

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*November 9, 2009*

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 9, 2009.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, 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

Mayor Marabello called the Monthly Meeting to order at 7:30 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Mr. Brooks moved, seconded by Mr. Morrow, for approval of the City Council and Committee minutes of the August 11, 25, September 10, 21 and October 1, 12, 13, 21, and 26, 2009 meetings as presented. Motion carried.

RECOGNITION

No guests were present to recognize.

POLICE REPORT

Police Committee Chair Doug Morrow presented the monthly report prepared by Chief Hudson. Mr. Starling moved to accept the October 2009 report as submitted, seconded by Mr. Brooks. Motion carried.

Mr. Workman asked for a brief summary of the school grant recently approved. Chief Hudson explained that Milford School District and Milford Police Department partnered in applying for the Secure our Schools Grant offered by COPS, (Office of Community Oriented Policing Services/U.S. Department of Justice). The request was for \$999,413.03 and approved for \$972,080.03. The chief said this money will be used to install keyless entry systems and video surveillance to improve security in schools, on school grounds as well as school buses.

He advised the following projects were approved:

Project #1 Central Academy Mass Notification All Hazard Alert Intrusion Detection Digital Video Management Access Control Management Intercom System	Project #2 High School Athletic Stadium Complex Digital Video Management Access Control Management Intercom System
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Project #3 New Upper Elementary School Mass Notification All Hazard Alert Intrusion Detection Digital Video Management Access Control Management Intercom System	Project #4 High School Intrusion Detection Access Control Digital Video Management System
Project #5 Lulu Ross Elementary School Intrusion Detection Access Control Management System	Project #6 Banneker Elementary School Access Control Digital Video Management System
Project #7 District Office, High School & Middle School Visitor Management System	Project #8 Twenty-Five School Buses Digital Video Management System
Project #9: District Office Digital Video Management System	Project #10: High School Mass Notification All Hazard Alert System

He said the new equipment will provide continuous video access to the police department communications area. School bus activity will also be monitored. In the case of an emergency, police officers will have immediate access into the schools/classrooms without the assistance of a school official.

CITY MANAGER REPORT

Mr. Baird then read the following report into record:

City Hall (Administration Goal)

The roofing work has been completed and additional sealant added in areas where the ramp connects to the building and it appears the leaks in the basement have been corrected as we have not had water downstairs during the past few heavy rain events. We are finalizing the phone setup and having the furniture installer completing the punch list items on Monday. We tentatively plan to have the Planning and Code Official staff in city hall by the end of November.

Dept of Energy Grant (Electric Goal)

The City is completing the final requirements associated with the \$50,000 EECBG (Energy Efficiency Community Block Grant) grant. We anticipate a final award notice being received in the coming weeks. The grant ward will be used to fund a LED street lighting program in the downtown area. It will be tied into the Streetscaping Project under the direction of Downtown Milford, Incorporated.

I & I Study Preliminary Report (Engineering Goal)

Staff was presented with a preliminary report describing the findings of the I&I study that is being conducted by URS. The findings show the City's sewer system has a baseline infiltration is approximately 700,000 gallons per day (approximately \$600,000 in annual charges paid to Kent County). In addition, it is found we have inflow of approximately 712,000 gallons per inch of rain. This could account for an additional \$85,000 in charges paid to Kent County. The final report should be delivered to the city on November 13, 2009 along with a schedule of recommended improvements and budget to undertake to reduce the I&I entering the sewer system.

Budget Billing Program (Billing & Collections Goal)

The Billing Department is moving forward with preparations to offer a budget billing program for electric utility customers. The budget billing will allow customers to have a consistent bill for eleven months with the twelfth month serving as a reconciliation month. Our projections are that we will be able to offer this service beginning in the Spring 2010.

Meadows at Shawnee Stormdrains

I have met with representatives from the Meadows at Shawnee HOA regarding the dedication of improvements in the neighborhood. We have reached a consensus that the city will accept the drainage improvements located in the easements located behind some of the homes and the HOA will be responsible to ensure the easements remain open and free from any obstructions. We will prepare documentation to reflect this and present it along with the developer's request for the remainder of the improvements to be accepted by the city.

#### Hearthstone Manor Update

The previously scheduled meeting on October 19<sup>th</sup> was postponed due to the announcement of the filing of the Hearthstone II case against the city. There was some conversation though it focused instead on that matter. Our next meeting is scheduled for November 10<sup>th</sup> (tomorrow) and we will continue discussions regarding the dedication of the completed phases of Hearthstone Manor as well as other items throughout the neighborhood proposed for public dedication.

#### Upcoming Events

City offices will be closed on November 11<sup>th</sup> in observance of Veteran's Day. Offices will also be closed on Thursday and Friday, November 26<sup>th</sup> and 27<sup>th</sup> for Thanksgiving. Downtown Milford's Holiday Stroll will be held on Friday, December 4 at 6:00 p.m.

Ms. Wilson moved to accept the report, seconded by Mr. Brooks.

When asked for questions, Mr. Spillane referenced the report on the stormdrains at Meadows at Shawnee and asked if the city will be accepting the piping at some sites; Mr. Baird stated that is correct. Mr. Spillane noted that Hearthstone has similar problems and asked if it was possible to do the same thing. Mr. Baird said it can be considered though there is no guarantee as each situation is unique depending on the language in the recordation documents.

Mr. Spillane asked Mr. Baird to explain what will be done as each phase is approved or will the entire area be approved. Mr. Baird explained that will only apply to the sections dedicated for public use—roads, water mains, sewer mains, storm drains, electric improvements. The applicant must request the dedication after which city staff will review to ensure it meets the city codes. If it does, it will come before council as a formal vote to accept those responsibilities.

Mr. Spillane asked if all the streets will be approved by the city or will some continue to be maintained by the HOA when they are accepted. Mr. Baird advised the streets that will remain under the HOA include the parking areas around the multi-family units, drives and cul-de-sac areas leading to the villas. He emphasized they are clearly spelled out in the recordation documents.

Mr. Spillane asked how far along the sides of the streets will be approved. Mr. Baird advised that anything in the right of way will be considered. Mr. Spillane confirmed that includes the swales; Mr. Baird answered yes, if they are in the right of way.

Mr. Adkins then asked if the I&I study will result in lower user rates. Mr. Baird said it may, depending on the findings. However, he is hoping to reduce the \$600,000 to \$700,000 in additional costs; he feels that reducing that number by \$200,000 to \$300,000 annually will be a success. Right now, he is reluctant to say it will result in a reduction of rates though it should stabilize rates. Either way, Mr. Baird feels it will have a positive impact on the rate structure.

When asked when DelDOT Planning Director Ralph Reeb will address council on the traffic problems on the northeast side of Milford, Mr. Baird advised the tentative date is November 23<sup>rd</sup> though we are still waiting for confirmation. Mr. Baird then informed other council members he has requested DelDOT give a presentation of their transportation plans in Milford along the Route 1 corridor from Route 30 to the Thompsonville Road.

Mr. Spillane then advised that each phase of Hearthstone was to be approved before the next phase began and asked why that has not been done. Mr. Baird responding by stating he has not seen anything requiring one phase to be completed before another begins. He asked Mr. Spillane to provide that documentation; Mr. Spillane agreed.

Mr. Johnson asked if the police will be able to enforce the speed limit once the streets are accepted by the city. Mr. Baird

stated that is correct though there is a bill that was introduced by Senator Gary Simpson and would allow police officers to enforce speed limits and other minor traffic violations on private streets. When asked if the city could adopt an ordinance allowing that, Chief Hudson advised that is a state law which takes precedence.

Motion carried.

## COMMITTEES

### *Public Works Committee*

Chairman Brooks reported the Public Works Committee has met a few times to discuss the North Front and South Front Street projects which will be discussed later during the meeting.

### *Charter Review Committee*

Chairman Spillane advised the charter is in its final review stages though City Solicitor Willard prefers to provide the committee a final draft before it is submitted to council. Mr. Willard advised he will provide council with a clean copy and a marked document for their review. A concise synopsis will also be prepared for submission to the general assembly.

He will follow up with Mr. Spillane to schedule a final committee meeting.

### *HOA Committee*

Mr. Workman advised council he has agreed to chair the HOA Committee vacated by Mr. Spillane for personal reasons. He does not recall the committee receiving any formal direction and asked that council provide him with some guidance at the workshop meeting this month.

Chairman Workman then announced the next meeting will be November 24<sup>th</sup> at 6:00 p.m. and encouraged anyone interested to attend.

## COMMUNICATIONS

### *DMI Request for Street Closing/Holiday Stroll*

Beth Durham, Executive Director of Downtown Milford, Incorporated submitted a request that Walnut Street, from South Front Street to North Front Street, be closed during the 4th Annual Holiday Stroll on December 4<sup>th</sup> from 5-8 p.m.

Because it is a state road, Mr. Baird advised that Chief Hudson will coordinate those approvals with DelDOT.

Mr. Workman moved for approval of the street closing as requested, seconded by Mr. Adkins. Motion carried.

## UNFINISHED BUSINESS

### *Douglas Annand, PLS on behalf of Joseph Ashley Wolfe for a Final Review and Determination of the Revised Minor Subdivision Plan; Tax Map 3-30-10.12-11.00; 18 Delaware Avenue*

City Planner Gary Norris recalled this matter being presented to council this past May. Following that meeting, it was recommended the applicant apply for a variance through the BOA because of the lot configuration. Since that time, the plan was revised and a variance is no longer required. He advised the planning commission reviewed the revised plan and by a vote of 6-0, recommended approval with the note on the survey stating "Purpose of survey is to create a second tax parcel utilizing original lot line between lots 18 & 20 as new property line" be removed and sidewalks be installed along Delaware and Dixie Avenues.

Mr. Annand was present and asked that council consider the reconfigured plan which is more suitable to the owner and now conforms to Milford's code.

Mr. Baird recalled a question at the previous hearing regarding some construction that may not be in accordance with the proposed subdivision. It has since been verified the plan complies with the subdivision plat.

Mr. Workman moved for approval of the revised minor subdivision plan as recommended by the planning commission, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

*McColley Rezoning Issue/Reconsideration*

The following letter was received from Attorney George B. Smith on behalf of Lynn and Karen McColley and read into record by City Manager Baird:

*November 9, 2009*

*It is my understanding that my above clients "put a hold" on my September 21, 2009 letter and asked that the City Council not proceed with an up or down vote at the City Council meeting subsequent to my letter. I thank you for your cooperation.*

*My clients have now asked me to contact you and attempt to put this on the agenda for late February 2010. At that time, they would like to submit additional information and testimony. We understand that this will reopen the public record. I believe this comports with the City Council's desire to obtain more information so that it may make a decision based on all available pertinent information, especially following the very favorable vote by the Planning and Zoning Commission approving the rezoning.*

Mr. Baird recommends council hold a second public hearing in late February as was requested.

Mr. Adkins moved to reopen the public record on the McColley change of zone, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Mr. Workman confirmed the DelDOT meeting will be prior to council making this decision; Mr. Baird stated that Mr. Reeb is scheduled for the next workshop meeting.

NEW BUSINESS

*Introduction of Ordinance 2009-17/Zoning Code Amendment*

An Ordinance to amend the Code of the City of Milford, Chapter 230, thereof, entitled, Zoning in relation to open space in Garden Apartment and Townhouse Districts and Planned Unit Residential Developments.

*Introduction of Ordinance 2009-18/Subdivision Code Amendment*

An Ordinance to amend the Code of the City of Milford, Chapter 200, thereof, entitled Subdivision of Land, by amending the definition of open Space.

The above two ordinances were presented together for official introduction to council this evening.

City Planner Gary Norris advised the Planning Commission is considering some amendments to the zoning code and has specifically added a definition for open space and what it will provide. During meetings with the Solicitor Willard and Planning Commission Chair Chuck Rini, the Sussex and Kent Counties codes were reviewed because Milford straddles both counties. The subdivision code will also be amended to reflect the definition of open space which is why they are being presented together.

Mr. Spillane confirmed that ponds will not be included as open space; Mr. Norris explained that a certain amount of open space is required with 50% active or passive recreation. A list of those items proposed as recreation was also created. He added that retention and detention basins will not be counted as open space.

Mr. Adkins referenced the section that states if an applicant is unable to provide the required recreational open space, a fee can be paid in lieu of the open space. Mr. Norris explained that would only apply to a small community of eight or ten townhouses, as an example. In that case, it may not be appropriate and they would be required to pay a fee.

Mr. Adkins asked if a developer could choose to pay the fee versus providing open space. Mr. Norris said the planning commission will need to establish a cutoff number which will be provided as a recommendation to city council. As an example, fifteen could be the cutoff and anything with a higher number would be required to provide the open space.

Mr. Willard said the ordinance in the packet has been substantially rewritten. If council introduces the ordinance, it will return to the planning commission where a definition of open space and recreation space/use will need to be clarified. He said the fees can be addressed at that time.

*Introduction of Ordinance 2009-19/Zoning Code/Change of Zone/Liborio-Louviers LLC*

Ordinance 2009-19 was officially introduced to council:

*AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 4.39 +/- acres from R-3 (Residential) TO C-3 (Commercial) at 850 Warner Road, 1,300 feet west of U.S. Route 113, Milford, Delaware. Present Use Single Family Home; Proposed Use Highway Commercial; Tax Map MD-16-174.00-01-11; MD-16-174.00-01-12; MD-16-174.00-01-18.*

*Whereas, said change of zone has been requested by Van Cleef Engineering on behalf of Liborio-Louviers LLC; and*

*Whereas, the Planning Commission has reviewed the application and is presenting the item to City Council for a final determination, and;*

*Whereas, it is deemed in the best interest of the City of Milford to change the permitted zone as described herein.*

*Now, Therefore, the City of Milford hereby ordains as follows:*

*Upon the adoption and subsequent effective date of this ordinance, the land consisting of 4.39 +/- acres currently zoned R-3 which is located at 850 Warner Road, Milford, Delaware, is hereby zoned C-3; Tax Parcel(s) MD-16-174.00-01-11; MD-16-174.00-01-12; MD-16-174.00-01-13.*

*Projected Date of Adoption: December 28, 2009*

*Projected Effective Date: January 7, 2010*

Mr. Norris advised that when the comprehensive plan was being prepared, a request was received to change the land to commercial. He verified the change will comply with the new comprehensive plan.

He then explained this is only the introduction of the ordinance adding that public hearings are scheduled before the planning commission after which their recommendation will be presented to council for final action.

*Introduction of Ordinance 2009-20/Annexation/Lands of W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee*

The following ordinance is being presented for formal introduction to city council:

*Hall, Trustee, & W. Nelson Hall, Substitute Trustee, lying and being on the easterly side of Delaware Road #30 and the southwesterly side of Delaware Route 1, located in the Cedar Creek Hundred, Sussex County, Delaware, as shown on a*

*plot entitled "Lands of W. Nelson & Dorothy I. Hall.", dated September 12, 2000, 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 owners thereof have petitioned the 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 a zoning classification is required, and*

*WHEREAS, the land owned by W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee, Tax Parcel 3-30-11.00-06.00 is currently zoned by Sussex County as "AR-1" (Agriculture-Residential District), 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 November 23, 2009, and after considering the previous 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 Sussex County, Delaware:*

*BEGINNING at a point formed by the intersection of the easterly right-of-way line of Delaware Road #30, 60 feet wide, with the southeasterly line of lands, now or formerly, of James Wesley Thawley, as recorded in the Sussex County Office of the Recorder of Deeds, Deed Book 642, Page 238, Office of the Recorder of Deeds, Deed Book 1776, Page 123,*

*CONTAINING 59.309 acres of land shall be, upon final approval of its annexation into the City of Milford, classified under the Zoning Ordinance of the City of Milford and zoned as C-3 (Commercial Highway District).*

*Dates:*

*Introduction to City Council: November 9, 2009*

*Planning Commission Public Hearing: November 17, 2009*

*Projected Date of Adoption by City Council: November 23, 2009*

*Projected Effective Date: December 3, 2009*

Planner Norris advised the petition was reviewed by the annexation committee. Their recommendation was to proceed with the annexation.

The change of zone was also considered by the planning commission who recommended approval. A plan of services is being prepared and must be accepted by the state before council is able to make a final determination. A public hearing on the annexation is scheduled before council on November 23, 2009.

Mr. Spillane asked if the streets in that area will be improved. The planner advised that the roads are state roads and will be addressed by those agencies during the application process. Any development will require a site plan or subdivision application and DelDOT, Soil Conservation and Fire Marshal approval is required.

He emphasized the annexation and change of zone is the first step of the process. The next step would be a proposal for development at which time the roads and other items will be addressed.

Mr. Baird added that no conditions can be imposed during the change of zone. That would result in a conditional zoning which is not permitted. At the time the site plan and/or subdivision plan is submitted, council will have the ability to

impose additional conditions.

*DBF Proposal/Route 1 East & Shawnee Acres/Sanitary Sewer System Improvements*

Mr. Baird referenced the proposal to design the improvements needed to provide sewer service to the east side of Route 1. He explained that in addition to extending sewer lines to serve properties east of Route 1, it also includes the design of downstream improvements which incorporates the Shawnee Acres Pump Station, the force main and gravity lines coming back into the city needed to accommodate the growth. The proposal from DBF totals \$159,400.

The proposal also includes a subsequent agreement between the city and Key Properties Group in which the city would be compensated for the design associated with this work. Mr. Baird explained the agreement transfers the cost responsibility from the city to Key Properties.

The city manager then reviewed the following terms:

1. CITY will retain DBF to complete the evaluation, design, and permitting associated with the sewer improvements necessary to provide service to the area east of SR 1. The scope of the work to be completed by DBF is contained in its September 23, 2009 proposal titled Route I East & Shawnee Acres Sanitary Sewer Improvements. Refer to DBF Proposal #P090922.
2. KEY will be responsible for reimbursement to the City in the amount of \$159,400.00 for the services contained in DBF Proposal #P090922. Any changes in the scope of the proposal that results in an increase in the cost of the proposal shall be approved by CITY and KEY prior to any changes being made. This requirement does not apply to costs associated with work covered as part of Section E, Excluded Services, of the DBF proposal.
3. KEY shall be responsible for any additional costs for work contracted directly between the CITY and a geotechnical consultant as described in Section D, Geotechnical Services Coordination.
4. KEY shall pay the CITY a 5% Administrative fee of the proposal amount, and any additional costs as described as part of this agreement. The fee associated with DBF Proposal is \$7,970.00.
5. CITY will invoice KEY on a monthly basis. Payment will be due within 30 days from the invoiced date. Any invoice not paid within the 30-day period shall bear interest at 1.5 percent per month (18% annually).
6. KEY acknowledges the General Conditions contained in the DBF proposal and agrees to accept them as part of this agreement.
7. Upon completion of the work included as a part of the DBF proposal, it is anticipated a separate agreement between KEY, CITY and other parties will be prepared regarding the parties responsibilities for the cost and construction of the Route 1 East & Shawnee Acres Sanitary Sewer System Improvements.

Mr. Baird reiterated this package includes two items—the DBF proposal which is contingent on Key Properties accepting the second agreement. He advised that Key Properties received the agreement a week to ten days ago. Initially, they were agreeable to this arrangement though he has not heard a direct response as of this date.

When questioned about bonding, Mr. Baird explained this is only the agreement and the bonding will occur when construction begins.

Mr. Brooks said it is his impression that any bill from DBF will be passed onto Key Properties; Mr. Baird agreed. Mr. Brooks confirmed the city has no money into this. Mr. Baird said that is the intent though the city may have to front it until payment arrangements are made.

Mr. Spillane confirmed the city will pay the DBF bill, but it will then be forwarded to Key, who will then reimburse the



city. Mr. Baird agreed noting it will be a 30 to 60-day turnaround.

Mr. Baird pointed out the savings to Key Properties as well as the city. With the city involved in the design up front and it being done under the city requirements from the beginning, will prevent Key Properties from having to hire someone to design it and later expenses when our engineer has to review it.

Mr. Spillane asked if Key can pay it up front. He is concerned that a developer could pull out after the city has fronted the money. Mr. Baird said there are a number of ways to structure the proposal and Mr. Spillane's idea is one. However, another is being presented tonight.

Mr. Baird stated it is councils' decision, but stressed that the DBF proposal will only be approved contingent upon Key Properties agreement being executed.

Mr. Johnson suggested this proposal be postponed until after Key Properties responds; Mr. Baird said that is councils' prerogative.

Mr. Adkins moved to accept the DBF proposal, contingent upon Key Properties accepting their agreement, seconded by Ms. Wilson.

Ms. Wilson said she is comfortable with the approval because it is conditioned on Key Properties accepting their agreement.

With asked for questions, Mr. Brooks asked if we are paying out the \$159,000 once it is signed or will it be paid over a period of time. Mr. Baird said it will be paid over time as we are invoiced. He added if we are not paid, he will inform DBF to stop their work to prevent incurring any additional expenses.

Mr. Spillane asked why DBF does not bill Key Properties themselves and eliminate the city as the middleman. Mr. Baird explained that if DBF bills Key Properties directly, we run into a problem of who they are working for. In this manner, DBF is working on behalf of the city. Mr. Spillane disagrees because he feels it involves a team of three with DBF, Key Properties and the city all participants.

Mayor Marabello asked if there should be a contingent on the repayment for a specific period of time before we proceed with the next phase of the project. Mr. Morrow stated this will benefit the city by ensuring the work is done to our specifications.

Motion then carried by the following 5-3 roll call vote:

Yes-Adkins, Brooks, Morrow, Starling, Wilson

No-Johnson, Spillane, Workman

Mr. Johnson is voting no because he prefers to wait so he can see how this will unfold.

Mr. Spillane is voting no and prefers Key Properties to pay up front.

Mr. Workman said he is looking at this and it appears as though everything is ready, but he does not see any guarantee to the city and he votes no.

Mr. Brooks stated the guarantee is the work will be done the city's way versus being done Key Properties' way. In addition, the city is not paying out \$159,400 at once and instead, it will be paid a little at a time. Key Properties will then reimburse the city in 30 days or if not, the project will be stopped.

Mr. Morrow votes yes noting that this is standard procedure.

Ms. Wilson votes yes, adding it is standard procedure and the way we do business. The city maintains control of the work and is in a better situation to stay on top of it.

*DBF Proposal/S.E. Front Street Rehabilitation Project/Revised*

Mr. Baird then presented a proposal from DBF for work on S.E. Front Street project. It includes street resurfacing, ADA curb ramps at the intersections and curbing and sidewalk improvements in areas where needed. He referenced the January 2008 proposal which he said missed the mark based on the overall scope. DBF has been working with the city for the past year and a half in moving the project forward. He said both agreed it was in our best interest to redefine the scope to accurately reflect the work which is why a revised proposal is being presented.

The preliminary cost estimate of the project is \$1,261,875.00. DeIDOT provided funding in the amount of \$894,208 for the resurfacing and ADA compliant curb ramps. The balance of the project, estimated at \$367,667, will be the responsibility of the city.

The cost of the engineering proposal is included in the total project cost of which \$10,500 has already been paid. That leaves a projected balance of \$92,800 for work being done by DBF.

It is Mr. Baird's recommendation that council approve and accept the engineering proposal and that \$92,800 be paid from the Municipal Street Aid Fund. He confirmed there are adequate funds in the account to cover the cost.

The city manager said this will allow the project to move forward and bid during the winter months of 2010 and prepare for spring construction. He feels it will be beneficial to postpone the bidding until after some of the stimulus projects are bid. By waiting, the cost will hopefully be lower in the spring though there is no guarantee.

When asked if this includes curbing and sidewalks in front of the residences, Mr. Baird explained that portions of the sidewalk are included. Mr. Spillane asked if the homeowners will be responsible for their sidewalks; Mr. Baird advised that is the reason for the preliminary cost estimate.

Mr. Brooks then confirmed the project will be bid two ways. Mr. Baird recalled that being considered in the public works committee meeting. One bid would be for those sections needing repairs and an alternate bid for the entire replacement of curbs and sidewalks. Council will need to make that decision before the project is awarded. At this point, we need to determine the actual costs. Completing the engineering and design and preparing the bid, will provide the real construction dollars.

Ms. Wilson asked if it was possible to obtain Street Aid money for the sidewalk repairs as was done in the past. She recalls that allowed for a much smoother process in addition to many of these property owners/neighborhoods not being able to afford to pay the replacement costs.

Mr. Baird said that was also discussed by the public works committee though that must be determined by the finance committee.

Mr. Spillane prefers the project be completed at once and we allow the private citizens to reimburse those costs through the sidewalk program as was previously discussed.

It was confirmed the total engineering costs are approximately \$102,000, of which \$10,500 has been paid.

Mr. Brooks moved to approve the DBF Engineering Proposal to allow the city to complete the design and bid the project in early 2010, seconded by Mr. Morrow. Motion carried by an 8-0 roll call vote.

*Bid Award/North Front Street Sewer Improvements Project*

Mr. Baird advised the scope of the North Front Street Sewer Project is from Truitt Avenue up to Walnut Street and from

the Kent County Pumping Station next to the police department east to Rehoboth Boulevard.

The invitation to bid was properly advertised and sealed bids received and publicly opened in the council chambers at Milford City Hall on November 4, 2009 at 2:00 p.m.

The following bids were received:

<b>Bidder</b>	<b>Address</b>	<b>Base Bid</b>
JJID, Incorporated	Bear, DE	\$790,195.00
Teal Construction, Incorporated	Dover, DE	\$892,292.00
Dixie Construction	Churchville, MD	\$1,162,705.00

DBF Engineer Edwin Tennefoss reviewed the bids on behalf of the city and found them to be in order. Mr. Tennefoss recommends the award of the project to the lower bidder, JJID, Incorporated in the amount of \$790,195.00, contingent upon meeting all DNREC requirements and DNREC approval.

The city manager advised the project is being funded with the SRF funds as approved by council at a previous meeting for \$1.3 million. The estimated project costs are as follows:

Administrative/Legal Expense	\$32,000
Engineering & Survey	\$69,600.00
Geotechnical Services (Estimate)	\$7,500.00
Construction Cost	\$790,195.00
Construction Administration	21,700.00
Project Inspection (Estimate)	\$45,000.00
Contingencies	\$79,000.00
<b>TOTAL</b>	<b>\$ 1,044,995.00</b>

Mr. Baird concurred with the recommendation to award the bid to JJID.

It was moved by Mr. Brooks, seconded by Ms. Wilson to accept the city manager's recommendation and award the bid to JJID, Incorporated contingent upon all DNREC requirements being met and approval as the funding agency. Motion carried by unanimous roll call vote.

*2010 Christmas Holiday/Closings*

In preparing the 2010 Holiday schedule, it was found that Christmas Eve and Christmas Day fall on Friday and Saturday respectively. Mr. Baird suggests that instead of taking December 23<sup>rd</sup> (Thursday) and December 24<sup>th</sup> (Friday), the city close on December 24<sup>th</sup> (Friday) and December 27<sup>th</sup> (Monday). This will allow city offices to remain open four days of each week, which is more suitable to customer needs and trash services.

It was confirmed the council meeting will be held on Tuesday, December 28, 2010.

When asked why the city is not following the state holiday schedule, it was noted that several years ago the city switched out Columbus Day for Christmas Eve. As a trade off, employees work Columbus Day.

Mr. Brooks moved for approval of the 2010 Christmas Holiday closings on Friday, December 24<sup>th</sup> and Monday, December 27<sup>th</sup>, seconded by Mr. Morrow. Motion carried by the following 7-1 vote:

Yes-Johnson, Workman, Adkins, Brooks, Morrow, Starling, Wilson  
No-Spillane,

Mr. Spillane votes no stating we are going through some tough times and employees are already off Friday.

#### MONTHLY FINANCE REPORT

Chairman Morrow advised this report was presented to the Finance Committee at their previous meeting. He reported that through the third month of Fiscal Year 2009-2010 with 25% of the fiscal year having passed, 33.42% of revenues have been received and 23.31% of the operating budget expended.

At that meeting, Mr. Portmann explained some timing issues affecting revenues and expenditures though everything is in order.

Mr. Morrow moved for acceptance of the September 2009 finance report, seconded by Mr. Adkins. Motion carried.

*Executive Session - Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation.*

Mr. Workman moved to go into Executive Session reference 29 Del. C. §10004(b)(4) to discuss pending and/or potential litigation, seconded by Mr. Johnson. Motion carried.

Mayor Marabello recessed the Monthly Meeting at 8:39 p.m. to go into a closed session.

#### *Return to Open Session*

Council returned to open session at 9:42 p.m.

#### *Key Properties Litigation*

No action taken.

#### ADJOURN

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

Mayor Marabello adjourned the Monthly Council Meeting at 9:42 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*

MINUTES OF MEETING

*November 9, 2009*

On Monday, November 9, 2009, a Public Comment Session was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting to allow the public to comment about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., and James Starling, Sr.

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

COUNSEL: City Solicitor Timothy Willard

At 7:12 p.m., Mayor Marabello advised that no one had signed up to speak.

Respectfully submitted,

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

Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
*MINUTES OF MEETING*  
*November 9, 2009*

Milford City Council held a Public Hearing on Monday, November 9, 2009 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on the following matters:

The City of Milford, Delaware, in cooperation with the Sussex County Council, the Levy Court of Kent County, Delaware and Delaware State Housing Authority (DSHA) for the purpose of providing interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant (CDBG) Program. This Federally funded program provides grants amounting to \$2,000,000 to support Community Development Activities in eligible local governments in Kent & Sussex Counties. A status report for Milford's FY09 projects is also planned.

PRESIDING:               Honorable Mayor Daniel Marabello

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

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

COUNSEL:                City Solicitor Timothy Willard

Mayor Marabello called the Public Hearing to order at 7:00 p.m. He then invited Albert Biddle, Housing and Community Development Coordinator of Kent County and Brad Whaley, Assistant Director of Sussex County Community Development and Housing Office to present the program on behalf of Milford's participation.

Mr. Biddle advised this is the annual and duly advertised public hearing for the Community Development Block Grant program, which is federally funded program administered through Kent and Sussex County. The purpose is to make the citizens aware that CDBG funds are available through the application process beginning July 1, 2010. Approximately \$2 million is available from HUD through the Delaware State Housing Authority to municipalities and unincorporated areas throughout the counties.

He reported that eligible projects are activities that support low and moderate income persons. Delaware State Housing Authority has provided guidelines and their primary goal is housing rehabilitation of owner occupied houses. Other eligible projects could include demolition of substandard and vacant structures, small infrastructure projects such as streets, sidewalks, drainage and sewer and water improvements.

Because there is only \$2 million available for the two counties and the municipalities within the county, the process is very competitive. Mr. Biddle noted they are present to assist with the application process and asked for the city's support to develop those projects.

He said Milford has been successful in obtaining funds for projects over the years. He reported that on the Kent County side, housing rehabilitation continues to be the number one project considered. Though they applied for funds for the year beginning July 1, 2009 in Kent County, that project did not receive funding, though the City of Milford did receive a few thousand dollars to fund an emergency project for a shelter. For FY08, funding was obtained in the amount of \$95,000 for housing rehabs of owner-occupied projects.

Brad Whaley then reported on the funding on the Sussex side. He advised that over the past ten years, Milford has received approximately \$450,000 with the bulk for housing rehabilitation. Last year, \$72,000 was received for housing rehabs; to date, approximately \$20,000 is available for another rehab or two. There are approximately seven or eight people on the waiting list in the Sussex side of Milford.

When asked for questions from the council, Ms. Wilson thanked Mr. Biddle and Mr. Whaley for their efforts noting she is aware of several families awarded grants that were greatly needed and appreciated. In addition, any questions or