibility of a cold weather shelter.

COMMUNICATIONS.

Mayor Rogers announced the annual Auction and Tastes of Milford sponsored by the Chamber of Commerce is November 18th. The Holiday Stroll is December 3rd with the annual city holiday party following on December 10th.

Mr. Pikus announced that Lisa and Walter Johnson are hosting a fundraiser on behalf of the Friends of Milford Police Department on December 4th from 4 to 8 p.m. at their home on Sunset Cove (3 Haven Lake Avenue). The wine and cheese tasting will benefit the Milford Police Department Christmas Toy and Fund Drive. Tickets are available through Downtown Milford, Incorporated.

UNFINISHED BUSINESS

Adoption of Ordinance 2010-17/Sewer Impact Fees/Waiver Extended
Adoption of Ordinance 2010-18/Water Impact Fees/Waiver Extended
Adoption of Ordinance 2010-19/Electric Impact Fees/Waiver Extended

Mr. Adkins moved to adopt Ordinance 2010-17, 2010-18 and 2010-19 which extend the deadline for the sewer, water and electric impact fee waiver, seconded by Mr. Pikus:

ORDINANCE 2010-17

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

WHEREAS, the waiver of impact fees authorized by Ordinance 2010-8 led to more projects being launched; and

WHEREAS, City Council has learned that building permit values increased in July and August 2010 when compared to

the same period in 2009; and

WHEREAS, to further stimulate the local economy, it is in the City of Milford's best interest to extend for an additional six months the waiver of sewer impact fees.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 185 of the Code of the City of Milford, entitled Sewers, Article III §24 Impact Fee Established, §185-24-D shall be amended by extending the deadline from December 31, 2010 to June 30, 2011 as follows:

§185-24 D. The sewer impact fee described in §185-24C shall be waived for all permits issued between June 3, 2010 and JUNE 30, 2011. The waiver shall be for a maximum of 5 EDUs per project. The City will continue to collect the impact fee charged by Kent County during this period.

Section 2. Chapter 185 of the Code of the City of Milford, §185-24-D(1) and §185-24-D(1) shall remain in effect until the extended deadline of June 30, 2011:

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

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

§185-24 D (2) Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 3. Dates

Introduction to City Council—October 25, 2010

Projected Adoption by City Council—November 8, 2010

Projected Effective Date—January 1, 2011 - June 30, 2011

ORDINANCE 2010-18

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

WHEREAS, the waiver of impact fees authorized by Ordinance 2010-9 led to more projects being launched; and

WHEREAS, City Council has learned that building permit values increased in July and August 2010 when compared to the same period in 2009; and

WHEREAS, to further stimulate the local economy, it is in the City of Milford's best interest to extend for an additional six months the waiver of water impact fees.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 222 §31 of the Code of the City of Milford, entitled Water, shall be amended by extending the deadline from December 31, 2010 to June 30, 2011 as follows:

§222-31 I. The water impact fee described in §222-31H shall be waived for all permits issued between June 3, 2010 and JUNE 30, 2011. The waiver shall be for a maximum of 5 EDUs per project.

Section 2. Chapter 222 of the Code of the City of Milford, §222-31-I (1) and §222-31-I (2) shall remain in effect until the extended deadline of June 30, 2011:

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

Single Family Residential	6 Months
Multi Family Residential	12 Months
Commercial	12 Months

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

Section 3. Dates

Introduction to City Council—October 25, 2010

Projected Adoption by City Council—November 8, 2010

Projected Effective Date—January 1, 2011 - June 30, 2011

ORDINANCE 2010-19

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

WHEREAS, the waiver of impact fees authorized by Ordinance 2010-10 led to more projects being launched; and

WHEREAS, City Council has learned that building permit values increased in July and August 2010 when compared to the same period in 2009; and

WHEREAS, to further stimulate the local economy, it is in the City of Milford's best interest to extend for an additional six months the waiver of water impact fees.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 119 of the Code of the City of Milford, entitled Electrical Standards, shall be amended by extending the deadline for the waiver of Electric Impact Fees as follows:

The electric impact fee established under this Chapter shall be waived for all permits issued between January 1, 2011 and JUNE 30, 2011.

Section 2. The following sections of Chapter 119 of the Code of the City of Milford shall remain in effect until the extended deadline of June 30, 2011:

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

Single Family Residential	6 Months
Multi Family Residential	12 Months
Commercial	12 Months

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

*Section 3. Dates**Introduction to City Council—October 25, 2010**Projected Adoption by City Council—November 8, 2010**Projected Effective Date—November 18, 2010 - June 30, 2011*

Motion carried by unanimous roll call vote.

*Annexation:**Tax Parcel 5-00-173.00-01-62.00-00001-64.362 Acres Parcel of land, Land of Walter N. Thomas, II**Tax Parcel 5-00-173.00-01-62.02-00001-7.556 Acre Parcel of Land, Land of Walter N. Thomas, II**Adoption of Ordinance 2010-13/Adoption of Resolution 2010-15*

Mr. Brooks stated that if this property is annexed, what will be the status of the property tax. He recalled a lengthy discussion at a previous council meeting when the tax status of several properties were addressed because no action was taken at the time of their annexations.

The city manager answered that any property currently in farmland preservation can continue. Mr. Brooks remembered that council agreed the tax status of any property would be addressed at the time any future annexations were approved.

The city clerk advised the resolution now clarifies that as of the date of the resolution, the property would be assessed and taxed at the same rate as other properties in the city. In addition, the resolution would spell out the ward assignment.

City Solicitor Tim Willard then announced that in the case of the Thomas annexation, the public hearing was previously closed. The petition is before council tonight for action to be taken on the zoning and annexation. He noted the Delaware statute and Milford code both address the opposition of more than 20% of adjacent property owners.

He referenced a petition that was submitted with more than 20% property owners and recalled a question about whether that statute applies if the property owners do not live in the city. Mr. Willard stated his conclusion is it does apply noting his e-mail that provides his opinion which was included in the council packet.

Mr. Willard also referenced the Brohaun vs. the Town of Laurel case decided by Chancellor Chandler. It states that while abutting land owners in unincorporated Sussex County lacked standing to challenge the annexation of 500 acres, they possessed standing to challenge the zoning designation approved in conjunction if more than 20% petition or object. He explained that in this case, because of the petition, a favorable vote of six council members is required.

He explained that the ordinance before city council is currently drafted for an R-3 zone, which was the initial request of the petitioner. Council will need to decide the zone and amend the ordinance accordingly. He said the zoning will need to be done first and will be conditioned upon the annexation. If the annexation is not in the city, council does not have the power to zone the property.

Mr. Pikus moved to zone the proposed annexed property with an R-1 zone, seconded by Mr. Brooks. Motion failed by the following 2-6 vote:

Yes-Pikus, Brooks

No-Johnson, Grier, Adkins, Morrow, Starling, Wilson

Mr. Johnson votes no stating he believes that in order for the development to take place, there must be some flexibility of what can go in there. Single family homes are very nice, but not affordable for most people.

Mr. Grier stated he votes no for the same reasons Mr. Johnson stated, in addition to supporting the planning commission's recommendation of R-8, but mainly for the purpose of providing more affordable housing. He agrees that single family homes are great but a little flexibility is needed which will help in the future success of the development as well.

Mr. Pikus votes yes stating he is concerned with the roads, the access to the development and the fact there are 6,000 units in Milford zoned R-3 which is high density. His main objection is the accessibility issues though the planning commission may have had the opportunity to see what could go out there. City Council has no idea of what will go there or what the project will look like, which he also would have preferred to see. He is also taking into consideration the people who live adjacent to the development who do not know what will go there and considers it to be an open door. For those reasons, he is voting yes to the R-1.

Mr. Adkins said he is strictly reserving his thoughts to the R-1 and is voting no. As far as the developer has said, this is the same as no vote at all.

Mr. Brooks votes yes mainly because of the Lacrosse Development, the (Amberwood) Development next to Baltimore Air Coil and two to three other developments that are high density. He recalled that when the Lacrosse Development was being considered, he asked where the additional traffic will go and no one has yet given him any answers. He said on some Sundays, it takes forty-five minutes to get from Kings Highway to Tenth Street. He is unsure where traffic heading east will be able to go noting the roads are full now.

Mr. Morrow votes no for the same reasons Mr. Johnson stated in addition to supporting the work and recommendation of the planning commission in addition to this zoning complying with the city's comprehensive plan.

Mr. Starling votes no because of the planning commission's recommendation for an R-8 zone which he feels city council should support.

Ms. Wilson votes no based on all the reasons that have been stated.

Ms. Wilson then moved to zone the Thomas property with an R-8 zone, as was recommended by the planning commission, seconded by Mr. Starling as stated in the following ordinance:

Ordinance 2013-13

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

64.362 Acres Parcel of Land

Current Zone AC/Proposed Zone R-8

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

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

7.556 Acre Parcel of Land

Current Zone AC/Proposed Zone R-8

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

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),

1. South 62° 50' 42" East 327.57 feet to a rebar and cap set at the northwest corner of Lot 1 as shown on a plat entitled "Minor Subdivision Survey, prepared for Walter N. Thomas, II" and recorded among the aforesaid Office of the Recorder of Deeds in Plot Book 101, Page 96, thence leaving the southern right of way of Delaware Route 14 and binding on the outline of said Lot 1, the following five courses, viz
2. South 34° 44' 24" West 216.04 feet:
3. South 27° 21' 26" West 201.23 feet to a pin and cap (Adams-Kemp) heretofore set,
4. South 19° 39' 12" West 192.30 feet to a pin and cap (Adams-Kemp) heretofore set,
5. South 12° 05' 37" East 358.28 feet to a pin and cap (Adams-Kemp) heretofore set,
6. South 46° 57' 53" East 277.57 feet to a pin and cap (Adams-Kemp) heretofore set, and
7. North 35° 10' 24" East 511.09 feet to a pin and cap (Adams-Kemp) heretofore set at the end of the second or South 38° 58' West 176.57 foot line of a deed from Grace M. Thomas to Jon A. Thomas, dated August 23, 1991 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book H, Volume 50, Page 325, thence leaving the aforesaid Lot 1 and binding reversely on the second line of said deed,
8. North 33° 15' 46" East 176.56 feet to a one inch pipe heretofore set at the end of the second or North 53° 30' 00" West 209.79 foot line of a deed from Jardevtan Corporation to Patricia M. Marney, dated August 29, 2005 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2375, Page 094, thence binding reversely on the second and first lines of the last mentioned deed, the following two courses, viz:
9. South 59° 28' 22" East 210.00 feet to a rebar heretofore set, and,
10. North 38° 06' 38" East 68.69 feet to a rebar and cap set on the aforesaid southern right of way of Delaware Route 14, thence binding on the southern right of way of Delaware Route 14,

11. *By a non-tangent curve to the right with a radius of 3397.87 feet and an arc length of 335.20 feet, said curve being subtended by a chord bearing South 55° 57' 09" East 335.07 feet to a rebar and cap set at the end of the fourth or North 60° 57' 00" East 185.32 foot line of a deed from Polly Hudson to Polly O'Day and Thomas O'Day dated February 17, 2006 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2770, Page 302, thence binding reversely on said fourth line,*
12. *South 34° 04' 53" West 189.69 feet, thence binding in or near the center of a ditch, the following seventeen courses, viz:*
13. *South 32° 56' 39" West 9.00 feet,*
14. *South 36° 27' 16" West 51.77 feet,*
15. *South 38° 29' 07" West 65.98 feet,*
16. *South 36° 37' 41" West 48.90 feet,*
17. *South 34° 05' 59" West 61.05 feet,*
18. *South 27° 13' 27" West 37.39 feet,*
19. *South 21° 42' 17" East 77.94 feet,*
20. *South 30° 53' 41" West 71.70 feet,*
21. *South 47° 36' 00" West 43.38 feet,*
22. *South 49° 53' 24" West 69.97 feet,*
23. *South 47° 55' 06" West 69.19 feet,*
24. *South 74° 09' 47" West 37.17 feet,*
25. *South 47° 00' 07" West 94.01 feet,*
26. *South 33° 44' 05" West 66.74 feet,*
27. *South 30° 33' 37" West 62.79 feet,*
28. *South 31° 20' 18" West 58.11 feet,*
29. *South 47° 48' 37" West 161.09 feet to the end of the fourth or South 34° 26' 35" East 95.21 foot line of a deed from Walter N. Thomas to Jeffrey A. Thomas and Nancy J. Thomas, dated March 17, 2003 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 532, Page 030, thence binding reversely on the fourth, third, and in part on the third lines of the last mentioned deed, the following three courses, viz:*
30. *North 38° 12' 32" West 95.21 feet,*
31. *North 30° 51' 16" West 72.69 feet, and*
32. *South 14° 11' 36" West 774.23 feet to the center of County Road 447, thence binding in the center of County Road 447,*

33. *South 84° 32' 03" West 1295.05 feet to a boundary line agreement between the said land of Walter N. Thomas and Walter N. Thomas II and the land conveyed and described in a deed from Wayne L. Hill to Wayne L. Hill, Trustee under the Revocable Trust Agreement of Wayne L. Hill dated 12/18/95, dated December 18, 1995 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 153, Page 274. thence binding on the boundary agreement line,*
34. *North 14° 56' 54" East 2255.01 feet to a ¾ inch pipe heretofore set at a common corner for the said land of Walter N. Thomas and Walter N. Thomas II and the land conveyed by and described in a deed from David E. Baker and Shirley A. Baker to Robert E. Southard, III and Jeanette Ann Southard, dated May 5, 1976 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book R. Volume 30, Page 143, thence binding in part on the land of Robert E. Southard, III and Jeanette Ann Southard and binding in part on the land described and conveyed in a deed from Willard E. Zook and Virginia Zook to Donald L. Brittingham and Margaret E. Brittingham, dated June 21, 1984 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book L., Volume 39, Page 264 and binding in part on the aforesaid land of Howard F. Morton and Phyllis Ann Morton,*
35. *South 62° 52' 18" East 256.08 feet, thence binding reversely on the second or South 35° 30' West 430 foot line of the aforesaid Howard F. Morton and Phyllis Ann Morton deed,*
36. *North 27° 07' 42" East 422.47 feet, to the place of beginning,*

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),

1. *South 34° 44' 24" West 216.04 feet to a rebar heretofore set,*
2. *South 50° 16' 32" East 115.08 feet to a pin and cap (Adams-Kemp) heretofore set,*
3. *South 35° 10' 24" West 511.09 feet to a pin and cap (Adams-Kemp) heretofore set,*
4. *North 46° 57' 53" West 277.57 feet to a pin and cap (Adams-Kemp) heretofore set,*
5. *North 12° 05' 37" West 358.28 feet to a pin and cap (Adams-Kemp) heretofore set,*
6. *North 19° 39' 12" East 192.30 feet to a pin and cap (Adams-Kemp) heretofore set,*
7. *North 27° 21' 26" East 201.23 feet to intersect the aforesaid southern right of way of Delaware Route 14, thence binding on the southern right of way of Delaware Route 14,*
8. *South 62° 50' 42" East 505.54 feet to the place of beginning,*

CONTAINING 7.556 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 ALL 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 107, Page 90. BEING currently known as Tax Map Parcel 5-00-17300-01-6202-000001,

upon final approval of its annexation into the City of Milford, as classified under the Zoning Ordinance of the City of Milford, shall be zoned henceforth as R-8 (Garden Apartment and Townhouse District).

Dates:

Adoption Date: November 8, 2010

Effective Date: November 18, 2010

Motion carried by the following 6-2 roll call vote:

Yes-Johnson, Grier, Adkins, Morrow, Starling, Wilson

No-Pikus, Brooks

Mr. Pikus stated that with his convictions, he votes no.

Mr. Adkins stated that he appreciates the comments and calls he has received. He said he sympathizes with the neighbors and would probably be here as well. But if he looks at this in his position as a city councilman on behalf of the city as a whole, he looks at the fact we have a developer and owner that are prepared to develop and there is a good chance they may go through the county. Though he is not basing his decision on that, it is a fact that must be considered. He said the one thing he thought about are the options in the planning process as they move forward. He wants to see a traffic study and not based on how it is now, but based on the approved developments. He said if the Fry property expires, this will have precedent over them as far as the traffic study is concerned. There are other issues such as buffers that can be added. He believes that during the preliminary approval, the planning commission can look at a lot of these concerns. With those thoughts in mind, he votes yes.

Mr. Morrow votes yes for R-8 stating he believes it was a good compromise between the developer and the property owners while taking the comprehensive plan into consideration as he stated before.

Ms. Wilson votes yes based on the planning commission's recommendation as well as the good faith she feels was shown by the developer when he asked for an R-3, though he was willing to change their plan and agree to a lower density zone.

Ms. Wilson then moved to adopt Resolution 2010-15 as amended with the R-8 zone, seconded by Mr. Starling:

*Annexation/Lands of Walter N. Thomas II
Tax Parcel MD-00-173.00-01-62.00-000; Tax Parcel MD-00-173.00-01-62.02-000
71.92 +/- Acres Current Zone AC/Proposed Zone R-8*

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as described herein:

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

64.362 Acres 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 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),

2. South 62° 50' 42" East 327.57 feet to a rebar and cap set at the northwest corner of Lot 1 as shown on a plat entitled "Minor Subdivision Survey, prepared for Walter N. Thomas II" and recorded among the aforesaid Office of the Recorder of Deeds in Plot Book 101, Page 96, thence leaving the southern right of way of Delaware Route 14 and binding on the outline of said Lot 1, the following five courses, viz

4. South 34° 44' 24" West 216.04 feet:

6. South 27° 21' 26" West 201.23 feet to a pin and cap (Adams-Kemp) heretofore set,

8. South 19° 39' 12" West 192.30 feet to a pin and cap (Adams-Kemp) heretofore set,

10. South 12° 05' 37" East 358.28 feet to a pin and cap (Adams-Kemp) heretofore set,

12. South 46° 57' 53" East 277.57 feet to a pin and cap (Adams-Kemp) heretofore set , and

14. North 35° 10' 24" East 511.09 feet to a pin and cap (Adams-Kemp) heretofore set at the end of the second or South 38° 58' West 176.57 foot line of a deed from Grace M. Thomas to Jon A. Thomas, dated August 23, 1991 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book H, Volume 50, Page 325, thence leaving the aforesaid Lot 1 and binding reversely on the second line of said deed,

16. North 33° 15' 46" East 176.56 feet to a one inch pipe heretofore set at the end of the second or North 53° 30' 00" West 209.79 foot line of a deed from Jardevtan Corporation to Patricia M. Marney, dated August 29, 2005 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2375, Page 094, thence binding reversely on the second and first lines of the last mentioned deed, the following two courses, viz:

18. South 59° 28' 22" East 210.00 feet to a rebar heretofore set, and,

20. North 38° 06' 38" East 68.69 feet to a rebar and cap set on the aforesaid southern right of way of Delaware Route 14, thence binding on the southern right of way of Delaware Route 14,

22. By a non-tangent curve to the right with a radius of 3397.87 feet and an arc length of 335.20 feet, said curve being subtended by a chord bearing South 55° 57' 09" East 335.07 feet to a rebar and cap set at the end of the fourth or North 60° 57' 00" East 185.32 foot line of a deed from Polly Hudson to Polly O'Day and Thomas O'Day , dated February 17, 2006 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 2770, Page 302, thence binding reversely on said fourth line,

24. South 34° 04' 53" West 189.69 feet, thence binding in or near the center of a ditch, the following seventeen courses, viz:

26. South 32° 56' 39" West 9.00 feet,

28. South 36° 27' 16" West 51.77 feet,

30. South 38° 29' 07" West 65.98 feet,

32. South 36° 37' 41" West 48.90 feet,

34. South 34° 05' 59" West 61.05 feet,

36. South 27° 13' 27" West 37.39 feet,

38. South 21° 42' 17" East 77.94 feet,

40. South 30° 53' 41" West 71.70 feet,

42. South 47° 36' 00" West 43.38 feet,

44. South 49° 53' 24" West 69.97 feet,

46. South 47° 55' 06" West 69.19 feet,

48. South 74° 09' 47" West 37.17 feet,

50. South 47° 00' 07" West 94.01 feet,

52. South 33° 44' 05" West 66.74 feet,

54. South 30° 33' 37" West 62.79 feet,

56. South 31° 20' 18" West 58.11 feet,

58. South 47° 48' 37" West 161.09 feet to the end of the fourth or South 34° 26' 35" East 95.21 foot line of a deed from Walter N. Thomas to Jeffrey A. Thomas and Nancy J. Thomas, dated March 17, 2003 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 532, Page 030, thence binding reversely on the fourth, third, and in part on the third lines of the last mentioned deed, the following three courses, viz:

60. North 38° 12' 32" West 95.21 feet,

62. North 30° 51' 16" West 72.69 feet, and

64. South 14° 11' 36" West 774.23 feet to the center of County Road 447, thence binding in the center of County Road 447,

66. South 84° 32' 03" West 1295.05 feet to a boundary line agreement between the said land of Walter N. Thomas and Walter N. Thomas II and the land conveyed and described in a deed from Wayne L. Hill to Wayne L. Hill, Trustee under the Revocable Trust Agreement of Wayne L. Hill dated 12/18/95, dated December 18, 1995 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book 153, Page 274. thence binding on the boundary agreement line,

68. North 14° 56' 54" East 2255.01 feet to a ¾ inch pipe heretofore set at a common corner for the said land of Walter N. Thomas and Walter N. Thomas II and the land conveyed by and described in a deed from David E. Baker and Shirley A. Baker to Robert E. Southard, III and Jeanette Ann Southard, dated May 5, 1976 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book R. Volume 30, Page 143, thence binding in part on the land of Robert E. Southard, III and Jeanette Ann Southard and binding in part on the land described and conveyed in a deed from Willard E. Zook and Virginia Zook to Donald L. Brittingham and Margaret E. Brittingham, dated June 21, 1984 and recorded in the aforesaid Office of the Recorder of Deeds in Deed Book L, Volume 39, Page 264 and binding in part on the aforesaid land of Howard F. Morton and Phyllis Ann Morton,

70. South 62° 52' 18" East 256.08 feet, thence binding reversely on the second or South 35° 30' West 430 foot line of the aforesaid Howard F. Morton and Phyllis Ann Morton deed,

72. North 27° 07' 42" East 422.47 feet, to the place of beginning.

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),

- 1. South 34° 44' 24" West 216.04 feet to a rebar heretofore set,*
- 2. South 50° 16' 32" East 115.08 feet to a pin and cap (Adams-Kemp) heretofore set,*
- 3. South 35° 10' 24" West 511.09 feet to a pin and cap (Adams-Kemp) heretofore set,*
- 4. North 46° 57' 53" West 277.57 feet to a pin and cap (Adams-Kemp) heretofore set,*
- 5. North 12° 05' 37" West 358.28 feet to a pin and cap (Adams-Kemp) heretofore set,*
- 6. North 19° 39' 12" East 192.30 feet to a pin and cap (Adams-Kemp) heretofore set,*
- 7. North 27° 21' 26" East 201.23 feet to intersect the aforesaid southern right of way of Delaware Route 14, thence binding on the southern right of way of Delaware Route 14,*
- 8. South 62° 50' 42" East 505.54 feet to the place of beginning.*

CONTAINING 7.556 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 September 27, 2010 and recorded in the Office of the Recorder of Deeds in and for Kent County, Delaware in Deed Book 2521, Page 141. BEING ALL 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 107, Page 90. BEING currently known as Tax Map Parcel 5-00-17300-01-6202-000001,

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation on whether or not to proceed with said annexation, having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code, having held a Public Hearing on September 27, 2010, having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code, the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved,

That this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in Kent County, Delaware where said lands are situate.

The Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

That from and after the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.

The annexation area is contiguous to Ward 4 and City Council intends that these parcels become part of and be included within the Ward 4 area upon annexation.

NOW I, Joseph Ronnie Rogers, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on November 8, 2010, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Motion carried by unanimous roll call vote.

Mr. Pikus stated that although he disagrees with the R-8 zone though that is the decision of city council, he prefers to see the land annexed into the city and believes that is important. Therefore, he votes to annex the property though he disagrees with the R-8 zone.

Mr. Brooks agrees with Mr. Pikus' statement and will vote in favor of the annexation though he feels this will be too much density for that area.

Mayor Rogers explained that the property will be annexed in with an R-8 zone, but emphasized there will be additional opportunities for the public to provide input during the preliminary and final subdivision hearings. Mr. Baird confirmed that prior to any development taking place on the property, regardless of whether the developer chooses to subdivision or develop a site plan, it will go through the planning commission and/or city council depending on the path they take. At that time, if it goes to the planning commission for a subdivision, there are associated public hearings. It will then go to city council where public comment will be accepted. If it is submitted as a site plan, it will go before the planning commission at which time they will hold public hearings on the site plan. All hearings will be advertised prior to any decisions being made.

NEW BUSINESS

North Front Street Sewer Contract--Change Orders

Mr. Baird referenced the two change orders on the North Front Street Sewer Project. Change Order No. 3 adds 45 days to the contract period which allows it to run to the end of November which is on schedule. He said some provisions were added that if it goes beyond the 45 to 60 day period, there would be some damages due back from the contractor. He noted there is no monetary value associated with this change order.

He explained that Change Order No. 4 is a modification that is recommended by both the contractor, the city and the engineers on the project. This is due to a bore that was extended by 120 feet. The original cost of the bore was \$1,200 a foot. Through negotiations, that cost was reduced to \$500 per foot. He said this covers the cost of the additional feet needed. Adding this into the contract allowed us to avoid potential conflicts with the storm sewer that is in that area and allowed us to reduce the amount of open cutting and surface repairs needed.

He recommends both Change Order No. 3 and No. 4 be approved.

Mr. Brooks asked why another 20 feet was needed; Mr. Baird explained the initial bore was 100 feet with an open cut beyond that with a connection. Instead of stopping at 100 feet, another 20 feet was added because of the location of the storm drains, as well as a large junction box, which made it difficult to dig. The best way to proceed was to extend the bore.

Mr. Brooks asked if that will be 20 feet less on the next contract; Mr. Baird stated no. We bored an additional 20 feet instead of open cutting the 20 feet. The original contract required an open cut.

Mr. Brooks recalled his last motion was to continue with the work though his impression was they would be work round-the-clock. He pointed out they are not working 24 hours and asked if we are saving money on that part of the contract. Mr. Baird said there is a savings though they are beginning all day and late evening work now. He said there will be some additional work in the evenings and we were able to reduce the time frame they were going to work round- the-clock.

Mr. Brooks stated that from the time of the meeting that he and Mr. Pikus attended, the plan was to work 24 hours and because of that, there should be a lot less expenses. Mr. Baird said there will be a lot less money paid on the inspection and contract administration side which are all city incurred costs.

Mr. Brooks then moved to approve Change Order No. 3 and Change Order No. 4, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Mr. Pikus added that he spoke with the adjacent property owners who had asked when they stopped working at night. He agrees with Mr. Brooks we were given the impression they would work 24 hours until the project was completed. In turn, he and Mr. Brooks provided that information to the public. He asked when they stopped working throughout the night; Mr. Baird said two to three weeks ago. He explained they were working two to three shifts a day at the time they did the open cut in front of Blue Hen Spring Works because they were trying to move as quickly as possible. After that they needed to make a bore beneath Rehoboth Boulevard. There was time involved with the delivery of the boring machine and the receiving end, working out some of the storm drain issues and working out access issues with the Chaney Center property on the east side of the road. He said they started working days again as they made those arrangements. They are working two shifts again as they put that bore through, one during the day and another at night though they generally wrap up between 11 p.m. and 2 a.m. After a couple of days, they will only work day work again.

Mr. Pikus confirmed that the water coming out is groundwater; Mr. Baird stated that is correct noting it pumps 24 hours a day and goes into the Mispillion River.

Award of Bid/45' Aerial w/Cab Chassis/Electric Department

Sealed bids for the latest model year 45' Aerial with International Cab-Chassis were received on Wednesday, October 20, 2010, at which time they were publicly opened and read aloud.

The following bids were received:

BIDDER	Versalift East	Dueco	Terex Utilities
Make, Model, Year	2011 International 4300 w/Versalift VN43I	2011 Terex Utilities Hi-Ranger FC-40 w/International 4300	2011 Terex Utilities 5FC-40
45' Aerial -International Cab-Chassis	140,847	142,864	133,432
*Option 1 4x4	22,671	22,424	22,566
TOTAL	\$163,518	\$165,288	\$155,998

The city manager advised \$160,000 was budgeted for the project as part of the capital project. It is recommended the bid be awarded to the low bidder.

Mr. Pikus moved to award the bid to Terex Utilities in the amount of \$155,998, seconded by Mr. Brooks. Motion carried by unanimous roll call vote.

FINANCE REPORT

Chairman Pikus reported that through the third month of Fiscal Year 2010-2011 with 25% of the fiscal year having passed, 34.62% of revenues have been received and 23.90% of the operating budget expended. Mr. Pikus said that must attributed to good fiscal management.

He noted the city's building permits are higher than anticipated which is the result of the waiver of some construction costs that were waived as Mr. Baird implied. Some contractors have forecasted more building permits coming into the city in the near future.

He concluded his report by stating our budget is in good shape overall.

Mr. Pikus moved to accept the September Finance Report, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

ADJOURN

With no further business, Mr. Adkins moved to adjourn the meeting, seconded by Mr. Morrow. Motion carried.

Meeting was adjourned at 8:12 p.m.

Respectfully submitted,

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

Terri K. Hudson, CMC
City Clerk