

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 26, 2012

The Milford City Council held a Public Hearing on Monday, March 26, 2012 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to hear the application of:

Carmen Kemper on behalf of Greater Milford Development Corporation for a conditional use
to allow additional uses beyond those (skating and related events)
currently permitted at Milford Skating Center, Incorporated as described below:

Dances for 15 year olds and younger, dances for 16 to 21-year-olds, adult dances, dance classes, private parties/gatherings, nonprofit dances, parties and socials (bikers, parade, colleges), DJ competitions, all night (skating) sessions, alcoholic beverages at private parties or bouts, church functions, drop-in childcare, summer programs for children, indoor sporting events, segway events, exercise classes and walking programs, high school mentoring programs, after-school programs, community meetings, boy scout and girl scout events, award events and family resources (immigrants).

requested hours of operation:

Sunday 8:00 a.m. - 10:00 p.m.
Monday thru Thursday 8:00 a.m. - 11:00 p.m.
Friday 8:00 a.m. - 1:00 a.m. (Saturday morning)
Saturday 8:00 a.m. - 10:00 p.m. Sunday

Property is in a C-2 District at 1 Park Avenue, Milford, Delaware (Tax Map MD-16-183.10-04-43.00) and consists of .552+/- acres.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen,
Owen Brooks, Jr., Doug Morrow, Sr., James Starling, Sr. and Katrina Wilson

City Manager Richard Carmean, Police Chief E. Keith Hudson and City Clerk/Recorder
Terri Hudson

City Solicitor David Rutt, Esquire

Mayor Rogers called the Public Hearing to order at 7:01 p.m.

City Solicitor Rutt opened the meeting by explaining this is a legislative action that requires an accurate record. He then described the procedure that would be followed. He also noted that the rules are very clear that any documents in writing that were being presented for consideration this evening must have been provided to the city clerk for inclusion in the packet (as noted on the agenda).

City Planner Gary Norris then reported the conditional use application was reviewed by the City of Milford Planning Commission. After a lengthy discussion, the commissioners amended some of the items requested. The planning commission recommended approval of the application by a vote of 5-1 with the following amendments and conditions:

Hours of Operation:

Sunday	8:00 am until 10:00 pm
Monday	8:00 am until 11:00 pm
Tuesday	8:00 am until 11:00 pm
Wednesday	8:00 am until 11:00 pm

Thursday 8:00 am until 11:00 pm
Friday 8:00 am until 1:00 am on Saturday
Saturday 8:00 am until 1:00 am on Sunday

Teen Center License Obtained

Roller skating – 7 days per week.
Senior walkers – Monday, Wednesday and Friday mornings.
High school student mentoring – Mornings.
Benefit Dances or skates – i.e. Diabetes, Autism
Birthday parties – 7 days per week, during regular skating session times.
After school programs – Wednesdays.
Jr. Teen Dances – 12 to 15 years old, weekends only.
Sr. Teen Dance – 16 to 19 years old, weekends only.
Adult Dance – i.e. DJ Competition, weekends only, considered a private party, not during regular skating sessions.
Exercise programs – Mornings.
Dancing / Classes – i.e. country line dancing/classes, ballroom dancing/classes.
Private parties – considered a private party, not during regular skating sessions.
Private nonprofit organizations – i.e. church, bikers, parade and colleges, considered private party, not during regular skating sessions.
Roller derby practices or bouts
Indoor sports – i.e. dodge ball, indoor hockey, soccer, segways
Community meetings or events – i.e. Boy/Girl scouts, churches, cheerleaders, awards nights.
Jam skating
Family resources (immigrants)
Summer children's programs/camp – summer only.
Holiday parties – considered a private party, not during regular skating sessions.

No alcoholic beverages are permitted.

Mayor Rogers then recognized the applicant.

Attorney William Chasanov advised that he is representing Carmen Kemper at this hearing. He stated he did not file the application nor was he present at the planning commission meeting.

He then reported that the skating rink has been leased since 1987 which was prior to the C-2 zoning. It has held the following events:

Skating, teen dances, country line dances, adult dances, dodge ball, senior walkers, derbies, hockey drop ins, youth hockey, ballroom dancing, holiday parties, baby showers, graduation parties, after school programs, school award programs, fundraisers, all night skating, zumba exercise classes, private birthday parties, nonprofit organization parties, community meetings, boys and girl scout events, segway relays, jam skating, church functions and skating lessons.

Mr. Chasanov said with having all of these events occurring since 1987, he does not understand why a conditional use is needed. He said Ms. Kemper worked as the manager since 2000. She purchased the business in 2011 and is doing the exact same things that were done since 1987. He asked why a conditional use is now being required.

Mr. Chasanov said the second question is why the city is having a hearing. When he looks at the C-2 Central Business District, the code states the regulations are designed to encourage the development and opening of new businesses. He then read some of the uses allowed in a C-2 zone which includes taprooms, taverns and restaurants--where alcohol can be served, fraternal, social service, union and civic organizations--where alcohol is served and dances are held. He said

some of the uses require a lot more presence and supervision than running a skating center. Yet, they are permitted uses.

The second question he would like answered is why we are here for a conditional use when this is a much lesser use than what is permitted in a C-2 zone to begin with.

City Solicitor Rutt responded by stating that as far as the necessity for the application, this was a skating rink. It has been identified as a skating rink and was that before zoning. The items related to skating are what Ms. Kemper has done in the past. As far as some of the other items Mr. Chasanov has identified, Mr. Rutt does not feel there has been proof or anything presented that show they existed. He noted that Mr. Chasanov mentioned segways which Mr. Rutt pointed out did not exist in 1987. Some of the items requested have been identified by the city as uses that do not fall within a skating rink.

Mr. Rutt said that secondly, Mr. Chasanov talked about permitted uses. He referenced the conditional uses, noting the first one under 230-13(c)(1) Commercial Indoor Recreational Activities that includes amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities. He submits this falls within that category. He explained that a conditional use only allows these type activities within the C-2 zone.

Mr. Chasanov stated that what Mr. Rutt just read was not put in place until 1992 and this has been occurring since 1987 as was testified to at the planning commission by Debbie Lavere, former owner of the skating center. He said this should be grandfathered in because all the uses existed prior to the city enacting any of these codes.

Mr. Rutt stated that Mr. Chasanov has the right to put forth a legal argument. However, the intent tonight is to create a public record as to why this application should be approved or denied.

Mr. Chasanov said he has reviewed the entire list he just read. He said it was handwritten and then reviewed by Debbie Lavere. He said these are all the things she did when she owned the skating center. Therefore, he asks that be admitted into the record. Then he will have Ms. Kemper testify to the same thing.

Mr. Rutt advised they are not accepting any other documents noting the rules are clear. Mr. Chasanov said he just read it into the record. He said this includes everything done from 1987 on. He is not asking the document be accepted and instead read it into the record. It includes all the things done and were testified to at the planning commission hearing which is why it was approved by a vote of 5-1. He reiterated the application should be grandfathered and Ms. Kemper does not need a conditional use because nothing is different than what was done since 1987.

Mr. Chasanov called Ms. Kemper to the podium. He said he read from the same list that he did and asked Ms. Kemper who prepared the list. Ms. Kemper stated that she did. He asked Ms. Kemper how long she has been manager at the skating center; she stated since 2000. Mr. Chasanov said Debbie Lavere ran the place from 1987 on; Ms. Kemper stated yes. Mr. Chasanov asked what the list of activities are because Mr. Rutt called it a skating rink. He asked Ms. Kemper to state all the activities that occurred in the skating rink since 1987. Ms. Kemper stated they have done skating, teen dances, country line dances, adult dances, dodge ball, senior walking, derbies, hockey drop-in, hockey youth, ballroom dancing, holiday parties, baby showers, graduation parties, after school programs, school award programs, fundraisers for different organizations, all night skating, zumba exercise classes, private birthday parties, nonprofit organization parties as well as community meetings, boys and girls scout events and awards. She said the segways have been in there and also jam skating, church functions and skating lessons.

Mr. Chasanov asked Ms. Kemper that in addition to skating, have all the different activities taken place to the best of her knowledge since 1987; Ms. Kemper stated yes.

Mr. Chasanov concluded his questioning at this time.

When asked if anyone else wished to speak on behalf of the applicant.

Monica Morrow of 7 Causey Avenue stated she is speaking on behalf of Ms. Kemper for a couple reasons. She lives about a block away from the roller rink and has three children under the age of ten. She said she and her husband are very active in the community and are both leaders in scouts. The roller rink has been a very important part of their family's life. Their son participates in the roller hockey program after school. They have used the roller rink for about five years. With three children, she is concerned with any possible issues only a block away from her house. She supports the skating activities but is also supporting Ms. Kemper be able to provide the youth activities. Her son will be a teen in a few years and if she has a choice between hanging out somewhere else or at a place where he can be supervised with no alcohol at a teen dance, she would rather him go to the roller rink. She said in relation to the other issues, the roller rink is not a bar. There are bars in Milford but they are not looking at a place where alcohol will be sold or where people will go to buy alcohol. She said in her mind, this is a controlled and safer environment than the local bars. She wants to support Ms. Kemper so she can do all the programs she has. She emphasized that it makes it better for the adults that live in Milford, but will also allow kids to have the opportunities. She would hate to see the skating rink close because she can no longer afford to keep it open without these other needed activities.

Mr. Pikus advised Ms. Morrow said there is no question that the city wants the skating and related events to continue. He noted that his children skated at the rink when it was owned by Ms. Lavere. He emphasized there is no plan nor intent to have the skating rink closed.

Ms. Morrow said she understands but her concern is the other activities being questioned. She understands Ms. Kemper needs the financial support from the other activities. She wants Ms. Kemper to continue to get all the financial support she can. Ms. Morrow does not believe the danger with the other programs is enough to outweigh allowing them.

Mr. Pikus reiterated the intent is not to close the skating rink. He has no problem with any of the youth activities, church activities, school activities, walkers, etc. being able to use it.

Ms. Morrow said she understands that everyone in attendance wants that same thing as well.

Charles Gray of Harrington stated he is speaking in support of Carmen Kemper. He is the Milford Community Parade Chairperson, former employee of the skating center and Ms. Kemper's brother. Mr. Gray stated that he wants everyone here to know Ms. Kemper is a professional business owner. She is not a fly-by-night person coming into the community to shake things up. She has come in here and with the assistance of the previous owner and her staff, has continued to provide a service to the children and adults of this community.

Mr. Gray said he was at the planning commission meeting and the teen center proposal was suggested. According to what he read with the teen center proposal, it does not allow any adults into the teen center. Mr. Gray said if anyone has attended the Milford Skating Center, there are adults in the skating center. One example is Tuesday night which traditionally is Family Night. He explained that for a discounted rate on Family Night, the whole family can come in, which means a mom, a dad, one, two or four children and enjoy 2.5 hours of roller skating. He said that cannot happen if she has to apply for a teen center license according to what he has read. Mr. Gray said he does not see that as an option for her.

Mr. Gray said the Milford Skating Center has been responsible for benefit skating, benefit dances and the diabetes association. Ms. Kemper has been an asset to the community and to Downtown Milford.

He feels the teen center license is unacceptable. When he attended the planning commission meeting with others in attendance this evening, the discussion was brought up with the police department. He said the information so eloquently provided by the police was something that when they look at everything we are having to go through (he said he is only saying we because Ms. Kemper is his sister) in order to get approval on things Ms. Kemper has been doing for a long time. He thinks it only comes down to a couple events that were questioned by the police department.

Mr. Gray's final statement is that no business owner has the ability to determine what and where their customers go and do once they have completed or participated in the activity being presented.

He knows that no one wants to shut down the skating center, but he also knows that as a businessperson, Ms. Kemper is trying very hard to further improve the economic situation that has hurt a lot of our businesspeople. He said it is obvious there is a community that wants her to succeed.

Darrell Kerrison of 1046 Old Cemetery Road, Milford, said he is speaking on behalf of Carmen Kemper. He said he moved to Milford about a year ago and was looking for a place to take his family and kids. He found the skating center and got to know Carmen. He has been going there ever since. He said he has 20 plus years of security experience which includes residential, commercial, retail, body guard work and bouncing. Ms. Kemper hired Mr. Kerrison to be head of her security staff and to handle all events such as the diabetes event, walks or anything else when there will be a large group of people who are not roller skating. He said he also works roller skating if there is a big crowd.

Mr. Kerrison said at the Milford Skating Center, their primary goal is to provide a safe, fun-filled, comfortable environment for their guests. He looks forward to building a good working relationship with the Milford Police Department in cases where they have persons coming to the rink or who are determined to ruin an event. When extracted from their premises, they want the Milford Police Department there to greet them and give them a free ride if need be to the station. He believes in working together with the Milford Police Department. He wants to ensure that their guests can come to the Milford Skating Center and have a good time. They also want to send a clear message to those who engage in destructive behavior that it will not be tolerated or more importantly, not tolerated anywhere in the town of Milford.

Mr. Pikus asked Mr. Kerrison about his certification in security and if he was trained and by whom. Mr. Kerrison stated he originally came from New York. Mr. Pikus asked if he was a police officer in New York; Mr. Kerrison answered no though he has been security his entire life. Mr. Pikus asked if he is certified in the State of Delaware as a bouncer, police officer, security officer. Mr. Kerrison said not as a police officer but as security. He confirmed he was trained as a security officer and is licensed. He explained he was licensed in New York which has since been transferred here. He is now licensed in Delaware though still licensed in New York. Mr. Pikus again asked if he was trained; Mr. Kerrison stated yes adding he has over twenty years experience.

Ms. Wilson asked how long Mr. Kerrison has worked with Ms. Kemper at the skating center. Mr. Kerrison said he has been working with Ms. Kemper for the last six or seven months.

Mr. Brooks asked Mr. Kerrison how many people he has working for him; Mr. Kerrison explained the number depends on the event. When asked the minimum and maximum, Mr. Kerrison stated the least would be ten to twelve. If it is a big event, it would be much more. He stated that we all know that certain music or certain events require more security. The bottom line is he makes sure it is taken care of.

When asked, he said the most security he would provide is twenty. Mr. Brooks said that would be twenty for 300 people; Mr. Kerrison stated yes and emphasized that twenty would be needed. He said you need to make sure the guests come in, have a good time and can leave in the same manner as they came in.

Mr. Brooks agreed.

Mr. Pikus asked if all Mr. Kerrisons' security are all certified; Mr. Kerrison said they are all qualified and he will not have them if not. Mr. Pikus asked who certifies them. Mr. Kerrison said he does not want Milford PD coming in, asking them to show their credentials and his guys ends up looking stupid.

Mr. Pikus again asked who certifies his employees; Mr. Kerrison explained they have to go through their own certification which is through the state. He said they are required to have that.

Mr. Pikus then asked if all the uses Ms. Kemper has requested qualify as conditional uses. Mr. Rutt said there was a question raised about the teen dances. He said in reviewing Chapter 208, Teen Centers, it states whoever operates as a commercial venture, a teen center, catering solely or primarily to the teenage trade. He is unsure that fits at this point.

Mr. Rutt said it may be questionable whether the teen center license falls under the conditional use. However, if council approves teen dances, it could be required as a condition that they meet all or most of the criteria in that code. Under Section 230-13 of the zoning code (C-2 District), there is a broad statement of use under the conditional use that includes commercial indoor recreational activities and states similar facilities. He feels that most of the uses being proposed could fall under that area. However, council is not required to approve any or all. They have the right to cherry pick what they want approved, then set any stipulations or conditions.

Mr. Rutt said there is also a separate subsection on conditional use for daycare centers. That is one of the uses Ms. Kemper is requesting and is listed use under the C-2.

He feels it could be suggested that use falls beneath the conditional use.

Mr. Gleysteen then asked what is and what is not permitted as far as the sale of alcoholic beverages. Mr. Rutt said it is not identified. He emphasized it is something council has to right to allow or prohibit. He noted a separate section of the code that indicates that alcoholic beverages must have a 1,000 foot separation. He has been in contact with the ABCC (Alcoholic Beverage Control Commission) for their opinions.

Mr. Rutt explained that is also a condition that council could impose by prohibiting or permitting alcoholic beverages; planning commission recommended not allowing it.

Mr. Gleysteen said he was reviewing prohibited uses and what he did not understand is where it first talks about the 1,000 foot rule. It also states that the approval to sell alcoholic beverages at special events or gatherings for a period of time, not to exceed three days, may be granted if approved by city council. He asked if this is a one-time approval or is it required each time someone has a special event; Mr. Rutt explained that the gathering licenses are granted by ABCC and council does not have that authority. Under the law, city council has the authority to say the property has the proper zoning. Council granting a conditional use for the sale of alcoholic beverages for gathering licenses would be the zoning piece. Despite any of this, the granting of actual alcohol license falls under the jurisdiction of the ABCC. He emphasized that gathering licenses are restricted solely to nonprofit organizations under vary strict guidelines. He said there is a section of their regulations that discusses those. For example, he said they cannot be for more than three days at a time. He noted as an example the St. John's Oktoberfest. The applicant must always apply to the ABCC for a liquor or alcohol license.

Mr. Rutt believes there is a flaw in the ordinance in terms of where it appears the city council has the right to approve each event.

Attorney Chasanov then stated that Ms. Kemper never sold alcohol and has no intent to sell alcohol. However, a group that holds an affair at her place can apply to the ABCC. He stated that they are able to apply for one event to serve alcohol themselves and it has nothing to do with her facility. He said Ms. Kemper does not want to sell alcohol and is not asking for permission to sell alcohol at any time.

Mr. Gleysteen confirmed she is asking permission to allow people who rent her facility to sell alcohol. Mr. Chasanov responded by stating they would apply to the ABCC to get that license. Ms. Kemper has nothing to do with the application or with serving the alcohol.

Mr. Gleysteen again asked if Ms. Kemper wants the approval to sell alcohol; Mr. Chasanov responded by saying if the group wants to do that. He said if someone wants to hold a dance at the skating center, such as the diabetes group or another adult group such as the seniors, and they wanted to serve alcohol, they would have to apply to the ABCC to get permission for their nonprofit group to do that.

Mr. Pikus asked Mr. Chasanov if he previously stated there has never been alcohol dispensed at the skating center; Mr. Chasanov stated that Ms. Kemper never sold any alcohol. He said there was a group that obtained a license from the ABCC as he understands though she had nothing to do with it. They applied on their own. In that case, he said it is then the decision of the ABCC to grant or deny it.

Mr. Rutt advised that a condition of the ABCC grant is that proper zoning must be in place to allow the alcohol. Mr. Chasanov then pointed out that Park Place is across the street, Milford Tavern is a block away and both serve alcohol. Mr. Rutt noted that taverns and restaurants are permitted uses under the C-2 zone.

Mr. Pikus asked for clarification as to gathering licenses only being issued to nonprofit organizations; Mr. Rutt stated solely and Mr. Chasanov agreed. Mr. Pikus referenced Carlisle Fire Hall and St. John's Church stating both are nonprofits. Both attorneys agreed.

Mr. Pikus then asked if the group that acquired the license to sell alcohol at the skating center was a nonprofit organization; Ms. Kemper stated yes, it was a nonprofit.

Ms. Kemper said she has a group of adults that do not like the bar scene. They want to come into her facility because of the way it is laid out. She is only allowed to have 299 people in her building whether they are dancing, skating or walking. She said that is the state fire marshal's doing.

She stated that those adults are coming to her and asking to rent her building out. They are looking for the use of her floor to be able to dance. She said the adults want to bring alcohol in. There are some groups that want to sell alcohol and be able to have a dance.

Ms. Kemper feels it is no different from going to the senior center for a function like a wedding or any kind of function they have. She said because they want to use her facility, they have to go to ABCC and ask for that. They have to fill out the form to do this. Also, ABCC has told her if she wants to give out alcohol and not charge at the door, she has the right to do so. It is no different than being at her home, supplying alcohol to 21 year olds. Then she would have a street full of cars because she would have 300 people in her house. She said she is allowed to do that because she is giving it away and not selling it.

Ms. Kemper advised this is the same thing with her facility. She stated that if a nonprofit organization would like to come in and do a birthday party or a gathering of adults and they want to have alcohol present and are not selling it to the people and just have it there, they still have to go through ABCC to let them know that is what they are doing. However, ABCC will also tell them they are allowed to do that because they are not selling it. They will tell them that as long as they have 21 year olds and older and everyone has a license, they can pop in anytime to see what is going on, but that is good. She reiterated it is no different than going to a bar. They could then come in randomly and ask for her license.

Mr. Pikus asked what is required if tickets are sold and the tickets include a drink or two. Ms. Kemper told Mr. Pikus you have to go through ABCC for permission. Mr. Pikus said in essence, you are selling alcohol through a ticket. Ms. Kemper stated yes and they are assuming that amount for the ticket is going toward the alcohol. Mr. Pikus said in that case, there is a charge for the alcohol. Ms. Kemper stated yes, that is what ABCC would say. However, if she rents out the building and the renter supplies the alcohol for free and does not charge anything at the door and people are just walking in and they have provided alcohol there for free, they can do that.

City Manager Carmean then asked if the rental fee for nonprofits selling alcohol is the same as 299 people coming in for a roller skating event. Ms. Kemper stated yes, there is no difference. Her rental fee is \$100 an hour which she hears is very cheap rent.

Ms. Kemper said she is only trying to provide a safe place for the adults. She is not going to do anything that would jeopardize herself or anyone else in the community or the facility. She has never been that kind of a person and does not intend to be that person.

Mr. Johnson asked if the \$100 an hour pays for the 20 security agents; Ms. Kemper stated no, not if she has to provide that. She explained that in her contract if someone is planning to have a big group there, she allows a choice. They can either provide their own security people which must accommodate her staff and her security guy. He then makes sure they are up to par of what they are supposed to be. If not, they have to pay Ms. Kemper for her security people.

Mr. Johnson clarified that Mr. Kerrison checks out the security people coming in and ensures they are certified. Ms. Kemper stated yes, that is his job.

Mr. Pikus referenced the hours of operation recommended by the planning commission--Sunday from 8 a.m. to 10 p.m., Monday, Tuesday, Wednesday and Thursday from 8 a.m. to 11 p.m. and Friday from 8 a.m. to 1 a.m. and Saturday from 8 a.m. to 1 a.m. Ms. Kemper explained her original request was from 8 a.m. to 8 a.m. and that is only because she did all night skating on Saturday. Mr. Pikus calculated the hours on her original request noting that Ms. Kemper is asking for Saturday from 8 a.m. to 8 a.m. and Sunday from 8 a.m. to 10 p.m. He noted that is a total of 38 hours beginning Saturday morning. Ms. Kemper stated she uses different staff during that time. She said that would not be done every weekend nor every Saturday. Her all nighters might be once a month. Her adult dances might be once every two to three months. It would depend on whoever is asking to rent her facility. She explained she is not doing it every weekend and is not doing it every Saturday night or Friday night. Her Friday night has always been and will remain be strictly for the kids. She emphasized she will not change that for anyone.

Ms. Kemper said her Saturday nights seem to be the night when her adults need another venue or another way out. She said they are grown and most are 35 years old and older and too old for the bar scene because of the little teeny boppers or 21 year olds that hang out there. These older adults are looking for other facilities to go. She is trying to accommodate them and provide a safe place. As her security guard said, they are coming in with a smile on their face and they will leave with a smile on their face because they have had a good, safe time. They do not want it any different.

Mr. Chasanov emphasized that many of city councils' kids hung out at the skating center as did his kids and his grandchildren. They all went to the all-nighters. They skated all night long or until they got tired and could not take it anymore. Ms. Kemper said her all nighters usually last until 7 in the morning. She only asked for 8 a.m. because that gives her enough time for the parents to come in and get their children. She said she is the one that is there the entire time. She will not let somebody else come in and run her establishment.

Mayor Rogers then asked if anyone wished to speak against the application.

Joe Palermo of 5 Misty Vale Court, Meadows at Shawnee, stated he is not opposed to businesses thriving in Milford. When he read the ordinance that included her request, he asked himself what wasn't left out. Mr. Palermo wants to see young people enjoy themselves like he enjoys himself. He likes to go out and dance, have a drink and have a good time. Unfortunately, that can come with incidents. He noted the two incidents that occurred there as well as the one that recently occurred in Harrington. He said that is his concern.

Mr. Palermo wants to see everyone have a good time but after listening to the comments, he thinks this can be worked out by removing some of the items and amending a few. His concern is that when there is a large number of people and alcohol is present, that could be a recipe for a disaster. He does not feel that Milford Police Department would appreciate that.

Lieutenant Kenneth Brown, Milford Police Department, then presented the following Power Point presentation:

The Milford Skating Center opened in 1982 with Phil Smalley. It was a great place for family exercise and youth entertainment. Many of us enjoyed Friday and Saturday nights skating when we were in middle school. Parents appreciated a safe environment for middle-school aged youth.

In 1986, Milford Skating Center attempted a Dance Night. The effort to draw more business backfired. Many fights occurred inside and outside the skating center. Police responded on a routine basis until it got so dangerous for both the management and employees, the management put a stop to it. When the police were going in to stop the fights, the large crowds overwhelmed the officers and were grabbing at their guns. More than once, mace had to be sprayed inside the center to back the aggressive crowds away to allow the officers to get to the fight in order to break it up. Officers then had to fight their way back out with the prisoners.

Since then, the skating center has been operated without any cause for concern as a family-friendly, community-based center.

They have supported community events including Milford Community Parade, Skate for a Cure (Diabetes), Sunday Night Christian Skate and children's birthday parties.

The Milford Skating Center features Christian Night, Family Night, kid's birthday parties as well as exercise and fitness professionals. It was a 'family-friendly atmosphere trying to make Milford a better place by bringing more activities and events to the Milford Skating Center'.

However, the police feel a home for roving night clubs is not family-friendly. A roving night club is a dance club that does not actually have a home. They go from facility to facility, renting venues by giving landlords a story such as 'it's for a birthday party'. In those situations, everyone pays at the door. There are no presents and no birthday cake. It is a profit-motivative way for those that don't respect anyone's property or security to have a nightclub without the investment of a building. They tear things up, fight, do damage, cause havoc and contribute nothing to the community but problems. Most venues in Milford and Dover will not rent to them.

Except now the Milford Skating Center:

On Friday, October 29th, there was a private party that involved a roving night club. Tickets sold by someone else—not the skating center. This was a 'roving night club operation'.

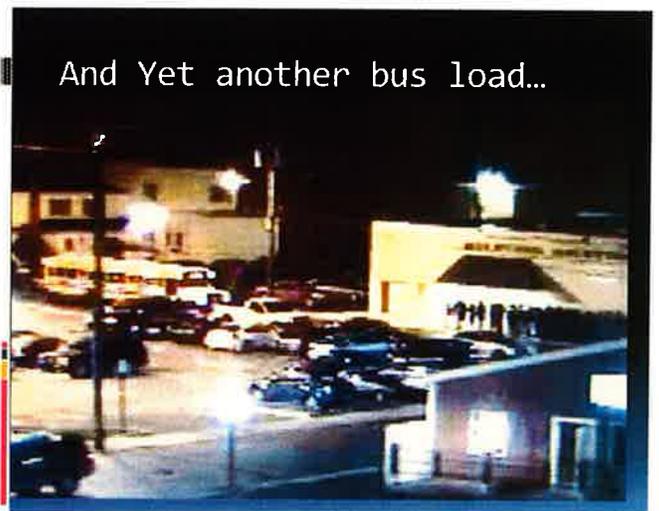
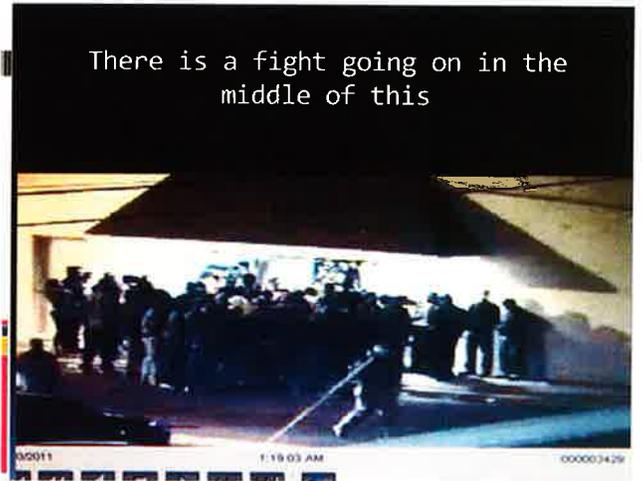
Te next night, Saturday, October 30th, there was another private party alleged to be a Delaware State Party. Dover venues would not rent to them as a result of bad experiences in the past and because it was part of the roving night club operation.

We love the Milford Skating Center as a skating center. We are opposed to it as a nightclub or as an adult college party facility.

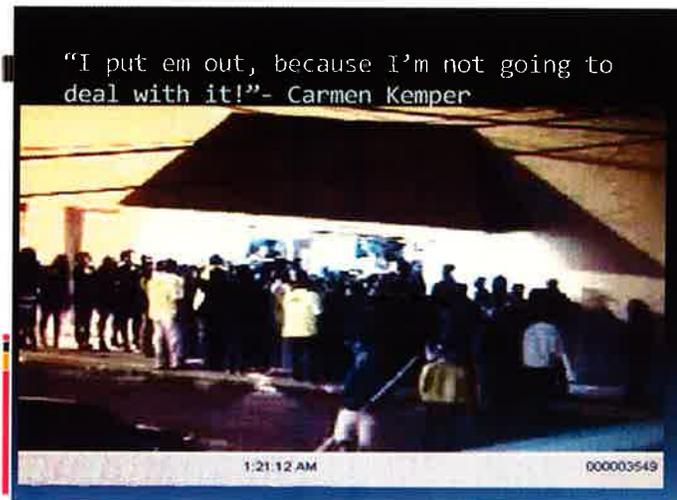
The following are photos from those parties:



*A Family Tradition since 1982 or
AN ADULT COLLEGE PARTY FACILITY?*



Ms. Kemper responded by stating she put them out because she will not deal with it.



As a result, there are 800 angry people left out on the street at 1:00 a.m. This is a recipe for a fight of which many occurred throughout our town.

And, there are only four cops on duty to handle multiple fights.

Several police recordings (audio) were then played.

The first audio was of an officer calling Milford Police Department dispatch requesting more units at the skating center for a large crowd who was beginning to get physical. They were asking for more help.

The next audio was where a prisoner was in custody, which then ties up one officer, leaving fewer resources to deal with what is occurring next. Only three officers remain at the site.

The next clip was a call made from the skating center in relation to additional problems out front. Because of the large crowd, the caller was unable to see that the police are on the scene.

With the officers on the scene and in desperate need of more help, the search is on for additional officers to assist because Milford Police Officers are way outnumbered.

The officer in the next audio has requested dispatch call Kent County Dispatcher and Sussex County Dispatcher to get every possible police officer available to assist them.

The taxpayers throughout the area are now footing the bill for event security after the skating center puts their attendees out on the street. It is much more of a crowd than the three remaining officers can handle. As a result, there is a need to borrow from other police agencies.

The next recording is of police officers asking that these other police officers step up their response time—that help is needed immediately.

The next clip is the K-9 officer hollering on the radio that it is really getting bad and requesting these (police) units get to the scene.

Now, all resources are tied up with prisoners. The final clip is of officers stuck at the scene who are aware of what is going to happen next and are asking that dispatch contact local businesses and warn them of the situation.

Milford Police knows from experience that if they are able to get the situation handled at that location, the problem only spreads to other establishments who are open 24 hours—Wawa, Dash-In, McDonalds, etc. In addition, shots were fired on Northwest Front Street. As a result, other businesses are asked to close their doors to prevent further problems. It is a known fact the problems at these convenience stores are a direct result of the large crowds. They include flash mob robberies, thefts and assaults. Bottles and other items are thrown inside stores.

Experience has taught these establishments that when Milford Police call and warn them of the large crowds, they close and lock their doors immediately. Wawa even recently closed their gas pumps because they did not want anyone even on their property. Unfortunately, other local businesses suffer as a result of another business's poor decision to sponsor a roving night club.

These are not isolated incidents as can be seen below:

April 9, 2011 - Over 21 Party at Milford Skating Center. A "Private Event" was advertised on Milford Skating Center's Facebook site.

Flyer for same date show it was a "Pay per Entrance" nightclub operation for the Street Warriors Motorcycle Club for an over 21 crowd (see below):



Two fights occurred after this event.

May 29, 2011 - Pre-Hot Summer Bash from 9 p.m. until 2 a.m. Received a call requesting four or five police cars for a large fight inside the skating center. A short time later, Milford Police was called to assist Delaware State Police for a large fight just outside the city.

An audio of the call to Milford Police dispatch was then played. The female caller is requesting Milford Police respond to Milford Skating Center because 'the crowd is acting crazy'. She states they are fighting right now and there is also a whole bunch outside fighting and they are going to need about four or five cop cars right now. She said they are fighting in front of the skating rink. She emphasized there is too much commotion and they are acting really crazy. She said they are punching people in the face and are throwing fire hydrants (extinguishers) inside. She concluded by stating they are threatening the owner and needed Milford Police to come on.

The skating center has advertised several teen dance events on Saturday nights. They vary in age restrictions but the majority are 13 years old and older with no cut off at age 18; there are 16 and up and no cut off at age 18. This violates the code of the City of Milford, Chapter 208 Teen Centers. Though they call them teen dances, one is advertised for 16 years of age to 21 years of age. This is not a teen dance, but an adult dance with teens allowed.

Hours vary as advertised but again violates Chapter 208 which requires that teen events conclude by 11 p.m. Such dances are advertised on the Facebook page.

The weekend before the planning commission hearing on February 21, 2012, a large brawl occurred in Harrington similar to what has been encountered in Milford. Harrington Police reported that three people were arrested after officers broke up a fight involving a large crowd at the Gene Price Community Center. Police were called to the community center shortly after 1 a.m. Sunday. They found between 200 and 300 people fighting. Harrington Police called for assistance from State Police, Felton, Milford and Wyoming Police Departments.

A girl was struck in the face with a brick and had to be treated at Milford Hospital. There was also a brick thrown through the windshield of a vehicle and another brick stuck in a windshield.

Another person was taken to the hospital after being struck by a board. The crowd was throwing rocks at the police as they attempted to disperse the crowd.

The same night, state police responded to a call at 2:30 a.m. outside D-Lows Nightclub on the outskirts of Bridgeville. Police reported an 18-year-old man and a 23-year-old woman were leaving a private party at the nightclub, when a large group gathered outside the club and became disorderly after they were told they would not be admitted into the nightclub. The two were driving away from the nightclub when a male suspect came out of the crowd, produced a handgun and discharged several rounds into the air and into the direction of the victim's car striking the rear window. The 18-year-old in the driver's seat was struck and suffered a gunshot wound to the head. The passenger was able to drive the teen to the hospital who was admitted in serious condition.

Though not classified as a roving night club, a photo was presented of a large crowd outside Milford Skating Center shortly after 1 a.m. this past Saturday night. (Difficult to see because of the darkness and the camera zooming at its max and the foggy conditions.)



Vehicles are also shown in and around the streets with a large number of pedestrians.



A clip of a call received that evening was then played. The call was made from someone in attendance who stated there was a riot there and cars were unable to get out and were going the wrong way. She said it is so packed the vehicle they were in was unable to get out of the parking lot.

Milford Police Department is not opposed to Milford Skating Center. It has served the Milford community for more than 20 years as a place for our young people to spend a Friday or Saturday night. They support the various family and child oriented skating events that occur there. What they oppose is that it becomes a roving nightclub facility. They oppose the attempt to mix a teen center with an adult bar/nightclub. They oppose the skating center be allowed to operate as an "anything goes" facility that disrupts the peace and tranquility of our city, causes disruption to other businesses and puts the public and our police officers at unnecessary risks.

Lieutenant Brown then thanked Mayor Rogers and City Council for allowing him this time.

Mr. Brooks then asked if most of the events being discussed involve alcohol; Lieutenant Brown said they encounter a number of intoxicated individuals after these events.

City Solicitor Rutt then asked Lieutenant Brown, that as an officer of the Milford Police Department, was he provided with a copy of a petition in opposition to another application before the Alcohol Beverage Control Commission; Lieutenant Brown stated yes.

The solicitor then asked permission to read the petition and for Lieutenant Brown to confirm if the petition, dated February 13, 2012, stated the following:

“Alcohol Beverage Control Commissioner:

We, the people of Milford, Delaware, are writing this letter in response to an application for a license for a new restaurant and liquor called Pelican Bar, LLC at 200 NE Front Street, Milford, Delaware 19963. I am strongly opposed to the granting of such a license at this location and urge the board to deny this license.

My community is facing numerous crimes and public safety challenges:

*Public drinking, loitering, public urination, disorderly conduct and other quality of life concerns are blatant in the area.

*In the last nine months, within two blocks of the site, there have been several thefts, robberies and fights near this proposed location.

*It is located in the middle of already established restaurants and businesses that already sell liquor, to many churches in the immediate area.

Because of these items, I do not feel safe spending time in this area. My quality of life is declining.

In addition, our community is already amply served by outlets selling beer, wine and liquor. In fact, it is saturated with establishments. A total of 26 liquor licenses exist in the Milford community. Seven of these businesses are within 500 feet of the proposed business. There is no need for additional alcohol licenses, particularly a restaurant and bar in this neighborhood.

Approving Pelican Bar, LLC license will only exacerbate the crime activity in the Milford community, will contribute to an unsafe feeling in this corridor and will jeopardize the community's desire to revitalize the area. It is not in the best public interest. For these reasons, we are asking you to DENY Pelican Bar, LLC of a license to sell any form of alcohol.

Thank you so much for your attention and for your interest in protecting the community's interest."

Mr. Rutt asked Lieutenant Brown if he knows who signed the first two lines of the petition. Lieutenant Brown stated yes--Carmen Kemper did. Mr. Rutt asked if it is correct that she signed individually and on behalf of the skating center. Lieutenant Brown stated that by the separate addresses, he would assume yes.

When asked for questions from council, Mr. Pikus asked if the city was notified of the number of tickets sold. He then asked Ms. Kemper if her capacity by the fire marshal rules are 299 and if almost 800 tickets were sold. Ms. Kemper stated she has no idea where they got that number from but that number is totally wrong. Mr. Pikus said from the pictures and what was presented, there seemed to be a very large crowd. Ms. Kemper stated that the picture Mr. Pikus saw was of teenagers getting off a bus in front of her building and going into the skating center. Not coming out but going in. As procedure, she has at her building, they have to all be patted down to make sure they do not have cigarettes, alcohol, knives or anything else. She said that is what her security people do.

Mr. Pikus asked if her security was present when these problems occurred; Ms. Kemper stated yes, sir. Mr. Pikus asked how much security was working that night; Ms. Kemper stated she had twenty people there. Mr. Pikus asked if they were unable to control it with twenty security staff present; Ms. Kemper said they were patrons. Mr. Pikus said Ms. Kemper stated she had security on site which is what Mr. Kerrison is in charge of. Ms. Kemper stated that is right. Mr. Pikus reconfirmed that Mr. Kerrison is in charge of the skating center's security along with all of his qualified people though Milford Police Department was still needed to keep peace and bring some order. Ms. Kemper emphasized they did not call the police. She stated that they did not have any problems inside the building whatsoever.

Mr. Pikus referenced the audio recordings which indicated there were calls for help from the skating center. Ms. Kemper said they were people who were outside the building that called. Mr. Pikus asked if a lady called from inside. Ms. Kemper said no-- she was not inside.

Ms. Kemper continued by stating she (caller) could not get through because the police blocked the whole block area so they were unable to get out of the parking lot. She explained that is what she was talking about.

Mr. Pikus asked if the skating center security was on the inside or outside of the skating center. Ms. Kemper said they are inside. She said the picture the officer is showing is not a revolving night club but is when Del State came down after their parties in Dover and were running late. She said the picture was taken at 1:30 in the morning. They did not arrive

until 1:25 a.m. They were getting off the buses and there were only three buses. They were parked at Miss Q's parking lot. They arrived and in order to get into the building they had to be searched and patted down to make sure they did not bring anything with them. It was their homecoming and it was supposed to last until 5 o'clock in the morning. She said the police officers took it upon themselves to call in the fire marshal who called her out of her building to talk to her. The fire marshal wanted to know if she was at her capacity; she said yes she was. Then he asked if the people in the lobby are part of the capacity. She said she brought them in out of the cold so they would not be in the cold and on the street starting any trouble. She had control over them. He asked Ms. Kemper if she could possibly get them out and she told him to give her a couple of minutes to do that. He asked how much time Ms. Kemper needed. She said to give her at least 30 minutes; the fire marshal stated no problem.

Ms. Kemper stated that within 30 minutes, she had police officers and the fire marshal coming into her establishment to check her out. She said they found nothing illegal other than she had to bring everything up to code which was already done and in place. Mr. Pikus asked if Ms. Kemper was cited that evening by the fire marshal. Ms. Kemper stated yes but he also knew that she had just taken over the business and understood it takes time for them to come out and do that. She reiterated that he was aware it had been done and was already being approached.

Ms. Kemper said he could not find anything other than that.

Mr. Pikus asked what Ms. Kemper was cited for; Ms. Kemper stated that she had to have her final inspection. Mr. Pikus asked if she was cited for having too many people; Ms. Kemper stated no. She said she had exactly 299 in her building that evening.

Mr. Brooks then referenced the call this past Saturday night from the woman in the parking lot that could not get out. He agrees with Mr. Pikus about the call that was made from within the skate center. He said if you review the previous recordings, there was a call made from within the skating rink asking for help. He remembers two females calling; one was inside and the more current call was from the female who was unable to get out of the parking lot.

Ms. Kemper then asked if Lieutenant Brown was referring to last Saturday night. She explained that last Saturday night was the Pub Crawl and all of Milford's liquor places and bars were at their capacity if not more. She said she did have a party Saturday night but it was an actual skating party. She said there were adults at the party with the kids from Del State which was put on by a sorority group of young ladies. She said yes, they sold tickets. They had 250 people that bought tickets. Then they had some that came from the school who paid at the door.

Mr. Pikus asked if alcohol was served; Ms. Kemper stated no, sir. She said none of the teen dances they are talking about had alcohol. Mr. Pikus said a teen dance should not have alcohol. Ms. Kemper stated exactly and even at the Del State dances where there were 16 to 21 years olds, there was never any alcohol in that building. She said the only time there was alcohol was when the Street Warriors were there. She advised that they are the gentlemen sitting in the back of the council chambers adding, they are all adults.

Ms. Kemper stated that she is not soliciting alcohol to young kids.

Mr. Pikus asked if there was alcohol at the party Del State had after homecoming. Ms. Kemper stated no—there was none. Mr. Pikus asked again if alcohol was present when Del State had a party there. Ms. Kemper said none—no, sir. She said if they are 21 years old, they can go right across the street to Park Place, Miss Q's or Milford Tavern at anytime and drink all they want at 21. She said but they will have to wait to get back in and until someone walks out.

Mr. Morrow asked Ms. Kemper if she receives a percentage of the tickets sold by organizations she rents her facility to for \$100 an hour; she stated no, she does not get a cut.

Mr. Kerrison then explained that the incident should be on the security camera when the lady called from the parking lot, because he was standing out at the front door at the time. He said the little group standing out front was actually kids; he was standing along the sidewalk with them waiting for their parents to pick them up. He said there was another group looking for the bus so they were walking that way. He believes that some of them missed their bus because the bus only gave them five minutes to get on and some of them missed the five minute time slot.

Mr. Kerrison said the picture of the other crowd walking around was at 1:10 a.m. He emphasized that council keep in mind that Park Place is across the street and also lets out at that time. He added that their bar is at full capacity at the same time at 1 a.m. He said the parking lot is full of Park Place people who are all drinking. However, the people from the skating center are not drinking. The Park Place people are drinking and belligerent and are all over the parking lot.

Lieutenant Brown stated that he was called in the night of the Del State event. He arrived at 2:30 a.m. and remained there until 4:00 a.m. He advised there were five buses parked on North Washington Street all the way to Front Street. He said that the surrounding parking lots were all completely full all the way over and including the parking lot in front of Miss Q's. The parking lot beside the Bicentennial Park was completely filled. Any spot a car could pull in was taken including all areas of the street. Delaware State Police sent 42 troopers to assist Milford that night. Almost every town in Kent and Sussex County sent police officers. He personally witnessed a much higher number of people at the skating center than 299. He emphasized that people continued to arrive at 3 a.m. and everyone was expecting to get into the skating center.

Lieutenant Brown said it is no fault of these attendees because they thought they could get into this party. He would have been angry himself if that had happened to him. He explained that when these invitations are put out on Facebook, it draws huge crowds. Flyers were also distributed for this event. The people attending have no idea how many others will be there. They just continue to arrive.

He explained that Milford Police were there because the skating center threw someone out who was fighting. They were actually thrown out into the street toward the officers because they were unable to handle them inside.

The police officers were then left to deal with it. He said that prisoner then ties the officer up thus taking one officer off the street to assist the others. The officers are then down an officer to still deal with 800 people. He said they do not have the manpower or the equipment to handle a crowd of this size.

Lieutenant Brown stated that when the fire marshal arrived, he informed Ms. Kemper he was going inside to inspect her building and gave her 30 minutes to come into compliance.

City Manager Carmean then stated that he would like something considered by everyone in this room.

He stated this is a skating center and the person managing it has to search people for weapons and alcohol. He has been in many establishments in town that serve alcohol. He has never been searched for weapons or alcohol or anything else. Mr. Carmean recalled that he spent thirty years at the police department. He remembers a bar many years ago that the city was spending a couple thousand dollars every weekend to pay extra duty police officers to sit outside because the fights and problems there had gotten so bad. The owner could not be forced to hire security so security was provided by the taxpayers. He said that every weekend that occurred, he sat in his living room or at the police station praying that no young person would get shot by the police which could set this city back fifty years.

Mr. Carmean said that a lot of those kids from Del State may have had a right to be angry when they came down here expecting to get in and instead being turned away. The city eventually bought the other bar and it was eventually torn down. Today, there is a Head Start on that location. In the long run, it saved the city money and possibly lives. He would not want this city to be faced with a situation that would set them back decades.

He is unsure if Ms. Kemper is getting \$100 an hour and at this point, the city might be better off just paying her. At least no one would get injured and no one would get killed. He said just give her a \$100 an hour and just shut down the operation of those type events.

The city manager emphasized that this facility is a skating center—a place where children can go and have fun and feel safe. He said that is its purpose. He said that the conditional uses aside, everyone knows this will lead to a disaster. Sooner or later, it will turn into a disaster and therefore, cannot see this being allowed.

Mr. Carmean really wishes Ms. Kemper would reconsider this and even the people that attend these events. It is the small percentage that creates the problems that could put everyone in an awful place in this city.

He knows Chief Hudson worries about this every weekend. He also knows that while he worries about his officers, he also worries about the kids that go to these dances and that he does not want them hurt.

Mr. Carmean feels there has to be a way that Ms. Kemper can continue to run a successful business without using the facilities for nightclub purposes.

Chief Hudson then stated that what has been presented by Lieutenant Brown on behalf of the entire department this evening explains only some of the problems created by the adult parties that are currently being promoted at Milford Skating Center. His concern is the safety of the people in this town, the safety of the visitors coming to this town and safety of the police officers who have to deal with these situations firsthand. Having to respond to a party with several hundred people who have been drinking, eventually spill out onto the street and end up at Wawa, Royal Farms, McDonalds, or wherever, is very difficult for four officers. Yes, those officers can call in other police agencies for assistance, but he said to keep in mind there is never a guarantee of whom or how many units we will get. That depends on what is happening in their towns or their jurisdictions. He said it is nothing more than a roll of the dice.

He said that Milford Police have absolutely no problem with the kids' events and related skating activities or that the skating center wants to provide family resources, sporting events, senior walkers, dance and exercise events. He is in agreement with the recommendation of the planning commission that the skating center close no later than 1 a.m. and that alcohol is prohibited.

Mr. Brooks asked if he feels that closing at 1 a.m. will work on Fridays and Saturdays. Chief Hudson noted that was the recommendation of the planning commission and is the latest time it should close.

Mr. Brooks' concern is that closing at 1 a.m. is a conflict as the security person pointed out. The problem the security person sees is that Park Place closes at that same time which causes everyone to exit at the same time. He feels if they closed at 11 p.m. or midnight, those kids would be long gone before Park Place starts letting out.

Chief Hudson agrees it is a problem and an earlier closing would work better.

Planning Commission Chairman Rini then explained that the 1 a.m. closing was recommended because it coincided with the teen curfew law. He said that with the curfew law, teens could remain in the vicinity even if the skating rink was closed.

Chief Hudson believes the curfew for persons under 17 is midnight on Fridays and Saturday during school and 1 a.m. in the summer. Chairman Rini agreed noting that is what was used as a guidelines for the planning commission.

Mr. Brooks said that based on Mr. Kerrison's statement, his preference is to keep both establishments from closing at the same time.

Solicitor Rutt confirmed that children 16 and younger have a curfew of midnight on Friday and Saturdays and 11 p.m. on any other night. The summer curfew is 1 a.m. on Friday and Saturday and midnight on all other nights.

Ms. Wilson then asked if Ms. Kemper had requested permission for a daycare center. Ms. Kemper stated she was told by the code official to add any use she could think of that she may want to do. She said there were only a couple of other things she had not tried yet. She advised that she was approached about a daycare drop-off childcare during the summer, similar to a camp. She would not have the daycare during the school year.

Ms. Wilson stated that she has participated in their events for many years. She is one of the individuals that rented the facility, had teen dances and provided her own security. She notified the police department and did everything according to the book. She said there were no problems even though there was a large group of kids that participated.

She then addressed the teens with adult events. She said there were adults at her events who were acting as chaperones because the parents wanted to be there. However, her rules were very strict. Because of the way youth are today, she agrees that patting them down is necessary. She hopes that teenagers would not get past security if they were carrying

a bottle of liquor. She recalled years ago when today's adults were a little more sneaky and got away with this type behavior.

Ms. Wilson said she has mixed emotions and is trying to look at this from all sides. She is aware of how the complexion of the skating center has recently changed. She said that unfortunately, the presence of alcohol is what changed it and has given it a negative image. Regardless of whether or not there is a gathering license, it adds a negative twist to the entire facility which is a bad thing.

She, too, remembers the all night skating sessions that occurred since the 1980's. However, Ms. Wilson never allowed her children to go and she always picked them up at midnight. She does not feel that event is necessarily wrong with the correct supervision.

Ms. Wilson also does not want to prevent our youth from having a good time. It is also almost impossible to prevent the angry ones or the ones that cause trouble. She recalled some football games with large crowds; once they were over, everyone went to McDonalds. She said there have been hundreds of kids there at those times.

She said that this community cannot cover every large event because we do not have enough protection. She knows we need more police officers which she has said before. However, police officers cost the community a lot of money, but safety should always come first.

Ms. Wilson would like for everyone to compromise in order to continue to provide activities for the youth. She believes 1 a.m. is a good time to close on weekends. She agrees the problem is the adult events and capacity issues. She would like to see those things fine tuned.

Ms. Wilson would also like to see better communication between the management of the skating center and our police department. She does not know what happened to prevent any communication but it needs resolving. She emphasized that our police officers have children who are being raised in this community. She knows those officers want fun things for their children to do. In the meantime, they are also tasked with protecting the children and adults in this community.

She would like those issues resolved and if necessary, the police committee will invite Ms. Kemper to a meeting with the police to discuss these matters.

Ms. Wilson said she did not know that Ms. Kemper had hired a security person which is a good thing. She recalled providing their own security at events adding that they also rented a metal detector. She even went the extra step to inform the police and she believes that is needed in this day and time.

Overall, she does not want to prevent kids from having fun. More important, they need to learn how to properly socialize. She recalled a teen event at Milford Senior Center which ended in disaster. She does not believe this is an isolated incident at the skating center noting that in the past, there have been birthday parties at other establishments including the fire hall, American Legion, Masonic Hall and Kiwanis Club, to name a few.

She asked that council consider the youth in the community and that they need to have fun in a controlled environment. She asked that Ms. Kemper consider bending and fine tuning some of her requests. We can then go from there.

Ms. Wilson said she agrees with some of what the city manager said though she does not want to see the skating center become anything other than a reputable, vibrant business for use by our youth.

She concluded by stating that she feels the adults that have come into that establishment and turned it into a roving nightclub is very negative for our city.

Karen Lloyd of Milford Senior Center then spoke by reporting they had a similar incident occur at the Milford Senior Center. However, the way they prevented it was to no longer allow it. She emphasized it was not worth the \$100 an hour rental and also felt it was not worth risking the safety of the entire neighborhood. She said in that case, the renter also

charged a fee per ticket. That fee resulted in thousands of dollars profit for that person while the senior center made only \$400.

Ms. Lloyd said her safety was in jeopardy the entire evening. A stabbing even occurred that evening in the senior center parking lot.

She also reported that after that event, they found knives in the senior center parking lot which were turned over to the Milford Police Department. Ms. Lloyd said their parking lot became a filthy mess and it was so bad, someone had to be hired to come in and clean it up.

Ms. Lloyd said that speaking on behalf of the Milford Senior Center, these type events are not worth the \$400 rental they received. She said the overall behavior exhibited by the attendees was extremely unruly and as a staff member involved, she felt it was a very scary situation.

Ms. Lloyd reiterated that they allowed it one time, but it will not be permitted again.

Mayor Rogers also emphasized that no one in the room, including himself and city council, want the skating center to close. He agrees that our youth need activities and over the years, the skating center has been beneficial to the community. He then suggested that Ms. Kemper consider withdrawing her request to have alcohol at the skating center which he feels would resolve many of these issues.

He said there have never been problems with the kids' events over the years. He has a grandson that skates there on a regular basis. He agrees it provides a variety of events for our youth and adults. Adding alcohol to an establishment like this often attracts undesirables.

The mayor noted the skating center has been in Milford a long time and he has always supported it and will continue to.

Mr. Starling said he wants the skating center to remain open as well. He noted that he has been through a lot in his life and recalled when he used to come down from Del State to go to the Chicken Shack on Friday nights.

Mr. Starling is against having alcohol 100%. He said he has probably consumed as much during his life as anyone else in the room. He also agrees this community needs a place for teenagers to go though it must be properly supervised. He does not want the skating center to close. He said he was a big sports fan and went to sporting events though he suddenly stopped. He was in the parking lot at Cape when there was a shooting. He also recalled the Caesar Rodney shooting and the fights that occurred at Milford High School during some events.

He noted that Milford Police are required to work the basketball and football games. Mr. Starling feels that when we come up with a way to stop all of this, we need to let other communities know. He said we can talk about it, but as long as they continue to use alcohol and drugs, there will not be a solution.

He said the world today is so different. People will walk into Walmart or another store and rob them in broad daylight. Mr. Starling agrees this is a rough world right now.

Ms. Lloyd said there are ways to eliminate or at least minimize these incidents. The answer is not allowing them. Mr. Starling agreed though it will likely occur somewhere else.

John Dean then spoke stating he grew up in Rehoboth Beach, went to Cape Henlopen High School and currently lives in Milton. He said he went to school with Ms. Kemper. He said his son roller skates at the rink every Saturday or every Sunday afternoon and does roller hockey. He said he lived in an area that had a roller rink and bowling alley but it is no longer there. He said they have replaced that with wonderful places to hang out such as two Wawa stores. Today, those kids go to the movies and then hang outside unsupervised.

He said he has been to roller hockey, family skating and birthday parties at the skating center. He has seen all type of socioeconomic people but has never seen anyone out of control. He has seen people who were asked to leave.

Mr. Dean does not want Milford to lose that. He brings his children up from Milton because they do not have a skating center or a place for students to go though he wishes they did. He agrees some give and take is needed, but decisions should be based on fear. He said there is a need to sit down and try to find solutions that work for everyone. However, the solution is not to shut it down or make it so they cannot operate because Ms. Kemper needs to make a profit.

He said if Milford loses this and if they are no longer there, they will only go somewhere else. He feels the skating center is supervised with standards set.

With no other person wishing to speak, Mayor Rogers then closed the floor to public comment.

Adoption of Ordinance 2012-04/Amended

Mr. Morrow said that based on the comments heard this evening, it is obvious that most people are in agreement. He said he read the minutes and the planning commission's recommendation. Based on the planning commission's recommendations and Resolution PC12-001, Mr. Morrow moved to approve the ordinance as amended with all skating events as presented and approved by the planning commission along with their conditions. In addition, teen dances and events will be permitted but must comply with the City's Teen Ordinance Chapter 208 and specifically age and hour restrictions. In addition, all skating center events must also comply with the City's Curfew Ordinance Chapter 111. No alcohol will be permitted and is therefore, prohibited. He also moves that the skating center close at 12 midnight on Friday and Saturday nights instead of 1:00 a.m. as was recommended by the planning commission.

Mr. Morrow explained that the change is based on the security person's observation. Mr. Morrow agrees it would be beneficial to stagger the closing time in comparison to other local establishments. Mr. Morrow said Ms. Kemper testified she makes \$400 for four hours on Saturday night and confirmed she would not be selling alcohol so it is not a financial issue. As a result, there would be no profit on alcohol by the skating center.

Ordinance 2012-04 is also adopted and amended as herein stated.

Motion seconded by Mr. Gleysteen.

Mr. Johnson stated that all of us want to see businesses prosper in Milford. He said that public safety is the first priority. As long as there is no alcohol permitted, he will support the approval and votes yes.

Mr. Grier votes yes adding that he supports the planning commission's recommendation.

Mr. Pikus votes yes adding he also supports the planning commission. He said he is a businessperson in Downtown Milford and concurs with his fellow councilpersons. However, he hopes that Ms. Kemper and her family understand that no one wants the skating rink to disappear. With the correct promotions and good management, he feels Ms. Kemper is capable of being, as her predecessor did, doing well with the skating rink and able to make profit. He has chatted with the former owner who was an excellent manager and feels that Ms. Kemper and her family will be. By changing and promoting the skating rink itself, he believes it will end up a profitable business. Therefore, he supports the motion.

Mr. Gleysteen votes yes. He agrees the skating rink has been an asset to the community for a long time and everyone hopes it stays that way. He said that Lieutenant Brown made a compelling argument there are serious security issues during some of the events. He does not like to restrict any business in what they can and cannot do, but based upon the security and safety issues, he feels that restricting alcohol at all events is a necessity.

Mr. Brooks stated he has lived in Milford all his life. Since he can remember, Milford has always had a skating rink recalling the skating rink across from the old fire house. He said not one person on council wants to do away with the skating rink. All they want to do is help keep peace by controlling the crowds. He votes yes which includes the 12 midnight closing on Fridays and Saturdays and that no alcohol is permitted at any event.

Mr. Morrow votes yes as stated in his motion.

Mr. Starling said before he votes yes, he has some comments. He then asked why we have to give in to Park Place; he said we are requiring the kids' activities to close at 12 midnight but nothing is requested of Park Place. Instead, they are able to drink as long as they want and stay open until 1 a.m. Instead, we are cutting back activities for the children one hour. He asked if we can look into that and asked if they could stay open until 2 a.m., which would allow the skating center to close at 1 a.m. He noted he is unfamiliar with any related laws.

Mr. Morrow responded by stating that Mr. Starling referenced the children in our community. He does not believe most parents want their children out at 1 a.m. on Friday and Saturday nights. The patrons at Park Place are adults, but the majority of her customers are 12 year olds and young teenagers, who he does not feel should be out at 1 a.m. He would not even think they should be stopping at Wawa at 1 a.m. on their way home. However, he also understands that everyone raises their children differently.

Mr. Brooks said he was unaware there was an ongoing problem at Park Place. He understands they have the usual problems associated with a bar though they address them. Ms. Wilson said there are fights there.

Mr. Starling then voted yes.

Ms. Wilson votes yes and is somewhat in agreement with the closing at 1 a.m. to prevent limiting the number of hours Ms. Kemper can be paid for. However, Ms. Kemper should have questioned that. She then voted yes in favor of the motion.

Mayor Rogers announced the motion carried by a unanimous 8-0 vote.

The mayor concluded by stating the skating center has been an asset to the community for a long time. He believes that Park Place is only able to serve alcohol until a certain hour after which, the patrons must leave the building within another hour or so. Mr. Rutt agreed noting that state law allows alcohol to be served until 1 a.m. and the establishment must close by 2 p.m.

Mayor Rogers said as far as the children, that is the responsibility of the parent. He said that if council decides later, the hours could be revisited at a future time.

He asked Ms. Kemper to meet with the police chief or police committee to resolve any issues. He agrees everyone needs to work together.

With no further business, Mayor Rogers adjourned the public hearing at 8:53 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 26, 2012

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, March 26, 2012.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen
Owen Brooks, Jr., Douglas Morrow, Sr., James Starling Sr. and Katrina Wilson

City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/Recorder
Terri Hudson

City Solicitor David Rutt

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 8:24 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Councilman Brooks commended City Clerk Terri Hudson who was recently bestowed by the International Institute of Municipal Clerks as a Master Municipal Clerk, the highest certification that can be earned by a municipal clerk.

City Manager Carmean noted that Ms. Hudson is one of two clerks in Delaware who has received the designation.

She advised the first clerk to receive this honor was Sue Lamblack from the City of Newark who retired in 2007.

COMMUNICATIONS

All communications included in packet.

UNFINISHED BUSINESS

Adoption of Ordinance 2012-5/Water Code Chapter 220/Fire Service Line and Cross Connection Control

City Manager Carmean asked that action on this matter be postponed until the April meeting. He needs a little more time to determine its impact on the businesses in the city.

Mr. Pikus moved to postpone action until April 9, 2012, seconded by Mr. Morrow. Motion carried.

NEW BUSINESS

Adoption of Resolution 2012-03/DEMEC Authorization of Supplement/AFEC

City Manager Carmean noted that the city is a full requirements member of the Delaware Municipal Electric Corporation. In October 2003, we executed an agreement with DEMEC for Full Requirements Power Sales, Transmission, and Agency Services. Under that agreement, DEMEC agreed to supply electric energy and capacity to our electric system in order to meet our needs. As of June 15, 2011, DEMEC became one of the 87 members of American Municipal Power (AMP)

by entering into a Power Sales Contract. DEMEC has purchased the rights to approximately 13.6% of the electric capacity and associated energy available from the AMP Fremont Energy Center (AFEC). AFEC, a natural gas fired combined cycle electric generating plant, completed construction and began operation on January 20, 2012.

The supplement identifies AFEC as a long-term source of power for DEMEC and its members. In exchange for its entitlement share, each member agrees to pay its share of the costs of AFEC. AMP will issue its bonds as soon as possible, in order to take advantage of the current interest rates. To the extent that AMP can decrease its borrowing costs, such savings will result in a lower cost of power to DEMEC and its members.

As a result of these changes, DEMEC is asking each member have its council adopt the supplement and resolution.

City Solicitor Rutt reviewed the documents and confirmed everything appears to be in order.

Mr. Morrow moved for adoption of the following resolution and supplement as contained within the council packet, seconded by Mr. Pikus:

RESOLUTION 2011-03

WHEREAS, the City of Milford (the "Participating Member") is a duly organized and validly existing political subdivision under the laws of the State of Delaware (the "State"); and

WHEREAS, The Delaware Municipal Electric Corporation ("DEMEC") is a municipal electric company incorporated in the State, established by certain cities and towns, and formed pursuant to Chapter 13 of Title 22 of the Delaware Code; and

WHEREAS, the Participating Member is a member of DEMEC, and by a resolution heretofore duly adopted by the Governing Board of the Participating Member, the Participating Member has duly authorized, executed and delivered the Agreement and Articles of Incorporation, dated as of July 9, 1979 forming DEMEC, and all amendments thereof and supplements thereto; and

WHEREAS, DEMEC and the Participating Member have entered into an Agreement Between the Delaware Municipal Electric Corporation and City of Milford For Full Requirements Power Sales, Transmission, And Agency Services dated October 15, 2003 (the "Full Requirements Agreement") whereby DEMEC has agreed to supply, and the Participating Member has agreed to receive and pay for, Full Requirements Service (as defined in the Full Requirements Agreement); and

WHEREAS, in order to supply a portion of such Full Requirements Service, DEMEC has entered into a Power Sales Contract dated as of June 15, 2011 between American Municipal Power, Inc. ("AMP") and 87 of its members, including DEMEC (the "AFEC PSC"), relating to the electric generating station known as the AMP Fremont Energy Center ("AFEC"); and

WHEREAS, under the AFEC PSC, DEMEC has acquired a share (an "AFEC Share") of the AMP Entitlement (as defined in the AFEC PSC), subject to change pursuant to the provisions of the AFEC PSC; and

WHEREAS, the Participating Member shall share in and assume shares of the rights and obligations associated with DEMEC's AFEC Share (the Participating Member's share being referred to herein as its "AFEC Power Entitlement Share"); and

WHEREAS, it is in the best interest of the Participating Member and DEMEC to enter into a Supplement to the Full Requirements Agreement (the "Supplement") to add certain provisions to the Full Requirements Agreement relating to the AFEC PSC.

NOW, THEREFORE BE IT RESOLVED by the Council of the Participating Member as follows:

1. *Authorization of Supplement to Full Requirements Agreement. The Participating Member hereby authorizes the execution of the Supplement, and authorizes and directs the Mayor and the Clerk of the Participating Member to execute and deliver the Supplement on behalf of the Participating Member. The Supplement shall be substantially in the form presented to this meeting, which is hereby approved, subject to such changes and modifications as counsel may recommend and the Mayor of the Participating Member may approve, such approval to be conclusively evidenced by his or her execution thereof.*

The Participating Member acknowledges that under the terms of the Supplement, the Participating Member is obligated to make payments (the "Payments") for its AFEC Power Entitlement Share irrespective of whether energy is produced or delivered to the Participating Member or whether AFEC is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of AFEC, and shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance by DEMEC under the Full Requirements Agreement or any other agreement or instrument or the validity or enforceability of any other contract or any other agreement between DEMEC and any other Participating Member.

2. *Authorization of Further Action. The Project Participant hereby authorizes the Mayor and the Clerk to take all other action and sign any other documents or agreements necessary or appropriate in connection with the Supplement, the AFEC project or the public financing of the AFEC project, all as contemplated by this Resolution and the Supplement.*
3. *Adoption Date: This Resolution is adopted by majority members of Milford City Council on March 26, 2012.*
4. *Effective Date: Consistent with other DEMEC Members*

Motion carried with no one opposed.

Amendment to City of Milford Retirement Plan 401K

City Solicitor Rutt advised that when these plans were reviewed by the IRS in previous years, there was little concern over the key employee provisions. This amendment eliminates that and keeps all employees on the same level. In a recent review, it was determined by the plan's attorney it should be removed.

Mr. Pikus moved for approval of the following amendment to the City of Milford Retirement Plan 401K, seconded by Mr. Brooks:

The City of Milford Retirement Plan ("Plan") is hereby amended, effective January 1, 2011, by deleting Article VII Top Heavy Provisions from the Plan in its entirety, and renumbering each subsequent Article and subsection accordingly.

Motion carried with no one opposed.

Council Meeting Dates/Changes

Because the normal council meeting dates fall on city holidays in 2012, the following changes are being requested to the meeting schedule:

Tuesday, May 29, 2012 (Memorial Day)
Tuesday, November 13, 2012 (Veterans Day)
Wednesday, December 26, 2012 (Christmas)

Mr. Brooks moved for approval of the change in meeting dates as noted, seconded by Mr. Starling. Motion carried.

Preliminary Major Subdivision Extension -John Tracey/CCM-Koelig, LLC on behalf of Wickersham

Planning Commission Chairman Chuck Rini advised that extension #4 was approved by the planning commission by a vote of 7-0. He stated that typically they prefer not giving more than three extensions, but in this case, the hardship was a result of a utility concern that involved the city.

City Manager Carmean advised that one of the reasons they were unable to move forward was due to the condition of the economy. In this case, the developers remain the same with the same intention.

Mr. Carmean said he also spoke with them about the possibility of placing the water tower in this area. A test boring will be done within the next few days.

Attorney John Tracey was present on behalf of the applicant. He confirmed the two big drivers of why they have not been able to move forward is because there has been no resolution on how they will obtain sewer and water. As soon as the city has a plan in place, they will immediately proceed with their plans.

Mr. Tracey said he received a recent e-mail from the city's consultant who informed him the location chosen for the water tower did not work out and the city is looking for a new site in this area.

He said they remain committed and the same property owner in 2006 at the time of annexation remains the one behind this project.

Mr. Brooks moved for approval of a one year extension for the Preliminary Major Subdivision, seconded by Ms. Wilson. Motion carried by unanimous roll call vote with Mr. Gleysteen stated that reluctantly he is voting yes and only because of the extenuating circumstances.

EXECUTIVE SESSION

Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements.

Mr. Pikus moved to go into Executive Session reference discussions on site acquisitions, seconded by Mr. Grier. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:15 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 9:24 p.m.

Executive Session Matter

Mr. Pikus moved to authorize the city manager to proceed with the assessments of two properties discussed, seconded by Ms. Wilson. Motion carried with no one opposed.

ADJOURN

With no further business, Mr. Johnson moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

Meeting adjourned at 9:25 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive style with a large, sweeping initial "T".

Terri K. Hudson, MMC
City Clerk