

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 14, 2015

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, September 14, 2015.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, Lisa Peel, James Burk, Owen Brooks Jr., Douglas Morrow Sr. and James Starling

Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

BOARD OF APPEAL & REVISION—Canceled

Mayor Shupe announced that all tax appeals have been resolved by Tyler Technology representatives. Therefore, no appeal hearings before council are required.

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

2ND WARD COUNCIL VACANCY/SPECIAL ELECTION REPORT (September 1, 2015)

Mayor Shupe then read the following report into record:

On behalf of the Board of Elections for the City of Milford, I am reporting the results of the September 1, 2015 Special 2nd Ward Council Election to be as follows:

In the 2nd Ward Race, a total of 219 persons voted, with Lisa Ingram Peel receiving 132 votes and Stephen C. Walter receiving 87 votes. Based on the certification of the City of Milford Board of Elections, Lisa Ingram Peel is hereby declared elected as the 2nd Ward Council Representative, to fill the remaining eight-month term, beginning this date September 14, 2015 and ending May 3, 2016.

SWEARING IN-2ND WARD COUNCILWOMAN-ELECT LISA INGRAM PEEL

Mayor Shupe called upon Council-Elect Peel to take the oath of office.

Mayor Shupe then administered the oath of office to Councilwoman Peel who was assisted by her husband and children. After its conclusion, the newly appointed Second Ward Council Member signed her Oath of Office.

Mayor Shupe welcomed Councilwoman Peel stating the 2nd Ward is a very important and active ward and he feels that she will do a great job representing that ward as well as guiding the city as a whole.

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Brooks, seconded by Mr. Morrow to approve the minutes of the July 27th Workshop and Council Meeting, August 10th Council Meeting, August 19th Public Works Committee Meeting, August 24th Council and Workshop

Meetings and August 31st Special Council Meeting.

Motion carried.

RECOGNITION

Proclamation 2015-14/ Declaring September as Myositis Month

Mayor Shupe referenced the following proclamation:

WHEREAS, "Myositis" is a general term describing a number of Idiopathic Inflammatory Myopathies, which are rare diseases and thought to be autoimmune in nature causing muscle weakness, inflammation, pain, skin rashes, lung disease, impairment in swallowing, and fatigue; and

WHEREAS, There is no cure for any form of Myositis and only limited treatment options, which can have life-altering side effects, and due to the rarity of Myositis, there is often a delay in diagnosis or misdiagnosis causing a delay in potentially effective treatments that may lead to permanent muscle loss; and

WHEREAS, Education for patients, caregivers, and healthcare providers is important to the overall health of patients; and

WHEREAS, Myositis can affect both children and adults of all ages with symptoms often developing slowly while often mimicking other less-rare diseases; and

WHEREAS, Myositis affects every aspect of patients' lives including emotional, physical, relationships, and financial, patients deserve emotional support, financial assistance, and understanding; and

WHEREAS, Raising awareness and funding are important factors in advancing research and developing new, less-damaging treatments with the goal of a cure for Myositis; and

WHEREAS, Congress passed a house resolution in 2006 proclaiming September 21st as National Myositis Awareness Day; and

WHEREAS, The City of Milford would like to join Congress and Myositis Support and Understanding Association in raising awareness of Myositis.

NOW THEREFORE, I, Bryan Shupe, Mayor of the City of Milford, do hereby proclaim that September 2015, be observed as Myositis Awareness Month, and call upon all citizens of Delaware to learn about Myositis and advocate for increased funding for research and education programs.

MONTHLY POLICE REPORT

Police Committee Chairman Morrow presented the report on behalf of Chief Hudson. Mr. Burk moved to accept the monthly police report, seconded by Mr. Grier. Motion carried.

CITY MANAGER REPORT

Mayor Shupe referenced the Utility and Parks and Recreation Department reports included in the packet. Council members had no questions.

Mr. Brooks moved to accept the City Manager Report, seconded by Mr. Starling. Motion carried.

COMMITTEE & WARD REPORTS

Councilman Starling thanked Chief Hudson for his help with the 4th Ward block party held on August 29th. He also thanked Mayor Shupe for attending.

Public Works Committee Chairman Brooks announced the Public Works Committee met on August 19th at which time the Truitt Avenue and Cemetery Road paving projects were discussed. The Airport Road repairs and associated funding was also discussed.

Mr. Brooks recalled the solid waste fee conversation at the last council meeting. He has since received a complaint from property owner Emmett Venett who contacted the city about picking up a sofa left by one of his tenants. The city charges \$50 for that service and Mr. Venett complained that it was too high. He also found out that Kent County provides the same service to its customers for no charge. As a result, he ended up moving the sofa to his home in Woodshaven for the county solid waste crews to pick up.

Mr. Venett said that because he owns four properties in Milford and pays taxes on each, he does not feel he should have to move a sofa to his home outside the city in order to avoid the charge.

Mr. Brooks asked that bulk fees be discussed at the time the yard waste container fee is discussed.

Mr. Brooks then announced that the Fall Cleanup Week begins October 5th.

Mayor Shupe pointed out that those larger items can be picked up that week at no additional fee.

COMMUNICATIONS & CORRESPONDENCE

Riverwalk Freedom Festival

Councilman Morrow thanked the city departments that assisted with the Riverwalk Freedom Festival this past Saturday and in particular the police department and parks and recreation.

Mayor Shupe said he also wanted to acknowledge Milford Police Department, noting the officers' presence throughout the event. He explained that around noon, a heavy cell was seen on the weather radar which resulted in a torrential downpour. He said that one of Milford's officers did a great job warning vendors and attendees of the impending weather. It allowed people to get out of the area before the storm hit and prevented what could have been a disaster had everyone waited.

He commended Community Officer Matt Smith who also helped the vendors pack up their merchandise and equipment. He expressed his appreciation to Chief Hudson adding the officers were a great help.

Councilman Burk said he wanted to make a point of thanking Milford Police Department for the excellent job they do in this town. He stopped by the police department a couple weeks ago to thank them especially considering everything that is going on in the world today. He said that sadly, this is no longer the job it was several years ago and he encourages our residents to take the time to thank our officers for the outstanding work they do.

Chief Hudson told Councilman Burk he really appreciates his comments adding it is a difficult time for police.

Downtown Master Plan

Mayor Shupe announced the Downtown Master Plan project will begin tomorrow. He e-mailed council informing them of the upcoming meetings and encouraged them to attend the 10:00 a.m. Steering Committee meeting at city hall, 2:00 p.m. Community Leaders meeting at Milford Library and the 6:00 p.m. Public Input meeting at Arenas on Tuesday.

Mr. Brooks asked why the meetings are not being held in the council chambers at city hall; Mayor Shupe explained the steering committee will meet at city hall but the city is hosting meetings at Milford Library and at Arenas and Abbots to have a more comfortable atmosphere. A lot of residents do not like coming to city hall because of the official presence of

city council or city manager. Instead he wanted to have a third-party place where they can be comfortable giving out ideas which will increase the number of visitors downtown.

Mayor Shupe reiterated the times and locations adding that more than sixty people are planning to attend the Arena's public input meeting. On Thursday, he will present the final plan at Abbotts Grill at 6:00 p.m.

Mr. Brooks asked about a meeting on Wednesday; Mayor Shupe advised there are several meetings during which they will be meeting with community leaders, DMI Board, civil and religious organizations, Milford Library, Delaware Music School and downtown merchants. In addition, they will meet with five different property owners.

Mayor Shupe feels this will be really helpful and looks forward to an in-depth conversation about downtown and what investments the city can make to encourage more private businesses and visitors.

Bayhealth Medical Campus

He also announced that tomorrow night at 5:00 p.m., Bayhealth is hosting a meeting at Carlisle Fire Company to discuss their replacement hospital. In addition, they will be sharing the information with the planning commission the same evening.

Mayor Shupe confirmed the hospital is still planning to open in 2018. He noted that the interim city manager, city planner and city clerk are working with him and hospital officials to keep things moving to keep them on schedule.

The mayor also informed council that he will be meeting with Bayhealth officials to discuss the future of the Clarke Avenue facility.

He is meeting Friday with Wilmington University president to discuss a potential partnership.

Mr. Brooks pointed out that if things go as planned, the NE Front Street overpass will be done around the same time as the hospital is completed.

UNFINISHED BUSINESS

September 1, 2015 \$1.6 Million USDA Sewer Borrowing/Special Election Report

Mayor Shupe read the following report into record:

On behalf of the City of Milford Board of Special Elections for the \$1.6 Million USDA Sewer Improvement Borrowing Referendum held on Tuesday, September 1, 2015,

I am hereby reporting the following certified results to be as follows:

A total of 265 qualified persons voted on this matter; Those voting FOR the Proposed Borrowing was 208 and those voting AGAINST the Proposed Borrowing was 57.

Thereby, the proposal is hereby APPROVED.

Mr. Grier moved to accept the report, seconded by Mr. Morrow. Motion carried.

Adoption/Bond Resolution 2015-22/USDA Sewer Borrowing Proposal

Mayor Shupe informed council this resolution approves the bonds being issued to finance the sewer borrowing that was approved by voters at the September 1st Special Election.

Mr. Mergner moved to adopt Resolution 2015-22, seconded by Mr. Starling:

APPROVING ISSUANCE OF A GENERAL OBLIGATION BOND OR BONDS TO THE UNITED STATES DEPARTMENT OF AGRICULTURE - RURAL UTILITIES SERVICE, AS REGISTERED OWNER, TO FINANCE IMPROVEMENTS TO THE CITY OF MILFORD'S SEWER SYSTEM, AS APPROVED BY THE ELECTORS; DETERMINING THAT THE BOND OR BONDS WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF LOAN DOCUMENTS; PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY FOR THE BOND OR BONDS; AND AUTHORIZING OTHER NECESSARY ACTION

WHEREAS, the City Council of The City of Milford, Delaware (the "City") pursuant to Section 8, 72 Del. Laws Ch. 148 as amended (the "City Charter"), proposed to the electors of the City by Resolution dated June 8, 2015 (the "First Resolution") to borrow up to One Million Six Hundred Thousand Dollars (\$1,600,000) which may be used in order to: (i) partially finance the construction costs associated with the City's approved improvements, rehabilitations, upgrades and repairs to its sewer system, including the addition of a sewer supervisory control and data acquisition (SCADA) system instrumentation, pump stations upgrades and removal of external inflow and infiltration sources; and (ii) pay the costs of issuance of a bond or bonds (collectively, the "Project") and properly placed notice of hearing on the First Resolution as required by the City Charter; and

WHEREAS, the City Council thereafter passed a resolution on July 13, 2015 (the "Final Authorizing Resolution") giving its final authorization for a loan from the United States Department of Agriculture - Rural Utilities Service (the "Department"); and

WHEREAS, the City Council thereafter passed a second resolution on July 13, 2015 (the "Second Resolution") ordering and directing a special election to be held not less than thirty (30) days and not more than sixty (60) days after the public hearing to borrow the said money, for the purpose of voting for or against the proposed borrowing. The passage of the Second Resolution calling the special election was considered the City Council's determination to proceed in the matter at issue as authorized by the City Charter; and

WHEREAS, a special election was held on September 1, 2015 (the "Special Election"), and notice was properly given for the Special Election, whereby a majority of the electors approved the borrowing by voting in the Special Election which was conducted and certified in accordance with the provisions of the City Charter; and

WHEREAS, the Department has authorized a loan to the City in an amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000), for a term not to exceed forty (40) years, with an interest rate for the first partial loan of \$600,000 not-to-exceed 2.375% and an interest rate for the second partial loan of \$1,000,000 not-to-exceed 2.125%; and

WHEREAS, pursuant to and in accordance with the City Charter, the First Resolution, the Final Authorizing Resolution, the Second Resolution and this Resolution, the City now proposes to issue its General Obligation Bond or Bonds (collectively, the "Bond") in a principal amount not to exceed \$1,600,000 to finance the Project, as approved by the electors in the Special Election; and

WHEREAS, the Department requires the adoption of this Resolution specifying the details of the Bond; and

WHEREAS, the City Council desires to formalize, ratify, and confirm such action by adoption of a formal written resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED AND DETERMINED by the City Council of the City of Milford, Delaware, as follows:

Section 1. Authorization of the Incurrence of Indebtedness as Approved by the Electors. The City shall borrow an amount not to exceed One Million Six Hundred Thousand Dollars (\$1,600,000) as approved by referendum of the electors in the Special Election held on September 1, 2015 by the issuance of the Bond.

Section 2. Authorization of Issuance of the Bond. The City shall issue, pursuant to the City Charter, the First Resolution, the Final Authorizing Resolution, the Second Resolution and this Resolution, up to \$1,600,000 aggregate principal amount of its General Obligation Bond or Bonds to provide funds for the Project.

Section 3. Form and Terms of the Bond. The Bond shall be substantially in the Form of Bond provided in Exhibit A with appropriate omissions, insertions and variations. The actual Bond will contain the terms of the Bond as required by Section 8.05 of the City Charter. The Bond will be issued for a term not to exceed forty (40) years, with an interest rate for the first partial loan of \$600,000 not-to-exceed 2.375% and an interest rate for the second partial loan of \$1,000,000 not-to-exceed 2.125%.

Section 4. Sale of the Bond. The Bond shall be sold at a private sale by negotiation to the United State Department of Agriculture - Rural Utilities Service pursuant to: (i) the terms of the Bond, (ii) a Letter of Conditions from the Department dated September 10, 2014, as amended April 27, 2015, and (iii) loan documents to be entered into by the City and the Department (the "Loan Documents").

Section 5. Covenant to Pay Debt Service - Pledge of Full Faith, Credit and Taxing Power. The City hereby covenants with the Department pursuant to this Resolution as follows: that the City will include in its budget for each fiscal year during the life of the Bond, the amount of the debt service on the Bond issued hereunder which will be payable in each such fiscal year so long as the Bond shall remain outstanding; that the City shall appropriate such amounts from its general revenues to the payment of such debt service; that the City shall duly and punctually pay or cause to be paid the principal of the Bond and the interest thereon at the dates and places and in the manner stated in the Bond according to the true intent and meaning thereof; and for such budgeting, appropriation and payment, the City hereby pledges its full faith, credit and taxing power. The covenant contained in this Section 5 shall be specifically enforceable.

Section 6. Authorization of Loan Documents. The Mayor and the City Clerk are hereby authorized to execute and deliver the Bond and any Loan Documents by and between the City and the Department setting forth the terms of the loan and the City's obligation to repay the loan, which will be evidenced by the delivery of the Bond.

Section 7. Further Action. The proper officers of the City are hereby authorized and directed to take all such action, execute, deliver, file and/or record all such documents, publish all notices and otherwise comply with the provisions of this Resolution and the City Charter in the name and on behalf of the City.

Section 8. City Charter Applicable to Bond. This Resolution is adopted pursuant to, and the Bond issued hereunder shall be subject to, the provisions of the City Charter and all of the mandatory provisions thereof shall apply hereunder whether or not explicitly stated herein.

Section 9. Contract with Bondholder. This Resolution constitutes a contract with the Department as registered owner of the Bond and shall be enforceable in accordance with the provisions of the laws of the State of Delaware.

Section 10. Severability. In case any one or more of the provisions contained in this Resolution or in the Bond issued pursuant hereto shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Resolution or of said Bond and this Resolution or said Bond shall be construed and enforced as if such invalid, illegal or unenforceable provisions had never been contained therein.

Section 11. Repealer. All Resolutions and parts of Resolutions heretofore adopted to the extent that the same are inconsistent herewith are hereby repealed.

Section 12. Effective Date. This Resolution shall take effect on the date this Resolution is adopted by the City Council.

ADOPTED AND RESOLVED this 14th day of September 2015

Motion carried.

NEW BUSINESS

Adoption/Resolution 2015-23/Scheduling Trick or Treat Night

Mr. Burk moved to adopt Resolution 2013-23, scheduling Trick or Treat on Saturday, October 31st from 6:00 to 8:00 p.m. seconded by Mr. Brooks:

WHEREAS, the children of Milford are entitled to the fun and festivity associated with the observance of Halloween Trick-or-Treat custom of traveling with friends and family going door to door in their neighborhoods displaying their costumes and gathering treats; and

WHEREAS, parents are urged to join in the festivities by accompanying their children throughout their journeys in celebrating Halloween Trick-or-Treat; and

WHEREAS, residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes so lighted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council, that the Halloween Trick-or-Treat observance be held in an orderly manner on Saturday, October 31, 2015 between the hours of 6:00 P.M. and 8:00 P.M. in the City of Milford.

AND, BE IT FURTHER RESOLVED THAT:

*Only celebrants of 12 years and under will be permitted to engage in Trick-or-Treat.

*All celebrants are to refrain from committing acts of vandalism or destruction.

*Motorists are asked to be ever watchful of our youngsters making these annual rounds.

Motion carried.

Mayor Shupe introduced the following six ordinances and asked Planning Coordinator Rob Pierce to present them.

Introduction/Ordinance 2015-12/Key Properties Group/Change of Zone/7254 & 7272 Cedar Neck Road

Mr. Pierce advised this is a zoning request from Key Properties Group on behalf of the Bayhealth Medical Center. The ordinance establishes the zoning for parcel 3-30-15.00-058.01 and 3-30-15.00-058.04. Both parcels are currently in the process of being annexed. As recommended by the annexation committee, the 2.6 +/- acres are proposed to be changed from their current zoning of AR-1 in Sussex County to IS (institutional services) in the city.

The Plan of Services was accepted by state planning on August 19, 2015. The planning commission public hearing will be held tomorrow, September 15th and a final determination on the ordinance by council will follow a public hearing on September 28th.

Introduction/Ordinance 2015-17/Bayhealth Medical Center Inc./Change of Zone/7296 Cedar Neck Road

Mr. Pierce reported that Bayhealth Medical Center is requesting the zoning of parcels 3-30-15.00-059.00 and 3-30-15.00-059.01 involving 3.00 +/- acres, be changed from C-3 (commercial) to IS (institutional services) for future use as part of the new medical campus.

This ordinance is also scheduled for a public hearing before the planning commission tomorrow, September 15th and a final determination on the ordinance will follow a public hearing before city council on September 28th.

Introduction/Ordinance 2015-18/Bayhealth Medical Center Inc/Change of Zone

Mr. Pierce advised this ordinance will potentially change the zoning of parcel 3-30-15.00-050.01 involving 42.55 +/- acres, from R-3 (residential) to IS (institutional services) for future use as part of the Bayhealth Medical Campus.

This ordinance is also scheduled for a public hearing before the planning commission tomorrow, September 15th. A final determination will follow a public hearing before city council on September 28th.

Introduction/Ordinance 2015-19/Country Life Homes Inc/Change of Zone

Mr. Pierce advised this ordinance potentially will change the zoning of parcel 3-30-15.00-058.03 involving 6.35 +/- acres, from C-3 (commercial) to IS (institutional services) for future use as part of the Bayhealth Medical Campus.

This ordinance is also scheduled for a public hearing before the planning commission tomorrow, September 15th; a final determination will be made by city council following a public hearing on September 28th.

Introduction/Ordinance 2015-20/Bayhealth Medical Center Inc./Change of Zone

Mr. Pierce advised this ordinance changes the zoning of parcel 3-30-15.00-050.11, involving 11.51 +/- acres, from R-3 (residential) to IS (institutional services) for future use as part of the Bayhealth Medical Campus.

This ordinance is also scheduled for a public hearing before the planning commission tomorrow, September 15th; a final determination on the ordinance will be made by council following a public hearing on September 28th.

Introduction/Ordinance 2015-21/Key Properties Group/Change of Zone

Mr. Pierce advised this ordinance will change the zoning of parcel 3-30-15.00-058.00 involving 102.99 +/- acres, from C3 (commercial) to IS (institutional services) for future use as part of the Bayhealth Medical Campus.

This ordinance is also scheduled for a public hearing before the planning commission tomorrow, September 15th and a final determination on the ordinance will be made by council following a public hearing on September 28th.

Adoption/Corrective Resolution 2015-24/Annexation & Municipal Boundary/Kitty Chen/709 North Shore Drive
Adoption/Corrective Resolution 2015-25/Annexation & Municipal Boundary/Pervaiz Gill/706 East Lane

Mr. Pierce then informed council that the city charter requires an official map of the city boundaries to be recorded in the Recorder of Deeds Office for Kent and Sussex Counties. The Planning & Zoning Department reviewed the municipal boundary file on record with the State of Delaware for accuracy. During this process, city assessment records were compared to Kent and Sussex County maps. It was determined that Kent County did not recognize parcel(s) MD-00-182.12-01-51.00 & MD-00-182.12-01-52.00 as city parcels.

According to the November 6, 1979 city council meeting minutes, parcel 5100, owned by Dr. George Chen, spouse of the current owner, was annexed into the City of Milford. According to the May 13, 1985 city council meeting minutes, council approved the annexation request for parcel 5200 owned by William E. Towers at the time. The City could only locate the archived minutes and were unable to locate any associated annexation resolutions which may not have been required at the time. The Kent County Department of Planning Services has requested official documentation be submitted by the City of Milford before they will change the parcel numbers and officially show them within city limits.

Parcel 5100 is currently owned by Mrs. Kitty Chen of 709 North Shores Drive. Parcel 5200 is currently owned by Mr. & Mrs. Pervaiz Gill of 706 East Lane. The owners were made aware of this corrective action and have signed paperwork acknowledging that these parcels are within city limits.

As a result, corrective resolutions have been prepared and need to be adopted by city council. Those resolution will then

be presented to Kent County to assure all maps include accurate information.

Ms. Peel moved to adopt Resolution 2015-24, reaffirming the annexation of Tax Map Parcel # MD-00-182.12-01-51.00 into the City of Milford, seconded by Mr. Grier:

Resolution 2015-24

WHEREAS, the Charter of the City of Milford authorizes Council to extend the boundaries of said City pursuant to procedures found in the Charter;

WHEREAS, the Mayor and Council of the City of Milford deem it in the best interests of the City of Milford to include said area as hereinafter more particularly described within the limits of the City of Milford;

WHEREAS, the Charter of the City of Milford provides that if all owners of record of the land proposed for annexation petition the City for annexation or consent in writing to the annexation, and prior to the conclusion of the public hearing, no written objection is received by the City from a qualified resident of the territory proposed for annexation, the City Council may vote to accept or reject the proposed annexation; and

WHEREAS, pursuant to the terms of the Charter, the City Council, having voted on November 6, 1979 to accept the proposed annexation, shall thereupon adopt a resolution affirming the annexation of said territory and its inclusion in the limits of the City of Milford.

NOW, THEREFORE, BE IT RESOLVED:

1. That the following territory situated in Kent County, State of Delaware as more particularly bounded and described by the following description be annexed to and included within the limits of the City of Milford:

All that certain lot(s), pieces(s) or parcel(s) of land and premises situated in Mispillion Hundred, Kent County, State of Delaware, near the City of Milford, more particularly described as follows, to wit:

RECORD OWNER: Chen, Kitty

PROPERTY ADDRESS: 709 N. Shore Drive, Milford, DE 19963

TAX MAP ID: MD-00-182.12-01-51.00

DEED REFERENCE: Deed BK E Volume 28 Page 377

BRIEF DESCRIPTION: All that certain lot, piece or parcel of land lying on the West side but not adjacent to U.S. Route 113 in the North Shores of Haven Lake, Inc., development, in Milford Hundred, Kent County and State of Delaware, lying on the northerly side of North Shore Drive and more particularly described as follows, to wit:

Beginning at a pipe for a corner with Lot 13 on the northerly line of North Shore Drive: thence North 03 degrees 08 minutes East with line of Lot 13 a distance of 150 feet to a pipe; thence South 86 degrees 52 minutes East such distance as is required to a pipe for a corner on North Shore Drive; thence South 39 degrees 28 minutes West with northeasterly line of North Shore Drive a distance of 196 feet to a pipe for a corner; thence North 86 degrees 52 minutes West with northerly line of North Shore Drive a distance of 99.82 feet home to the place of beginning. Being known and designated as Lot 12 on plot of North Shores, Milford, Delaware, prepared by H.F. Bressler on April 29, 1958 and revised February 25, 1960 recorded at the Recorder of Deeds at Dover, Delaware, in Plot Book 5, Page 22.

2. The proposed zoning district classification for such lands is R-1 (Low Density Residential) which is in accordance with and consistent with the City's Comprehensive Plan.
3. That a certified copy of the Resolution of Annexation shall be forthwith filed for record with the Recorder of Deeds for Kent County.

4. That the above-described area became a part of the City of Milford beginning November 6, 1979 at which time City Council voted in favor of its annexation.
5. ADOPTED this 14th day of September 2015.

Motion carried.

Resolution 2015-25

Ms. Peel moved to adopt Resolution 2015-25, reaffirming the annexation of Tax Map Parcel # MD-00-182.12-01-52.00 into the City of Milford, seconded by Mr. Grier:

WHEREAS, the Charter of the City of Milford authorizes Council to extend the boundaries of said City pursuant to procedures found in the Charter;

WHEREAS, the Mayor and Council of the City of Milford deem it in the best interests of the City of Milford to include said area as hereinafter more particularly described within the limits of the City of Milford;

WHEREAS, the Charter of the City of Milford provides that if all owners of record of the land proposed for annexation petition the City for annexation or consent in writing to the annexation, and prior to the conclusion of the public hearing, no written objection is received by the City from a qualified resident of the territory proposed for annexation, The City Council may vote to accept or reject the proposed annexation; and

WHEREAS, pursuant to the terms of the Charter, the City Council, having voted on May 13, 1985 to accept the proposed annexation, shall thereupon adopt a resolution, affirming the annexation of said territory and its inclusion in the limits of the City of Milford.

NOW, THEREFORE, BE IT RESOLVED:

1. That the following territory situated in Kent County, State of Delaware as more particularly bounded and described by the following description be annexed to and included within the limits of the City of Milford:

All that certain lot(s), pieces(s) or parcel(s) of land and premises situated in Milford Hundred, Kent County, State of Delaware, near the City of Milford, more particularly described as follows, to wit:

RECORD OWNER: Gill, Pervaiz & Muriel P
PROPERTY ADDRESS: 706 East Lane, Milford, DE 19963
TAX MAP ID: MD-00-182.12-01-52.00
DEED REFERENCE: D4269-53

BRIEF DESCRIPTION: All that certain lot, piece or parcel of land situated in Kent County, State of Delaware, lying on the southwesterly side of East Lane, & the northwesterly side of North Shore Drive; being all of Lot 54 as shown on a plan of North Shores – Section 2 recorded in Plot Book 11, page 73 and being more particularly bounded and described as follows, to wit:

Beginning at a point at the corner for this lot at the intersection of the southwesterly line of East Lane (50 feet wide) with the northwesterly line of North Drive (50 feet wide), said point being located North 66 deg. 12 min. 17 sec. West 0.3 feet from a pipe found in concrete; thence along the northwesterly line of North Shore Drive South 39 deg. 30 min. 00 sec. West 43.81 feet to a pipe found in concrete at a corner for Lot 12 of North Shores – Section 1 (Plot Book 5, page 22); thence along line of Lot 12 in part and in part with Lot 13 of North Shores – Section 1 North 86 deg. 52 min. 00 sec. West 296.28 feet (passing over a pipe found in concrete at a distance of 210.52 feet) to a pipe found in line of Lot 13 at a corner for Lot 55; thence along line of Lot 55 North 28 deg. 17 min. 38 sec.

East 184.24 feet to a pipe found in concrete in the southwesterly line of East Lane; thence along the southwesterly line of East Lane on the following two courses and distances: (1) South 62 deg. 48 min. 00 sec. East 98.00 feet to a point; thence (2) in a southeasterly direction along the arc of a 783.02 radius curve to the right an arc distance of 179.92 feet (the chord of which bears South 56 deg. 13 min. 03 sec. East 179.52 feet) to the place of beginning and containing 32,340 square feet of land, be the same more or less.

2. The proposed zoning district classification for such lands is R-1 (Low Density Residential) which is in accordance with and consistent with the City’s Comprehensive Plan.
3. That a certified copy of the Resolution of Annexation shall be forthwith filed for record with the Recorder of Deeds for Kent County.
4. That the above-described area became a part of the City of Milford beginning May 13, 1985 at which time City Council voted in favor of its annexation.
5. ADOPTED this 14th day of September 2015.

Motion carried.

Bid Award/Washington Street Water Treatment Facility Replacement Project/Contract D-Treatment Plant

Erik Retzlaff of Davis, Bowen and Friedel, stated that their firm handled the bid process for this project and on August 19, 2015, three sealed bids were received and publicly opened. The low bidder was Kuhn Construction of Hockessin, Delaware. The bid has since been reviewed and was found to be in order.

In accordance with the requirements of the Drinking Water State Revolving Fund program, they forwarded both the bid tabulation and the low bidder’s supplemental information to verify compliance with the Disadvantaged Business Enterprise requirements. Confirmation has since been received from DWSRF that the low bidder does comply.

The project bid documents included several add alternate bid items. A summary of the Base Bid and Add Alternate Bid amounts received from Kuhn Construction, are presented below.

Total Base Bid:	\$2,496,000.00
Base and Alternate Bid Item 17A: (Includes Metal Roof)	\$2,503,500.00
Base and Alternate Bid Item 18A: (Includes Well No. 1 Enclosure)	\$2,541,000.00
Base and Alternate Bid Items 19A-19B: (Includes New Well 1R and Abandonment of Existing Well 1)	\$2,641,165.00
Base Bid and Alternate Bid Items 17A and 19A -19B:	\$2,648,665.00
Available Construction Funds:	\$2,700,000.00

Due to the location, age (circa 1925) and poor condition of Well No. 1, DBF’s recommendation is to award the project to Kuhn Construction for the estimated amount of \$2,648,665. This amount includes the replacement and abandonment of existing Well No. 1, as well as the inclusion of a standing seam metal roof on the new treatment building.

Mr. Brooks moved to award the Washington Street Water Treatment Facility Replacement Project/Contract D-Treatment

Plant to Kuhn Construction in the amount of \$2,648,665.00, seconded by Mr. Morrow. Motion carried.

DBF Contract Cost Adjustment/Washington Treatment Facility Construction Administration/Funding Source

Mr. Retzlaff advised that DBF originally anticipated a construction period for the Washington Treatment Facility of 270 calendar days. During the bidding process, two of the prospective bidders stated that additional time would be needed to complete the project. One bidder requested that 90 days be added to the construction time. After consulting with the Interim City Manager Jeff Portmann, it was agreed to issue an addendum for another 60-calendar days to be added to the proposed construction time.

As a result, this also increased DBF's time and costs to oversee and administer the project. DBF has requested an additional \$7,000 be added to their Construction Administration Services fee to cover the cost of the additional two months.

Also, the Add Alternate Bid Item, for the installation of a new production well to replace existing Well No. 1, was approved when the bid was awarded to Kuhn Construction. This work was not included in the original project scope of services. Because council accepted the add alternate bid item, \$8,600 must be added to the Construction Administration Services to cover the additional work to administer and oversee the round-the-clock work necessary to install the new well.

Mr. Grier moved to approve an additional \$15,600 to DBF's Construction Administration Service related to the Washington Street Treatment Facility Construction project, seconded by Mr. Mergner. Motion carried.

FY 2015-2016 Police Department Budget Request/Transfer to Legal Expense Account

Due to ongoing legal matters city council is aware of, the original \$25,000 budgeted this year will be insufficient to cover those expenses. Chief Hudson submitted a request to increase that line item by \$25,000.

Mr. Morrow moved to increase Police Line Item Legal Expenses 101-1610-421-30-20 by \$25,000, to be paid out of the Real Estate Transfer Tax Fund, seconded by Mr. Starling. Motion carried.

Introduction of Ordinance 2015-24/Theft of Electric Services

Mayor Shupe advised that ordinance was requested as a result of recent activity occurring in the parks and downtown area where unauthorized persons are connecting to receptacles and using city electricity at no cost.

City Solicitor Rutt explained that this ordinance was specifically created to amend the Electric Rules and Regulations Code, Appendix B. He also suggests council consider similar ordinances to cover other city services including trash, sewer and water utilities.

Mayor Shupe then introduced the following ordinance:

ORDINANCE NO. 2015-24

WHEREAS, The City of Milford maintains electrical outlets that are located in areas open to the general public; and

WHEREAS, The City of Milford installed this electrical outlets for the exclusive use of the City of Milford; and

WHEREAS, any use of these electrical outlets is paid by the City of Milford; and

WHEREAS, The City of Milford desires to update Appendix B of the City Code to recognize that any unauthorized use of these electrical outlets or other electric service maintained and paid by the City of Milford is prohibited.

NOW THEREFORE, THE CITY OF MILFORD ORDAINS:

Section 1.

Section 15 of Appendix B of the Code of the City of Milford, entitled "TAMPERING WITH CITY PROPERTY," shall be amended by making deletions as shown by strike through and insertions as shown by underline as follows:

Section 15 - TAMPERING WITH AND THEFT OF CITY PROPERTY

15.1

TAMPERING EXPRESSLY FORBIDDEN

No person except a duly authorized representative of the City shall make any connection or disconnection, either temporary or permanent between Service load of the Customer and Service wires of the City; or set, change, remove or interfere with or make any connections to the City's meter or other property or any wiring between the City's meter and the Service wires of the City. By taking Service from the City, the Customer agrees to respect the integrity of the meter seal.

15.2

THEFT OF CITY PROPERTY

No person shall commit theft of Services that are owned by or billed to the City. Theft of Services is obtaining Services owned by or billed to the City by deception, threat, coercion, stealth, tampering or use of false token or device. For purposes of this section, "tampering" includes, but is not limited to, making a connection of any wire, electronic device, conduit or device to any Service, electrical outlet, or transmission line owned by or billed to the City. No person shall be in violation of this section if the service is expressly stated to be for use by the public, or for any act that was expressly authorized by a duly authorized representative of the City.

15.3

LIABILITY FOR TAMPERING OR THEFT OF CITY PROPERTY

In the event of the City's meters or other property being tampered or interfered with, the Customer being supplied through such equipment shall pay the amount which the City may estimate is due for Service used but not registered on the City's meter, and for any repairs or replacements required, and such changes in Customer's installations as may be required by the City. Furthermore, the Customer may be subject to a utility tampering fee in accordance with the Fee Schedule, Appendix 1.

Any person found committing and act of theft of services as provided under Section 15.2 shall be subject to penalty of \$25.00 for each violation. Furthermore, the person may be reported to the police for potential criminal charges.

When the City discovers evidence of tampering or interference, Services may be terminated and the police will be notified for possible criminal charges. Upon request and pending police action, the Customer may be reconnected after all applicable fees have been paid. (See Fee Schedule, Appendix 1).

Section 2.

Dates.

Introduction: 09-14-2015

Adoption: 09-28-2015

MONTHLY FINANCE REPORT

Finance Committee Member Morrow advised that through the first month of Fiscal Year 2015-2016 with 8% of the fiscal year having passed, 8.55% of revenues have been received and 7.98% of the operating budget expended. He noted that the numbers are where they should be, including revenues and expenditures.

He recalled a question raised during last month's finance report review regarding the \$75,000 property tax deficit at the end of the fiscal year. He reminded council that they voted to eliminate the annual revaluation of a portion of properties on the tax rolls and instead decided to wait to add any increases at the time of the required ten-year citywide reassessment. The \$75,000 reflects the overall amount property taxes had to be reduced for the year as a result.

Mr. Morrow moved to accept the 2015 July Monthly Finance report, seconded by Mr. Grier. Motion carried.

EXECUTIVE SESSION

Property Sale/Land Purchase

Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property

Personnel/Employment Issue & Personnel Matter

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

Mr. Mergner moved to go into Executive Session reference a land purchase, employment update and personnel matter, seconded by Mr. Brooks. Motion carried.

Mayor Shupe recessed the Council Meeting at 7:48 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 7:58 p.m.

LAND PURCHASE

Mr. Grier moved to proceed with the recommendation of the City Planning Coordinator regarding the two lots in the Greater Milford Business Park, seconded by Mr. Burk. Motion carried.

ADJOURN

With no further business, Mr. Grier moved to adjourn the Council Meeting, seconded by Mr. Mergner. Motion carried. The Council Meeting adjourned at 8:00 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder