

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 28, 2010

The Milford City Council held a Public Hearing on Tuesday, December 28, 2010 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to hear the application of:

Davis, Bowen and Friedel, Incorporated on behalf of Shore Realty LLC requesting the Minor Subdivision of one parcel into two parcels in a C-3 District at 941 N. DuPont Boulevard (Milford Landing Subdivision, Lot 1A), Milford, Delaware. Tax Parcel MD-16-174.00-01-05.02-00; Area of Petition 1.66 +/- Acres.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

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

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

City Planner Gary Norris advised council this is a simple subdivision needed for financing purposes and would separate the existing Rita's Water Ice site from the larger parcel that houses the strip mall.

The planning commission reviewed the application and recommended approval by a vote of 7-0.

Mr. Brooks questioned the comments made by Commissioner Marvin Sharp regarding property taxes, Mr. Norris explained that this would create two separate parcels, thus the city would receive two tax bills.

Tim Metzner of Davis, Bowen and Friedel, Incorporated, presented the application on behalf of the owner, reiterating the application was needed for financing purposes. There are no plans for building on that site at this time. Any future plans would need to come back before the planning commission and/or city council for additional approvals.

No one from the public had any comments or questions.

Mr. Pikus moved for approval of the Minor Subdivision of one parcel into two parcels in a C-3 District at 941 N. DuPont Boulevard owned by Shore Realty, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

With no further business, the Public Hearing was adjourned by Mayor Rogers at 7:10 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 28, 2010

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Tuesday, December 28, 2010.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

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

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 7:10 p.m.

INVOCATION AND PLEDGE

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

COMMUNICATIONS

Mayor Rogers thanked the city workers responsible for clearing the snow over the Thanksgiving weekend as well as this past weekend.

Nothing new to present.

UNFINISHED BUSINESS

Adoption of Ordinance 2010-20/Chapter 222-Water/Prohibits Certain Types of Private Wells

Mayor Rogers recalled that this ordinance has been reviewed and discussed by council at two previous meetings.

Mr. Pikus asked if we have received any additional applications noting the minimum size parcel needed is three acres. Mr. Baird advised that one application has been submitted that meets the three-acre requirement which makes it eligible. He said there may be other properties that qualify, though it would be rare.

The city manager emphasized it does not permit wells in a concentrated area because of the three-acre requirement.

When asked the difference in this ordinance and the previous ordinance that prohibited wells, Mr. Baird stated he is unsure because he was not familiar with the original ordinance. However, this ordinance is more specific because it coincides with the regulations imposed by DNREC. This ordinance also allows some exceptions to the prohibition of private water wells in the city.

He added that the ordinance also permits any wells that exist lawfully today though they are unable to be expanded. Mayor Rogers asked if those wells fail, will they be allowed to be replaced or repaired; Mr. Baird explained that our existing water ordinance mandates that any failing wells be connected to the city water system. If they are within 200 feet of the city's water system, they are required to connect. However, any agricultural well permitted under this ordinance would be allowed to be repaired or replaced.

Mr. Adkins asked to clarify his objections to this ordinance noting he would prefer it be permissive to have irrigation

wells. Though he is a minority with this opinion, the two conflicting issues he sees are whether they would impact our aquifer and the ability to have water within the city. He noted that general irrigation wells are more shallow than the wells the city uses. The second concern is the possibility of connecting into the city system which could contaminate the city water supply. Mr. Baird agreed adding that is referred to as a cross connection which is a connection between a private water supply and a public water supply.

Mr. Adkins understands but pointed out that anyone wanting to install a well would be required to get a permit so their flow could be monitored. He feels that if anyone is going to cross-connect, they will most likely do it anyway. He feels that irrigation wells add to the aesthetics of the community and should be permitted on private property.

Mr. Pikus moved to adopt Ordinance 2010-20, seconded by Mr. Brooks:

ORDINANCE 2010-20

Chapter 222-Water

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 222 THEREOF, ENTITLED WATER, For the purpose of PROHIBITING CERTAIN TYPES OF PRIVATE WATER WELLS.

WHEREAS, water services are available to businesses and residences within the City of Milford; and,

WHEREAS, it is necessary that these services be utilized and that for health and safety purposes, persons within the City of Milford are not allowed to build and maintain separate water wells except as defined herein.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. Subsection 3 of Chapter 222, Water, of the Code of the City of Milford is hereby amended by adding the following definitions:

AGRICULTURAL WELL— A well used for the watering of livestock, poultry, aquaculture uses, or solely for the watering of household yards and gardens or for other purposes related to farming in general but not including the irrigation of lands or crops. Water is not used for human consumption or to service a dwelling.

DEWATERING WELL—A well used to remove ground water for construction of footings, sewer lines, building foundations, elevator shafts, etc.

DOMESTIC WELL—A well primarily used for potable non-public water supply purposes and which may be used for non-potable purposes, excluding heat pump supply.

HEAT PUMP CLOSED LOOP WELL—A sealed and pressurized loop of pipe containing a heat exchange solution which is circulated below the earth's surface and utilizes groundwater for the purpose of heat transfer.

HEAT PUMP RECHARGE WELL—A well constructed and primarily used for injecting ground water source heat pump effluent back into an aquifer, and which may be used for other non-potable water supply purposes provided prior written approval is obtained from the City.

HEAT PUMP SUPPLY WELL—A well constructed primarily to obtain ground water as a source for heat pump supply purposes and which may not be used for other purposes such as domestic water supply.

INDUSTRIAL WELL—A well which is used in the processing, washing, packaging, or manufacturing of a product excluding food and beverages.

IRRIGATION WELL—A well which is used for the watering of lands or crops other than household lawns and gardens.

MONITOR WELL—A well installed for the sole purpose of the determination of subsurface conditions and collecting ground water samples.

OBSERVATION WELL—A well used for the sole purpose of determining ground water levels.

POTABLE WATER--Any water which is in compliance with all the primary health related drinking water standards specified in the Delaware Regulations Governing Public Drinking Water Systems and the US EPA Safe Drinking Water Act, and is acceptable for human consumption.

PUBLIC WELL—A well which is used to supply water to more than three dwelling units; twenty-five (25) or more employees; in the manufacture of ice, foods, or beverages; to the public in food washing, processing, or preparation in a plant, restaurant, or other facility.

TEST WELL—A well installed to ascertain the lithology and water transmission properties of an aquifer or geologic materials and which may be used to determine water quality; a well which is not used on a permanent basis.

Section 2. Chapter 222, Water, of the Code of the City of Milford is hereby amended by adding the following section:

§222-32 Wells.

A. Except as provided in this section, no person shall install, construct, develop, maintain, or use any type of well within the City limits and/or the area served by the City's water system.

B. Upon the issuance of a permit by the City, the following types of wells are allowed to be installed, constructed, developed, maintained and used within the City limits and/or the area served by the City's water system.

- 1. Any well lawfully in existence at the time of enactment of this ordinance, provided, however, the size of such wells shall not be expanded.*
- 2. Agricultural wells on properties of three or more acres (The intended use of agricultural wells in the City of Milford is for irrigation of open space, public grounds, school grounds, parks and recreational playing fields)*
- 3. Domestic wells when the property is not located within 200 feet of the City's water system.*
- 4. Heat pump wells are permitted for the conservation of natural resources and energy.*
- 5. Dewatering, observation, monitoring and test wells are permitted in accordance with State regulations.*
- 6. Public, Industrial or Irrigation wells are permitted upon approval of City Council.*

Section 3. Dates.

Adoption Date: 12-28-10

Effective Date: 01-07-11

Motion carried by a 6-1 vote with Mr. Adkins casting the sole dissenting vote because he favors irrigation wells.

NEW BUSINESS

Adoption of Amended City of Milford Cafeteria Plan

Adoption of Amended Dependent Care Assistance Plan

Adoption of Amended Health Flexible Spending Arrangement Plan

City Manager Baird referenced the three documents explaining the benefits provided by the city's plan administrators that amend and restate the city's cafeteria plan. The amendments also bring the Dependent Care Assistance and Health Flexible Spending Account plans into compliance with new federal law. Adoptions of these amendments are required

by December 31, 2010.

The cafeteria plan addresses the various health insurance options offered to city employees; the dependent care plan allows an employee to have pre-taxed dollars deducted from their paychecks throughout the year for daycare assistance to be reimbursed as needed; the flexible spending plan qualifies as a medical expense reimbursement plan through pre-taxed dollars deducted and paid out as requested by the employee.

Ms. Wilson moved to adopt the Amended City of Milford Cafeteria Plan, Amended Dependent Care Assistance Plan and Amended Health Flexible Spending Arrangement Plan, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Appointment of City Solicitor

Mr. Baird advised this is a follow-up to previous discussions held with city council. Mr. Baird and Mayor Rogers met with City Solicitor Tim Willard this past week and at that time, he submitted a letter (included in the December 28, 2010 council packet) stating that he is resigning his position as city solicitor as of January 1, 2011 (corrected year).

Mayor Rogers thanked Mr. Willard for his years of service to the city noting that he offered to continue to assist the city and new solicitor as needed.

Motion by Mr. Pikus, seconded by Mr. Adkins to appoint Attorney David N. Rutt and Moore and Rutt, P.A. as the City Solicitor for the City of Milford effective January 1, 2011. Motion carried by unanimous roll call vote.

Mr. Rutt was in attendance and when asked if he wished to comment, Mr. Rutt thanked Mayor Rogers and members of council for this opportunity. He said he is looking forward to the experience and expects it will be a strong working relationship.

ADJOURN

With no further business, Mayor Rogers adjourned the Council Meeting at 7:27 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 28, 2010

The Milford City Council met in Workshop Session on Tuesday, December 28, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

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

The Workshop Session convened at 7:27 p.m.

Board of Adjustment Members/Term Expiration

The current Board of Adjustment terms are as follows:

Chair-Sam Johnson
3 Year Term
Appointed: 02/2010
Term Expiration: 02/28/2013

Frank Bason
2 Year Term
Appointed: 02/2010
Term Expiration: 02/28/2012

Keith Gramling
1 Year Term
Appointed: 02/2010
Term Expiration: 02/28/2011

Mr. Baird advised our ordinance allows for up to five members though two vacant seats were never appointed. Since the board was re-established last February, the new members were appointed with staggered terms. Any subsequent reappointments will be for full three-year terms.

It was noted that Mr. Gramling's term expires the end of February. The item will be placed on the January 10th agenda for action.

The city manager also suggested that should council wish to expand the board to five members, that be discussed at that time as well. If council chooses to fill those vacancies, both should be filled to keep the board with an uneven number of members. If not, it should be kept at three members.

Mr. Pikus asked if Mr. Gramling has expressed a desire to be reappointed. Mr. Baird said from previous conversations, he anticipates he would like to continue in this position. However, he will follow up with Mr. Gramling to verify that.

When asked by Mr. Brooks how the new system is working out, the city manager reported they have only had two meetings since the appointment.

City Planner Gary Norris then commented that it is working out very well adding the three members are very conscientious. All three attended a training session for Board of Adjustment members sponsored by University of

Delaware after they were first appointed. He said they are very professional during the meetings and learned a great deal from the training.

When asked how he feels about the two vacancies, Mr. Norris said that in his opinion, the three positions are adequate to handle the current case load.

It was determined that when three members establish a board, only two members are needed for a quorum.

Mayor Rogers then pointed out the Board of Adjustment always had three members and there was never a problem in the past. However, he agrees that city council has the right to appoint two additional members, though that would not need to be done at this point and could be considered at a later time if necessary.

Mr. Morrow recommends it be kept at three members but suggests that Mr. Gramling be contacted to ensure he wants to continue to serve. Mr. Brooks agreed noting the system is working.

Mayor Rogers reiterated the reappointment will be added to the January 10th meeting noting that Sam Johnson has a great deal of experience which has been extremely beneficial to this board. Both Mr. Bason and Mr. Gramling are very open-minded and attentive to these issues.

Mayor Rogers will follow up with Mr. Gramling to verify his intentions.

With no further business, the Workshop Session concluded at 7:35 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terri K. Hudson". The signature is written in black ink and is positioned above the printed name and title.

Terri K. Hudson, CMC
City Clerk