

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 23, 2015

Milford City Council held a Public Hearing on Monday, November 23, 2015 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on the following matters:

PRESIDING: Mayor Bryan W. Shupe

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

Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Public Hearing to order at 7:00 p.m.

*Dave Kenton on behalf of Fork Landing Farm, LLC
Amended Final Major Subdivision/Cedar Beach Road
Tax Map 3-30-7.18-027.00; 028.00; 043.00 through 119.00*

City Planner Rob Pierce informed council the applicant is requesting to consolidate the remaining twenty-four duplex lots owned by Fork Landing Farm, LLC to twelve single family detached lots. The consolidated lots meet the minimum area requirements for single family lots and are consistent with the existing single family lots within the neighborhood. Twelve privately owned duplex lots would remain.

The recorded subdivision was approved for seventy-seven dwelling units, comprised of forty-one single family detached lots and thirty-six duplex lots. The consolidation would lower the overall unit count to sixty-five, consisting of fifty-three single family detached lots and twelve duplex lots. This would change the density from 3.19 units/acre to 2.7 units/acre.

He reported that staff has no objection to the consolidation of the duplex lots to single family detached lots. The proposed amendment to the subdivision record plan will reduce the existing density and not alter the overall appearance and intended use of the neighborhood.

He stated that during the planning commission meeting, Solicitor Rutt indicated the commission has the authority to make a recommendation on the variances being requested. This would reduce the front yard setbacks to twenty feet and rear yard setbacks to ten feet. The only front yard setbacks of twenty feet involve lots that are adjacent to an electrical easement.

Planning Commission recommended unanimous approval of the lot consolidation on October 15th, which included the variance to the setback requirements for the lots mentioned in the staff report.

- 1) For lots 44, 46, 48, 50, 52, 58, & 60:
Front Yard Setback: 20 feet
Rear Yard Setback 10 feet
- 2) For lots 62, 64, 66, 74, & 76:
Front Yard Setback: 20 feet

Solicitor Rutt explained that Chapter 200/Subdivision of Land, 200(6) is called 'Variances and Waivers'. He said that instead of having a variance for each lot in a subdivision, council has the authority to grant variances and waivers in the overall subdivision plan.

Applicant David Kenton was present. He informed council that this application was approved by the planning

commission. He is considering Ryan Homes to construct the homes and they are requesting single family homes. Because the market has not been good, he felt a national home builder would be helpful though they requested the twenty-six duplexes be changed accordingly.

PE Kenneth Christenbury of Axiom Engineering was present adding that this is a relatively straightforward application and asked if there are any questions.

Mr. Brooks asked if there will be less homes; Mr. Christenbury explained the unit count is reduced because the duplex dwellings count as two units; single family homes will count as one unit.

When asked the price range, Mr. Kenton said the range is \$195,000 to \$220,000 though buyers typically add amenities to the homes which makes them more expensive. The current homes in Fork Landing are not the basic model types.

Mr. Burk recalled when he was on the planning commission, because of the small rear setback, there was an issue created when a homeowner wanted a rear deck added. He asked that Ryan Homes inform any potential homeowner of that issue. He does not want homeowners to come to the city later complaining about the restrictions and wants people informed in advance.

Mr. Kenton said that Ryan Home, as well as his original building Capstone Builders, wanted larger homes because the market is beginning to recover. However, he is unsure what it will do to the deck situation.

Mr. Pierce added that the current rear setbacks are fifteen feet and they are requesting a reduction to ten feet for the majority of the lots with the exception of those bordering the electric easement.

Mayor Shupe asked for comments from the public; no one responded. The public hearing on this matter was then closed.

Mr. Morrow moved to approve the amended final major subdivision of Fork Landing Farm on Cedar Beach Road (Tax Map 3-30-7.18-027.00; 028.00; 043.00 through 119.00) and grant the variances for lots 44, 46, 48, 50, 52, 58, & 60 by reducing the Front Yard Setback from 30 feet to 20 feet and the Rear Yard Setback from 15 feet to 10 feet and the Front Yard Setback on lots 62, 64, 66, 74, & 76 from 30 feet to 20 feet, seconded by Ms. Wilson. Motion carried.

ORDINANCE 2015-22
Part II-General Legislation
Chapter 174-Sewers
Article I-Sewer Use
Article III-Sewer Impact Fee

ORDINANCE 2015-23
Chapter 222-Water
Part II-General Legislation

PE Randy Duplechain of Davis, Bowen and Friedel, Incorporated, stated that he and the city planner have been working on these two code revisions. The purpose is to better define the process for determining the needs of a developer and what is needed to get adequate utilities to his property. He explained this is mainly for developments that do not have water and sewer available to the property lines. The code right now requires any development that exceeds ten equivalent dwelling units or 2,500 gallons per day to go through this process.

He explained they are not proposing changing this ordinance and that would remain. When a developer comes in, the first step would be a utility feasibility study. They would look at the water and sewer and determine how the development impacts the existing infrastructure and what utility sizes are needed to properly serve the property. That will not change either. Though it is not in the code, it is in the standard section of the requirements.

Mr. Duplechain said there are a number of different scenarios that occur; one is a single developer who wants to do one development and possibly 180 EDUs. A feasibility study is done and based on that information, the developer is required

to make improvements including downstream improvements for a pump station upgrade or extending utilities to a site at a specific size. That is the developer's financial responsibility and what Milford's current code requires.

What is being proposed involves multiple developers coming in at the same time. Mr. Duplechain explained that it is convenient if they all come in and want to start at the same time. The utility feasibility study is done which determines what improvements need to be made; the contribution will be based on the number of EDUs and a split is determined. A public works agreement is then created. The developer can either proceed with the project on their own with a joint project or they can ask the city to handle it.

Part of the proposed change is also how the city participates in this process.

Mr. Duplechain said for example, there may be a pump station that the city plans to upgrade. A developer is coming in who will impact it. The city may feel they should not cover the entire costs and the code revision allows that to occur. If the city chooses to participate, the public works agreement is set up to allow the city to take the lead on the project. It then becomes a city project and we would handle the design, advertise, bid and oversee the construction. The developers would then pay into the project their fair share.

He emphasized that the process needs to be formalized and the current code makes it difficult to determine how the process occurs. This implements a procedure so it is spelled out.

It also covers another scenario that involves multiple developers in the service area though not all are ready to proceed. In a situation to be discussed later, currently there are three of four developers prepared to move forward. The fourth developer is unwilling to participate at this time. The feasibility study will be performed and the developers who are ready to participate will enter into a public works agreement. The city would then take over the funding portion of the fourth developer not ready to proceed. This would then be considered "aid in construction".

Once that developer is ready to come in, the facility has already been sized to accommodate his development. At that point, the city would be reimbursed the associated costs as well as the associated interest.

This procedure is common in other municipalities and counties in Delaware.

It does not obligate the city to participate but only provides the opportunity. If the city does not want to participate, then the facilities are sized for the developers who are ready to move forward. The other one will have to upgrade the facility if and when he wants to come in which will be more costly.

Mr. Duplechain noted this will apply to both water and sewer utilities. He added that in the agreement to be discussed later, if the city does not want to participate, then the facilities would be sized only for those willing developers. It would need to be upsized later for the non-willing developers to participate.

Mayor Shupe asked for public comment; no one responded and the public hearing was then closed.

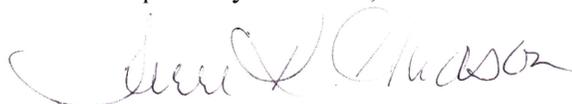
Mr. Grier moved to adopt Ordinance 2015-22, seconded by Ms. Peel. Motion carried.

Mr. Grier moved to adopt Ordinance 2015-23, seconded by Ms. Wilson. Motion carried.

With no further business, Ms. Wilson moved to adjourn the Public Hearing, seconded by Mr. Grier. Motion carried.

The Public Hearing was adjourned at 7:28 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 23, 2015

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 23, 2015.

PRESIDING: Mayor Bryan Shupe

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

Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:08 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Proclamation 2015-25/Pancreatic Cancer Month

Matt Wilson, a Pancreatic Cancer Action Network volunteer and pancreatic cancer survivor, asked the city to proclaim November as Pancreatic Cancer Month to encourage awareness and early treatment.

Mayor Shupe then read portions of Proclamation 2015-25 into record:

WHEREAS in 2015, an estimated 48,960 people will be diagnosed with pancreatic cancer in the United States and 40,560 will die from the disease;

WHEREAS pancreatic cancer is one of the deadliest cancers, is currently the fourth leading cause of cancer death in the United States and is projected to become the second by 2020;

WHEREAS pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just seven percent;

WHEREAS when symptoms of pancreatic cancer present themselves, it is generally late stage, and 73 percent of pancreatic cancer patients die within the first year of their diagnosis while 93 percent of pancreatic cancer patients die within the first five years;

WHEREAS approximately 140 deaths will occur in Delaware in 2015;

WHEREAS pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world;

WHEREAS there will be an estimated 367,000 new pancreatic cancer cases diagnosed globally in 2015;

WHEREAS the good health and well-being of the residents of Milford are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes, and effective treatments.

NOW, THEREFORE, BE IT RESOLVED, that I, Bryan W. Shupe, by virtue of the authority vested in me as Mayor of the City of Milford, do hereby proclaim the month of November 2015 as "Pancreatic Cancer Month" in the City of Milford.

COMMUNICATIONS

Councilman Burk recognized the International Food Festival this weekend noting it was another successful first-year event.

Councilman Brooks reported that the entrance/exit by McDonalds is much improved since it was finally striped. He said vehicles now know what to do though it was confusing for many years.

Mayor Shupe reported that Downtown Milford, Incorporated has arranged for Santa Claus to arrive in town this Saturday. He said it is a very exciting event when Carlisle Fire Company and Milford Police Department escort him to his house on Walnut Street.

In the meantime, Mayor Shupe advised that many of the local businesses will be participating in Small Business Saturday.

Councilwoman Wilson reminded council that Code Purple will be in effect though presently no one has volunteered to register people for the shelter. She asked council to considering donating water, toiletries and paper products adding that she would be happy to pick the items up.

Ms. Wilson also noted that meals for twelve people are also needed. After the meals are made, they are frozen so that they can be used when the shelter is open.

Coats, scarves, gloves and blankets are also welcomed though there is a more urgent need for the disposable items previously mentioned.

Councilwoman Peel reported that her workplace is partnering with Code Purple. They have a holiday luncheon and the entry is an item donated. They have learned that in Kent County, there were only five nights the shelter was not open between Thanksgiving and March this past winter.

Councilman Burk then announced that he and his wife are hosting their second annual Home of the Brave basket stuffing. The event is scheduled for December 9, 2015 from 7:00 p.m. to 10:00 p.m. Last year it was at his home, though he has moved it to Arena's this year. They collect toiletries and provide baskets to the mens and women's house. He has 36 people committed though he is trying to make this a larger event with hopes of getting on the radio over the next couple weeks in an effort to promote it.

UNFINISHED BUSINESS

None to report.

NEW BUSINESS

SE Milford Sewer Public Works Agreement & Funding

PE Randy Duplechain of Davis, Bowen and Friedel referred to Exhibit A (attached) covering the Route 30 corridor that mainly encompasses the Bayhealth medical campus site. The elevated storage tank and water treatment facility in that area is virtually complete though they are still waiting on electric service.

He noted that the public works agreement does not include water. The majority of the properties shown have water or have the ability to obtain water in the near future with their development.

He is presenting a sewer utility agreement for the installation of a regional sewage pump station to be located south of the existing on/off ramp Route 1/Wilkins Road. The pump station will serve all properties that are colored on the map. A force

main will run along the hospital property and into the West Shores development. It will also include some gravity lines stubbed out of the pump station to serve two of the three properties.

The proposed public works agreement is for the improvements needed to serve these properties. Bayhealth, one of the properties on board, will be participating at a level of 350 EDU's. That number equates to almost 50% of the total project. The Wickersham will also participate but at a lesser extent of 30% or 200 EDU's. The Wilson Farm is unsure at this point though they are interested in participating in the project cost at a level of 75 EDU's.

Mr. Duplechain explained there is concern about other properties in the area and in particular, the Hall property located on the east side of Route 30 across from the hospital property. The Hall family was unwilling to participate at this point and has no plans for the property. However, there is a need to size these facilities. In addition to the Hall property, non-Bayhealth services that could happen within the hospital site, should also be considered.

They are proposing the city participate at a 100 EDU level with the aid-in-construction concept. The cost to the city, based on the estimated construction cost of slightly more than \$1 million total, would be approximately \$149,000.

Mr. Duplechain emphasized that the cost estimate includes a recoupment that comes back to the city, as part of this project, for the force main work that was done for the Shawnee Acres pump station. That pump station is downstream and upgrades to the force main were needed to accommodate the growth. He said that equals approximately \$153,000. That money will come back to the city; if the city participates in the agreement as written, would cost approximately \$150,000. It would be almost a wash to the city and would allow the facilities to be upsized to accommodate more than what is presently proposed. In that manner, any major renovations to the new facility can later be avoided.

The three participants willing to contribute have reviewed and agreed to the agreement. If the city is willing to move forward, he can acquire the signatures, finalize the agreement and move the project forward.

Once the agreement is fully executed, each developer has twenty days to pay their portion of the funding. That money will go into an escrow account that the city will hold and use to pay the project costs. In the event of a short fall, there is a stipulation the developers are required to pay the additional money. Any money remaining will be given back at the percentage they contributed.

Mayor Shupe added that this will be paid from sewer reserves. Mr. Morrow confirmed that the city will be reimbursed regardless; Mayor Shupe stated yes.

Mr. Brooks moved for approval of SE Milford Sewer Public Works Agreement to be funded from Sewer Reserves, seconded by Mr. Burk.

Ms. Wilson confirmed that Interim City Manager Portmann is on board; Mayor Shupe stated that is correct.

Motion carried.

DBF Contract/SE Milford Sewage Pump Station Project & Funding

Mr. Duplechain presented the proposal for the design, surveying, bidding process and administration of the construction as was just discussed. It includes the pump station, force main and some gravity sewer work which will allow these developments to move forward.

Ms. Wilson moved for approval of the DBF Contract for services related to the SE Milford Sewer Pump Station Project to be paid from sewer reserves, seconded by Mr. Burk.

Mr. Duplechain said the funding would be paid from the escrow account created by the public works agreement. However, it could be partially funded by the sewer reserve fund.

Motion carried.

Washington Street Storage Tank Repairs/Change Order

Mr. Duplechain explained the Washington Street elevated storage tank was proposed to be painted this past summer. However, the fire siren was relocated to this tank which caused the work to be postponed into the winter months.

He reported the tank is scheduled to be painted in the spring adding that Southern Corrosion Incorporated has a ten-year contract with the city.

This proposal includes some improvements that are needed prior to the tank being painted. He explained that when the tank fills up too much, there is an overflow pipe that drains the tank. Right now that overflow goes underground and drains into the sewer system. Part of this improvement would be to move the overflow to the leg of the tank so that it spills out on the ground so that we are aware of when that situation occurs.

Some additional improvements are needed to the vault in the bottom of the tank; valving work is needed along with some other upgrades.

Mr. Duplechain said they are asking council to approve a change order to Southern Corrosion ten-year agreement for \$36,526.

Mayor Shupe confirmed that funding is already in place.

As a result, Mr. Brooks moved to approve the Southern Corrosion change order in the amount of \$36,526, seconded by Mr. Morrow. Motion carried.

Employee Recognition/Increased Budget/Funding

Mayor Shupe reported that \$9,000 was budgeted for holiday party, door prizes and hams for the past four years. During that time, the city manager would cover any overages out of his discretionary account. As council recalls, the last city manager eliminated the discretionary account, leaving no available funds to cover any additional costs.

Because these overages were being paid out of the discretionary account, the finance director was unaware these overages were being paid out of that account. Council will need to approve an additional \$2,000 to mirror what has been done in the past for our employees.

Ms. Wilson moved to authorized continuing these traditions and to transfer \$2,000 from General Fund Reserves to the Council's Employee Recognition line item, seconded by Mr. Morrow. Motion carried.

Mayor Shupe said that he and Mr. Portmann both agreed that an increase would be added to future budgets which would also provide a more accurate account of what has been spent.

EXECUTIVE SESSION

Ms. Wilson moved to go into Executive Session reference below reason, seconded by Mr. Morrow.

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 (Property Sale & Property Purchase).

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 7:53 p.m. for the purpose of an Executive Session as permitted by Delaware's Freedom of Information Act.

RETURN TO OPEN SESSION

City Council returned to Open Session at 8:18 p.m.

Employment Contract

Ms. Peel moved to authorize the mayor to sign the new city manager contract as discussed, seconded by Mr. Burk. Motion carried.

Mayor Shupe said the city will send out a press release tomorrow with the new city manager's name and information.

Property Sale

Mr. Grier moved to authorize the Interim City Manager and Mayor to use their best judgment to determine the appropriate sales price as was discussed in executive session, seconded by Mr. Morrow. Motion carried.

No action needed on any other items.

ADJOURN

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

Mayor Shupe adjourned the Council Meeting at 8:19 p.m.

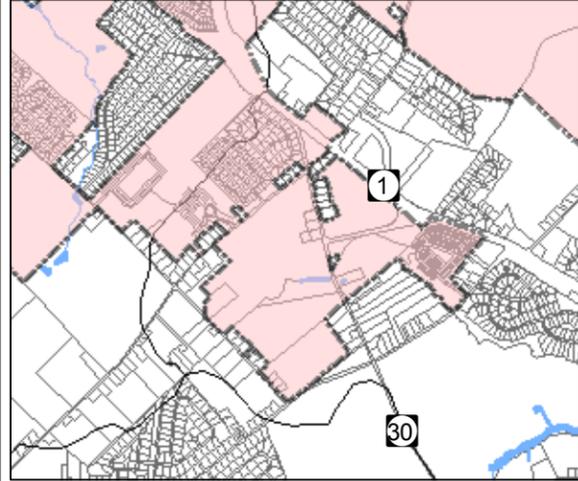
Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

Attachment:

Route 30 Corridor Public Works Agreement Exhibit "A" Sanitary Sewer Core Infrastructure



**Route 30 Corridor
 Public Works Agreement
 Sanitary Sewer Core Infrastructure
 Exhibit "A"**

- Bayhealth Medical Campus
- CCM-Koelig, LLC
- Wilson Contracting, Inc.
- Proposed Pump Station
- Proposed Force Main
- Proposed Manhole
- Future Manhole
- Future Gravity
- Proposed Gravity
- Existing Manhole
- Existing Gravity

