

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 27, 2009

A Council 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, July 27, 2009.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr. and Douglas Morrow

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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 7:33 p.m.

Silicato-Wood Development/City Buy Back Agreement

The City Manager presented a proposed draft agreement between the city and Silicato-Wood partnership. He explained this is how we are handling the 18-inch force main Kent County is putting in as part of its sewer bypass project with the city. The alignment is projected to follow the right of way line proposed along the Silicato-Wood project off Tenth Street and Route 1.

Mr. Silicato is prepared to proceed and will proceed prior to Kent County moving forward with the installation of its sewer line. To prevent disturbing that area twice, Mr. Silicato has agreed to install 1,700 feet of the 18-inch sewer line that is to be installed by Kent County. The contractor's cost is \$186,645. Mr. Baird said that once the Kent County project is officially funded by USDA, the purchase of that line from Mr. Silicato will be an eligible expense for Kent County at the cost of \$186,645.

At this time, the county is not in a position to agree to the terms of a contract, so Mr. Baird agreed to present the option of the city being the guarantor if for some reason Kent County failed to do so. He feels that the only reason Kent County would fail is if their entire project did not move forward.

The city manager explained that in consideration of Mr. Silicato installing the 1,700 feet of sewer main, he would request that when the 3,800 feet of 18-inch force main is installed from the pumping station (southern end of the Silicato-Wood development) that would tie into the gravity sewer system that currently exists on Northeast Front Street, we would simultaneously install a 4 inch line that would become the service line running from the Silicato pumping station back to the city's gravity sewer system.

Mr. Baird stated the reason for trying to coordinate this work is the considerable cost savings to install both sewer lines at one time versus having to install a 4 inch sewer line now and coming back to not only install the 18 inch sewer line but also to navigate around the 4 inch sewer line.

He advised the initial costs of the 4 inch sewer line if installed on its own would be \$75,000 to \$80,000; the cost to install it in coordination with the 18-inch line is approximately \$25,000. There would be a considerable costs savings by doing it this way.

Mr. Baird agreed there is a small risk to the city if this is approved. The risk is that Kent County would not proceed with the construction of its bypass force main. However, that risk is very minimal because Kent County has already agreed to install that line which would be paid for by user fees. Secondly, if Kent County proceeded with the project and chose not to buy that section of line from Mr. Silicato and the city purchased it, that amount would be reduced from the amount of borrowing on the Kent County bonds in the amount of \$168,000 plus the \$25,000 in expenses.

The proposal allows the city to coordinate work with private development which will be beneficial to the city and to the developer. It is beneficial to the developer by a savings of approximately \$50,000 for the installation of the 4-inch force main. It is beneficial to the city because our installation costs will be considerably less by not having restoration costs associated with going through the completed subdivision and roadway area where the sewer line will go.

The alternative is that Mr. Silicato would install the 4-inch force main at his expense as part of the original project and Kent County, as their project moves forward, would come through and install the force main. The city would not be involved except for coordinating some of the construction activity.

Mr. Baird said his recommendation is that council give this consideration.

Randy Duplechain of Davis, Bowen and Friedel recalled that city council and Levy Court agreed to enter into an agreement to build the bypass force main. He reported this section is in the city and the county has a share outside the city limits which they will pay for. He agrees it would be in the best financial interest of the city to do this now as opposed to having to work around a 4-inch force main already in place and having to work along a roadway that is not existing at this point. The big advantage is not having to tear something up at a later date or having to look for another location for this force main.

Mr. Duplechain emphasized that Mr. Silicato does not really care one way or another. However, if council decides not to do this, he is willing to proceed using his contractor to construct and finance this until funds are available for reimbursement.

Mr. Brooks confirmed that part of this involves the NKS property; Mr. Duplechain confirmed they have an easement across the property for the force main. He added they will utilize that as part of the pump station. When asked for their costs, Mr. Duplechain advised that currently it is zero though there will be a reimbursement once they proceed with their facility. That reimbursement will go back to Mr. Silicato.

Mr. Duplechain advised the 18-inch runs from the county's pump station, which is currently on Northeast Front Street, down Front Street to the NKS property and across the NKS and Silicato property, then heads further to the north.

Mr. Brooks questioned the 18-inch shown as beginning on Lot 5; Mr. Baird concurred noting they are proposing to install that line from the beginning of the easement at the NKS property, heading north to Tenth Street and crossing Tenth Street and stopping in the right-of-way on the north side of Tenth Street.

Mr. Duplechain added that Kent County would then pick up on both sides and proceed with their project while purchasing the 18-inch back from Mr. Silicato. He added the rest of the 18-inch force main is running along the same alignment as Mr. Silicato's 4-inch force main. Installing them at the same time allows them to be put in the same trench.

Mr. Adkins said it appears to make a lot of sense but asked if there is any chance that Kent County would come in and say they could have done the work for a lesser price. If so, he asked if Milford would then be responsible for the difference.

Mr. Baird then explained the concept being presented tonight came about in a conversation with himself representing the city, Mr. Duplechain representing the city, Mr. Medlarz representing Kent County and Denise MacLeish representing USDA. They thought this was the most viable way to proceed. The unit prices were shared and appear to be in line. He said there is always an outside chance that could happen but everyone is on board and accepted the numbers presented.

Mr. Duplechain advised the estimated cost for the 18-inch pipe alone was \$125 a foot; this cost is \$109 a foot which is in line or better than the original estimated cost of the project. He agrees the county and USDA are on board and are hoping to move this process along so that when the funding comes in, the balance of the project would be completed.

Mr. Workman said it appears beneficial if both were installed at the same time. However, if council denies the offer and Kent County receives the funding, they would then proceed with digging it up. He asked what that would cost the city. In addition, if Mr. Silicato installs it and Kent County backs out of the deal, what is the difference between having Mr.

Silicato put it in now and the city install it later.

Mr. Duplechain said that has not yet been calculated but there is only approximately 12 feet of space from the back of the curb to the edge of the property to install this. His concern is the new roadway and working off the roadway trying to get a line in. It would have to cross beneath his entrance road to get across Tenth Street to the other side. Therefore, a longer boar is needed as opposed to an open cut of Tenth Street.

Mr. Workman stated he only wants the difference in costs if the developer does the work or the city later decides to have the work done. Mr. Duplechain advised the estimated cost per foot for the 18 inch force main, which does not include restoration, is \$125 a foot. This comes in at about \$109 a foot which is a difference of \$16 a foot. He added the overall cost will increase because more work is involved because they will be going around the 4-inch main. He estimates it will cost \$80,000 plus though it could be higher. The city manager noted the difference in the pipe cost is \$27,200; any restoration costs will run approximately \$60,000 because the finished work would have to be restored.

Mr. Spillane asked why Kent County is paying for the line instead of the developer; Mr. Duplechain said Mr. Silicato is willing to do that. The exchange is for him putting up the money for fifteen to eighteen months. In lieu of that and of him putting in the 4-inch force main, it makes more sense to install both force mains at the same time. He said it is really to offset Mr. Silicato's cost of putting the 18-inch line in and paying for that up front.

Mr. Spillane again questioned the costs adding he was under the impression that the developer was responsible for associated costs including connection costs. He noted that at a later date, he would turn that over to the city. He has not heard of the city paying for the roads, sewer systems and lines in advance.

Mr. Duplechain explained that the city would not be paying for this other than the fact he is putting in an 18-inch force main which belongs to the city. He is willing to pay for the installation so the city or county does not have to come up with that money at this time. In exchange, the county would install the 4-inch force main for him. He said it is only a trade of him doing something for the city which will be reimbursed. The cost for the 4-inch force main is estimated to be approximately \$25,000 if installed with the 18-inch line.

Mr. Baird advised the 18-inch line Mr. Silicato is installing is not needed for his project. He is willing to proceed with his project but is only agreeing to do this in an effort to coordinate construction work which will be an overall savings to the city, county and himself as part of the project.

Mr. Spillane asked what portion will Mr. Silicato pay or what will he be reimbursed that the city will be asked to pay back. Mr. Baird answered the 4-inch force main that will be installed at a price of the \$25,000 which would be compensation for installing the 18-inch sewer line at \$186,000 in addition to carrying that cost possibly into December 2010.

Mr. Baird explained that Mr. Silicato needs a 4-inch line and the city/county needs an 18-inch line operating independently of one another. The 4-inch line goes from the pumping station on the Silicato-Wood property by lot 5 and runs back into town to New Wharf Road, up New Wharf Road into town and to the county pumping station on Northeast Front Street. The 18-inch line will run from the county pumping station on Northeast Front Street, head east down New Wharf Road, turn along the easement by NKS, following the service road, cross Tenth Street and continue north.

Mr. Spillane feels it is Mr. Silicato's responsibility to connect to the city system which he understood when he purchased the land. Mr. Duplechain again pointed out that it will cost the city more money once his 4-inch line is in the ground.

Mr. Workman said he understands the savings and asked if Mr. Silicato is asking Kent County or the city to pay for putting the 4-inch pipe. Mr. Baird explained that Kent County will because they would install the remainder of the 18-inch line. He then confirmed that Kent County is in agreement. When asked if it was in writing, Mr. Baird said no but conceptually they are in agreement. He explained that is where there may be some minor exposure to the city as he explained earlier. If for some reason they did not proceed with the project, the agreement being presented would require the city to pay for the 18-inch line as well as the 4-inch line. However, it is Mr. Baird's opinion the likelihood of that happening is very slim.

He asked council to keep in mind that Kent County approached the city about putting a bypass force main in to alleviate the environmental concerns they had with the force main rupturing. They felt it was necessary to provide an alternative to convey sewage flow from the city. Kent County has committed to this project. The only reason they have not committed formally is because their financing with USDA has not been finalized. He said the USDA has indicated it will be approved and Kent County acknowledges that, but Kent County is reluctant to become part of any formal agreement. When asked, he said there may be a 5% chance this project would not proceed.

Mr. Duplechain advised the application for Kent County has already been submitted and the USDA has accepted the preliminary engineering and environmental report and requested the application for funding. It is about a \$4 million project and USDA is in the process of evaluating the application for final funding.

The city manager pointed out that Mr. Silicato will proceed with or without this agreement. It is the same on the city side. The work will be done though he felt this was a viable option that was beneficial to both the city and the county as well as the developer.

Mr. Adkins asked if the Silicato costs increased, how this would affect the contract; for example, if the costs came in at \$230,000, will the city still guarantee that cost.

Mr. Duplechain answered the contractor costs of \$186,000 is a firm number and a lump sum fee. The \$25,000 estimate on Mr. Duplechain's part is based on his opinion. He noted that figure is really the cost of the pipe because the work is being done in a trench that may be another six inches wider. This will allow the 4-inch pipe to be laid next to the 18-inch pipe.

Mr. Workman said what occurs if council approves this and Kent County does not receive the funding; he asked at what point does the developer want the reimbursement and could it be paid in installments. Mr. Duplechain advised the agreement states within 60 days of the decision not to proceed with the project.

Mr. Workman said that 60 days is a high risk. He understands the reason this was being requested, but would feel more confident if Kent County was getting their money. He added we are dealing with taxpayers' money. Mr. Baird noted that if Kent County had the money in place, this agreement would not be presented to Milford.

When asked for an anticipated date for a response from the USDA, Mr. Baird reiterated the application is in and is being reviewed by the USDA. Preliminary indicates are it will move through the approval process very quickly. When he spoke with Kent County Public Works Director Hans Medlarz last week, he anticipated receiving final approval by mid to late fall.

Mr. Morrow asked how much time Mr. Silicato needs before proceeding without the city; Mr. Baird said the sooner the better because materials need to be ordered. The longer the decision is prolonged, the less likelihood it will take place.

Mr. Duplechain agreed adding Mr. Silicato is getting his bonds together right now. He anticipates starting pre-construction meetings in the next week or so. He said the other issue is even if the funds are allocated to the county this fall, they still must go through an entire process of designing, permitting, bidding and awarding the project. Therefore, it may not be close to the time frame needed for Mr. Silicato.

When asked if the project has to be done by December 31, 2010, Mr. Duplechain said the project has no immediate time frame though that is the anticipated end date of the project. He said they are already designing the Kent County force main so that when the funds become available, they will be in a position to permit the project and move forward with construction. They are hoping that by January or February, the bids will be out on the force main project.

Mr. Workman asked if it would be possible to come up with some figures should this not happen. Mr. Duplechain said it is possible. Mr. Workman feels council would be more comfortable knowing the up-front costs.

Mr. Workman recommends this be added to the next agenda.

Mayor Marabello asked Mr. Duplechain to meet with Mr. Baird in order to provide some additional numbers. Mr.

Duplechain added that to cross Tenth Street once that intersection is put in, the 18-inch pipe will be placed in a 36-inch boar for approximately 300 feet. The cost will be \$500 to \$600 a foot or approximately \$150,000. That is on top of running the rest of that line in a 12-foot area between the back of a curb and a right-of-way line. He stressed that the cost of putting that line in later will be significant compared to the cost of having it installed now.

Mr. Duplechain said he is unsure if Mr. Silicato is willing to wait another two weeks, but will discuss the situation with him.

The mayor announced that the matter will be deferred for two weeks. At that time, the additional information will be provided.

Danny Perez/Multi-Cultural Festival at Riverwalk Plaza

Mr. Perez advised his office is located at 233 N.E. Front Street and he is a resident of Saw Mill Village. He is associated with WJWL-AM 900 Radio which is a Hispanic Radio Station. He is asking for some support from the city for a Multi-Cultural Family Festival. The festival will run from Thursday, August 20th through Sunday, August 23rd at the Riverwalk Plaza. The hours of operation are from 1:00 p.m. until 10:00 p.m. with the event terminating at 6 p.m. on Sunday. The event will offer carnival rides, vendors and live entertainment from 6 p.m. to 9 p.m. There will be a variety of music with some local talent in addition to talent from other areas.

Mr. Perez reported that all types of support will be offered including security. The owner of the Plaza is providing support to set up the machinery and rides.

He explained that the reason the event is four days is a requirement of the ride company. Their set up takes a day and a half. Originally, the ride operators were requiring seven days, but he was able to negotiate the time down to four days.

The mayor asked Mr. Perez what he needs from the city; Mr. Perez answered the purpose of addressing council is to ask for city support. They are asking permission to use the Bicentennial Park for vendors. In addition, they want permission to hang signs and banners across Front Street adjacent to the plaza in addition to allowing other signage along Route 14 and in the area of the city limits. Posters and flyers are also being provided.

They are asking Parks and Recreation provide fencing and other equipment for crowd control.

A professional security firm has been contracted of which twelve private security officials will work each day. They are also asking Milford Police to assist with traffic control. Mr. Perez said the intent is to make this an annual event. In his 35 years of radio broadcasting, he has organized 12 festivals. He understands there are many issues that will come up that will need to be addressed.

Mr. Perez said they want to offer something to the city in the way of a family environment. It will be open to the public at no cost other than the cost of food and rides. The intent is to bring multi-cultural individuals downtown and to promote downtown businesses particularly those at the Riverwalk Plaza.

Mr. Baird recalled that at the last meeting he and Chief Hudson had with Mr. Perez, Mr. Perez was directed to contact the Senior Citizen in an effort to work with them because of the two events occurring at the same time on Saturday. Mr. Perez advised he had contacted them and Director Karen Lloyd was to get back with him though he has not heard from them. However, he feels it will be a win/win operation for both entities and his radio station is also willing to promote the Senior Center's event.

He intends to personally visit Ms. Lloyd as a follow up this week.

Mr. Workman was very supportive of the event noting that this event is something that Milford has lacked in past years. He noted that the Riverwalk Arts and Jazz event is also scheduled for that day. He feels this is a great opportunity for Milford because we are still lacking community events that bring people together.

Mr. Workman did express concern with pedestrians crossing Front Street and stated he would prefer if the vendors were set up in the Riverwalk Plaza to prevent crossing a major roadway. Mr. Perez explained that the food vendors and arts and crafts are planned at the Bicentennial Park. He said that the more vendors they can attract, the better the event will be. He does not want to turn anyone away and this will allow more space. Though it would have been better if Front Street were closed, he understands that is an extremely difficult thing to get done.

Mr. Perez understands it is a safety issue which is the reason they are asking for volunteers and safety crossing guards.

Mr. Workman referred to the Delmarva Security Advisors security firm and asked how many officers would be working the event. Mr. Perez advised twelve people per day. When asked to explain, he said they will be in a shift type situation earlier in the day, but later in the evening as the crowd grows, there will be more security. Mr. Workman said he feels the later hours will be more of a problem and asked for specific numbers. Mr. Perez said he plans to have only four or five security guards from one o'clock to four or five o'clock. They would then be given an hour break and come back with a full complement of at least twelve people.

He advised this is the same security company that works at the Harrington Slots as well as the Delaware State Fair.

Mr. Workman asked Chief Hudson if we have ever had an event where private security was hired. The chief said they have not worked with security firms at large events in the past. However, any problems they encounter, will need to be turned over to the police officers for appropriate action. Mr. Workman asked what type of communication would be needed so the police could respond if necessary. Chief Hudson said they would have to use cell phones because they would not have access to the police radios because they are on a restricted band.

Chief Hudson's main concern is pedestrians crossing Front Street. He advised that there have been a number of requests to shut down Front Street in the past, but the State of Delaware has never permitted it because it is a major thruway particularly for emergency vehicles. In a previous meeting, Mr. Perez asked for the street to be shut down from 6 to 9 p.m. at night; Chief Hudson had informed him that approval would have to come from the State of Delaware. On the other hand, if it was shut down, traffic would have to be re-routed through various side streets which would require more police officers.

The other concern Chief Hudson is potential problems that could result from interaction with those attending the event at the Senior Center. It was determined the parade would start earlier than this event started so there would not be a problem with street closings.

Mr. Workman feels that with the three events occurring, all of which should conclude at approximately the same time, he is confident our police officers are capable of handling it. He has observed them at other events where he believes they have dealt with a much larger number of attendees.

Mr. Brooks asked what kind of overtime will be involved. Chief Hudson said that they have four officers on a shift and additional officers will need to be called in particularly to assist with traffic control and pedestrian crossings. It was agreed that additional officers would be needed because the patrol officers will be responding to the normal calls and complaints.

Mr. Perez said he agrees that having Front Street closed would have been a better situation though he does not believe it will be permitted. He said he will have some volunteers with a flashlight as it gets dark as a security or crossing guard for people walking up the city block and crossing Front Street. He said there is a crossway in front of the liquor store over into the Bicentennial Park that will be the official crossway from the plaza.

Mr. Perez advised the stage will be facing the stores with its back to Front Street. The speakers will be toward the storefronts and are minimal and not very large. He added you will need to come close to the stage in order to hear the music.

When asked if a permit was required, Mr. Baird said only if they use the park. Mr. Perez confirmed he will get the permit first thing tomorrow morning.

Mr. Perez confirmed that no alcohol will be served or permitted. His objective is to provide a family multi-cultural event where everyone can gather together.

Mr. Workman moved for approval of the event, subject to getting the required permits, seconded by Mr. Spillane.

When questioned, Chief Hudson confirmed the police department can handle the event.

City Solicitor Willard then asked if a non-profit organization is sponsoring the event. Mr. Perez advised he is not a non-profit and is the radio station WJWL who broadcasts from Georgetown. The event is co-sponsored by Bobby Wilson Entertainment LLC and DNL Communications, Incorporated. When asked if they are renting the property from the plaza, Mr. Perez advised the owner has graciously given them permission to use the plaza. They are not charging the vendors or the owners of the amusement rides though they will charge the attendees. The owner of the plaza is requiring they obtain two types of insurance; they also have to secure permits for all ride operators which is a state law.

Mr. Willard then advised that the vendors will have to obtain permits. Mr. Perez said they are required to meet all the requirements of the state health department.

Motion carried by unanimous roll call vote.

Mr. Brooks said he votes yes as long as the police feel they can handle it.

Mr. Morrow also votes yes adding they must work with the police department and obtain all proper permits for the event.

Mayor Marabello instructed Mr. Perez to inform all the people involved that they must do a good job because it will be considered when a future event is requested.

Mr. Perez thanked council stating he will be supporting the event on his radio station beginning tomorrow morning.

Authorization for Funding Applications/USDA

-Amendment to Wells Treatment & Storage Facilities Project

-Washington Street Water Treatment Facility Rehabilitation & Improvements Project

Mr. Morrow advised a Finance Committee meeting was held prior to the meeting to discuss the above two matters though there is no committee recommendation because the issues ended in a tie vote.

Mr. Baird explained the city has an opportunity to apply for two water projects from USDA. The first is a full application, for the Washington Street Water Plant, Rehabilitation and Improvement Project. The total application is \$2,359,412. He reported that funding will be applied through the USDA at a loan amount not to exceed 2.75%, but could be as low as 2.625%. He emphasized that submitting the application is not a commitment from the USDA to fund it nor is there an obligation of the city to accept the loan.

The city manager advised the second application amends the first application submitted in 2007 for the Wells Treatment and Storage Tank Project for the southeast side of Milford. The proposal is to amend that application originally awarded in the amount of \$5.6 million at 2.75% which could also be reduced to 2.625%.

The amendment to the application would include the North Shores Water Project and the Tank Rehabilitation Project. The existing application for the wells, treatment facility and tank project would stand regardless of any action taken by council. The amended application would increase from \$5,600,000 million to \$6,141,797 of which \$5,000,000 was approved by the voters in the 2008 Referendum.

When the finance committee discussed the matter, the vote was two for and two against the proposal which resulted in no recommendation being made.

Mr. Workman reported this is only to submit the applications and does not commit the city. To him, the city should apply

for the funds and if we are awarded the funding, it is less money the taxpayers will have to pay.

Mr. Morrow verified there is no cost to apply for the funding, but only provides another option.

Mr. Morrow moved to approve the submission of the amended loan application for the Wells Treatment and Storage Facilities Project in the amount of \$6,141,797 and full application for the Washington Street Water Treatment Facility Rehabilitation and Improvement Project in the amount of \$2,359,412 for a total of \$8,501,209, seconded by Mr. Workman.

Mayor Marabello advised that if we do accept these, the borrowing is subject to a referendum.

Motion carried by the following 4-2 roll call vote:

No-Johnson, Spillane

Yes-Workman, Adkins, Brooks, Morrow

Mr. Spillane said he is voting no because we have the cash in the bank to pay for these improvements if needed and he does not agree with going to the bank to get a loan we don't need.

Mr. Workman said this is a no-brainer and votes yes.

Mr. Morrow votes yes stating this is an opportunity to provide some options that will possibly save the taxpayers' money.

Executive Session

Pursuant to 29 Del.C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.

Mr. Workman moved to go into Executive Session reference a Personnel Matter, seconded by Mr. Morrow. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:58 p.m. for the purpose of an Executive Session.

Return to Open Session

City Council returned to Open Session at 9:21 p.m.

Executive Session/Personnel Matter

No action needed by City Council.

Adjourn

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

The Council Meeting was adjourned at 9:21 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 27, 2009

The City Council of Milford met in Workshop Session on Monday, July 27, 2009 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins,
Owen Brooks, Jr. and Douglas Morrow

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

COUNSEL: City Solicitor Tim Willard

Mayor Marabello convened the Workshop Session of City Council at 9:23 p.m.

HOA Ordinance Discussion/Letters of Interest

Mr. Baird said at a previous meeting it was decided a committee would be established to review and possibly establish Homeowner Association (HOA) requirements for the City of Milford.

Letters of interest were then solicited with a deadline of July 15, 2009. Copies were included in the packet.

Mr. Brooks recommended the eight people who submitted letters be appointed to the subcommittee. Because Councilman Spillane also submitted a letter, he suggests he be made Chairman. Mr. Spillane then can report back to council as necessary.

Letters were received from the following residents:

Vivian F.Ginn
20 Clearview Drive
Hearthstone Manor

Charlie Campbell
113 Hickory Branch Court
Hearthstone Manor

Michael Boyle
43 Meadow Lark Drive
Meadows at Shawnee

Paul Goldstein
15 West Thrush Drive
Meadows at Shawnee

Terry Andrews
205 Matthew Circle
Matlinds Estates

Charles Doran
133 N. Landing Drive
Knotts Landing

Robert Lender
104 Alexa Court
Knotts Landing

Mr. Johnson noted there are no letters of interest from the development side.

Mr. Workman advised that some letters included some background information, but many were only one liners indicated an interest in serving on the committee. He prefers knowing their background and experience for serving in this capacity.

Mr. Workman emphasized the need for the committee to be composed of the best possible members. Once council knows how they are qualified, council would then decide who should be on the committee. He recommends an application be completed and more information provided.

Mr. Spillane will contact those interested and ask them to expand more on their qualifications. He will then present the applications at the next meeting. Of the seven letters, he recommends, all are made members.

Mayor Marabello asked if we should open the process for additional applications. Mr. Workman felt we should continue to accept applications. Mr. Brooks referred to the deadline of July 15th. The mayor pointed out some other residents may be interested as well.

City Solicitor Willard said the intent is for this committee to come up with an ordinance or an amendment to the subdivision code. He asked that he be invited to the meetings as well. He feels it may be worthwhile to have an initial meeting with those interested, similar to a workshop. He emphasized that City Council are the legislators and he does not believe they should be delegating the drafting of an ordinance to a committee.

Mr. Willard said at this stage, Council wants input from the citizens or lay people as to what a homeowners' association is. He has seen some proposed in-depth state legislation dictating certain things about maintenance corporations that may affect the towns. How the city approaches this may be less rather than more depending on what the state does.

He is willing to attend the meetings if they are scheduled when he is available. Mr. Spillane will follow up with the city solicitor.

The mayor asked if it is agreed to open up for more applications; Mr. Spillane said yes. Mr. Johnson asked if the city had an application or if council is asking for more letters of interest. Mayor Marabello said that in addition to an application, something more elaborate, such as a resume, would also be accepted.

Mr. Adkins feels the committee appears to be leaning to one side which may involve some disgruntled homeowners and asked if council feels it will be a well balanced result.

Mr. Workman said this is the result of the problems experienced with HOA's. A committee is being formed and good things and bad things will be discussed. Afterwards, if council wishes to draft an ordinance, the city would then become involved. If a developer comes in with the intent to have a HOA, there would then be steps in writing so they would know what was required. Those HOA's already existing will not be affected. Only the new ones will be impacted by any new rules.

Mr. Spillane assured Mr. Adkins it will be fair and not one sided when he gets done with it.

Mr. Willard will contact the attorney for the Delaware Realtors Association and invite him to attend a future meeting and answer any questions the members may have.

City Manager Baird then asked if the scope of what is expected of this committee been defined so they are clear in what the expectations are from city council. Right now, he is seeing HOA's and what some of the minimum requirements may be. In his opinion, it is wide open. If that is the intent of city council, so be it. However, his question is should the scope

be more defined on exactly what council is looking for. In order to be effective, council needs to provide some kind of charge for this committee.

Mr. Spillane offered to meet with the seven members and get some ideas of what they want to do and then present them to council. Mr. Baird said that is his point and council needs to decide if this is something that should be driven by members of the committee or by a direction of what is expected from council.

Mr. Spillane prefers presenting the members' ideas to council though council would then make the final decision. He believes council could learn some things they were previously unaware of.

Mr. Workman agrees council should provide some guidance on how we would like them to proceed. They can then meet and discuss matters with Mr. Willard assisting.

Mr. Willard agrees with the city manager and Mr. Adkins. He does not want people to have expectations that this committee is going to solve all the HOA issues. He explained that the nature of the beast is that homeowner associations are private communities that can take care of themselves independently. The problem is the city cannot solve those problems. He considers this committee more as a gathering and citizen input of what their experiences have been. Simultaneously, any proposed state law will be considered. The committee will then report back on the issues and how to address them.

Mr. Spillane feels that many of Milford's problems may be solved with the new laws being considered on the state level and we may not need anything if that occurs. He would rather have something broad for the city.

Mr. Willard said that the real threshold is when a developer is coming in, from a policy standpoint and legal standpoint, what level of control does the city have on how they establish their governance of the common areas. He emphasized this should not discourage a developer from coming to Milford because they have no control nor do we want a resident to move into a neighborhood where they have no control.

Mayor Marabello then recommended that Councilman Spillane get one or two other council members involved.

Mr. Spillane will follow up at the next meeting. He confirmed the meetings and procedures will be in conformance with FOIA requirements.

With no further business, the Workshop Session concluded at 9:34 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 27, 2009

The Milford City Council held Public Hearings on Monday, July 27, 2009 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr. and Douglas Morrow

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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Public Hearing to order at 7:08 p.m.

City Council of the City of Milford held hearings to take public comment and make a final determination on the following matters:

Milford Housing Development Corporation for a Conditional Use to allow Single Family Semi-Detached Dwellings in an R-2 District and the Final Minor Subdivision of .89 +/- Acres into three lots and six units on the south side of N.W. Fourth Street, 150 feet west of N. Walnut Street, Milford, Delaware. Tax Map MD-16-183.10-03-04.00-000 Adoption of Ordinance 2009-9

Deferment of Fees & Infrastructure Assistance/Fourth Street Project

City Planner Gary Norris advised this is for a subdivision of three lots and the construction of three duplexes for a total of six units. All lots are conforming with 2.5 off street parking spaces provided for each unit. This has been reviewed by the City Planning Commission and their recommendation by a vote of 7-0 was to approve the conditional use and subdivision.

Rob Ament, MHDC Development Coordinator stated the three duplexes are all Energy Star compliant. He addressed a concern of the Planning Commission that the separation/party wall will be an 8-inch masonry wall. The request includes the subdivision of one lot into three lots for each of the duplexes.

Mr. Spillane then asked about the financial assistance requested to build these duplexes. Mr. Ament advised that President/CEO Dave Moore was present to address those comments.

Mr. Moore said there was a separate inquiry asking for a waiver of fees to defer some of the costs. He explained they currently own seventy units in Kent County and are trying to serve families with limited income (less than 60% of median income) which is below \$25,000. Most are battered women with children who are capped at 30% of their income for rent and utilities. The financing they use to fund the projects limits Milford Housing and anywhere they are able to partner with the city to defer any type of costs goes into reducing that assistance they have to pay. Currently MHDC puts their own cash into most of the units and will continue to do that though they are asking for assistance to help with those costs.

Mr. Moore explained there are two parts to the requests. One involves the fees and impact fees and the second part is the extension of the water and sewer.

Mr. Baird advised that council has the ability to address any fees they feel are appropriate. It has always been his recommendation that impact fees are not up for negotiation or deferral. If council is interested in assisting with the fees or utility extension, that is something council is able to address. He would then work with Mr. Ament and Mr. Moore to come up with a fee proposal with more definitive costs. However, he does not feel this is something that should prevent final action being taken on the subdivision and conditional use applications.

When asked if the fee issue should be addressed along with the land development applications, Mr. Willard said it is clear they wanted it discussed. However, the conditional use and subdivision can be approved and the fee issue tabled until more specific numbers are obtained. He agrees with the city manager that impact fees have not been waived. In reviewing the code, it states that both water and sewer impact fees cannot be abated or waived without approval of city council.

Mayor Marabello then opened the floor for public comment.

Paul Goldstein of 15 West Thrush Drive, Meadows at Shawnee, stated the proposal is excellent and he hopes council votes for it. He has two reservations and one is impact fees should be dealt with separately and thought out carefully. He stated if you allow them, as a nonprofit not to pay the impact fees, he thinks it is wonderful. He thinks that every nonprofit that comes before council with every worthy cause should also have impact fees waived. The other part he finds disagreeable is a low cost loan of approximately \$60,000 to this organization. If the city has an extra \$60,000 in the budget which was just passed. He was under the impression we were going to live within our budget and not spend funds we did not have. He said the answer is yes we can ask Mr. Portmann and Mr. Portmann would say the city has \$20 million in the bank and anytime we want we can raid the treasury, take the \$60,000 and give it to this worthwhile cause. It is a low cost loan which never has to be paid back until the date they sell the property or become a for-profit organization. He feels there are a lot of other charities in Milford who deserve council's attention and we should publicize the fact that if someone needs money and are nonprofit, regardless of what they are, they should come forward and the city will raid its treasury and take out money to give out. In this case, the city would take \$60,000 to give to Milford Housing to use for their construction costs. Every builder in Milford would also like a donation towards their construction costs. This is \$140,000 of city money in a time of recession and giving it to a nonprofit is great and we should open up the floodgates to everyone who needs money, according to Mr. Goldstein.

No one else from the public wished to comment.

The mayor then closed the floor to any further comment.

City Planner Norris advised the Planning Commission did not discuss waiving the fee and only addressed the conditional use and subdivision applications.

Mr. Spillane then moved to adopt Ordinance 2009-9 approving the Conditional Use, seconded by Mr. Adkins. Motion carried by unanimous roll call vote.

Mr. Workman moved to approve the Final Minor Subdivision, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Mr. Baird stated he will continue to work with representatives from Milford Housing Development Corporation on their fee request which will be formally presented to council at a later date.

ORDINANCE NO. 2009-13

The following ordinance changes the composition of the board to language consistent with Delaware Code:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 230, THEREOF ENTITLED ZONING, FOR THE PURPOSE OF AMENDING THE COMPOSITION OF THE BOARD OF ADJUSTMENT TO REFLECT CURRENT STATE LAW.

WHEREAS, the City Council recognizes a need to change the composition of the Board of Adjustment to allow for further citizen involvement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILFORD IN COUNCIL MET, HEREBY ORDAINS:

Section 1. Section 35 of Chapter 230 is hereby amended by striking the current title "Membership" and retitling section