

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 25, 2016

Milford City Council held Public Hearings on Monday, January 25, 2016 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan W. Shupe

COUNCIL MEMBERS IN ATTENDANCE: Christopher Mergner, Garrett Grier III, Lisa Ingram Peel,
James Burk and Owen Brooks Jr.

City Manager Eric Norenberg, Police Chief Kenneth Brown and
City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

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

Planning and Economic Activities Coordinator Rob Pierce was also in attendance.

*First State Manufacturing on behalf of GrowUSA LLC
Final Minor Subdivision
301 SE Fourth Street
Tax Map 3-30-11.05-119.00*

City Planner Pierce advised this property is located near the little league ballfield on Southeast Fourth Street. The property is currently zoned I-1 and its primary use is manufacturing.

He reported the following:

On July 14, 2014, City Council authorized First State Manufacturing to proceed with the necessary appraisals, surveys and other documents needed to exchange land owned by GrowUSA, LLC for a portion of lands in Independence Commons.

The Board of Adjustment approved a variance for the maximum lot coverage allowed on an industrial zoned property on August 13, 2015. The lot line adjustment is consistent with Chapter 230-16 and meets all design standards and area regulations or has received variance approval for design standards and area regulations by the Board of Adjustment.

The lot line adjustment would create one continuous parcel owned by the City of Milford for use by the little league and eliminate future land leasing with GrowUSA.

The property line that goes through the ballfields, parking area and portion of the bleacher area will be moved and that area transferred to the City of Milford.

The Planning Commission recommended approval with a unanimous vote on December 15, 2015

Mayor Shupe asked for questions from city council. Mr. Brooks said when all of this is done, will little league have full use of what they are using now. Mr. Pierce explained we will need to settle though little league use will not be disrupted by the transfer of land.

Surveyor Robert Nash of Merestone Consultants, representing the applicant, stated that the land will be transferred to the city thus providing less liability for First State Manufacturing as a result of its use by the public over the years.

Mayor Shupe opened the floor for public comment; no one responded and the floor was closed.

Mr. Brooks moved to approve the final minor subdivision/lot line adjustment of the property owned by GrowUSA LLC at 301 SE Fourth Street, seconded by Mr. Mergner. Motion carried.

City of Milford on behalf of GrowUSA LLC
Final Minor Subdivision/Independence Commons
316 West Liberty Way
Tax Map MD-16-173.00-01-02.17

Planner Pierce advised this is the second portion of the land exchange involving lot 13 in Independence Commons currently owned by the City of Milford. He reported the following:

On July 14, 2014, city council authorized First State Manufacturing to proceed with the necessary appraisals, surveys and other documents needed to exchange land owned by GrowUSA, LLC for a parcel in Independence Commons.

The minor subdivision is consistent with Chapter 230-19.1 and meets all design standards and area regulations.

Lot 13 currently houses solar panels and a fenced-in area owned by the City of Milford. The residual land will become Lot 13-B and conveyed to GrowUSA, LLC in exchange for lands adjacent to the little league complex.

Of the original 3.36 acre lot, GrowUSA, LLC will acquire 2.2 acres and the remaining 1.1 acres will be retained by the city.

The City Planning Commission recommended approval with a unanimous vote on December 15, 2015.

There were no comments from city council.

Mayor Shupe opened up the floor for comments from the audience, but no one responded. The floor was then closed.

Mr. Brooks moved to approve the subdivision of City of Milford Independence Commons Lot 13 into two parcels, seconded by Mr. Mergner. Motion carried.

Merestone Consultants on behalf of Milford Public School District
Final Minor Subdivision
Milford Middle School
512 Lakeview Avenue
Tax Map 1-30-3.07-138.00

Mr. Pierce reported this involves the old Milford Middle School property located between Lakeview Avenue, Seabury Avenue, School Place and Kent Place. The minor subdivision is consistent with Chapter 230-9 and meets all design standards and area regulations.

He referenced the site plan in the packet showing the existing school structure, parking lots and recreational areas.

He said the applicant is seeking to subdivide the property into two lots and both will remain R-1 zoning. The Planning Commission recommended approval with a unanimous vote on December 15, 2015

When asked for questions from the council, Mr. Burk said he has had several phone calls about the recreational area. He asked if there can be restrictions added to the approval that will require the school to maintain the recreational use.

Mr. Pierce stated there are no restrictions being placed on this site by the city. He emphasized it is zoned R-1 and by right any use under the R-1 designation is permitted.

Milford School District School Superintendent Dr. Phyllis Kohel said the sole reason to ask for the subdivision of the land is to protect the rear land and maintain it as a recreational area for the public. Without the subdivision, should the school

transfer the property to the State of Delaware or another entity, they would take the entire block which includes the athletic fields. By subdividing the property and putting the rear area /athletic fields into Milford School District's name solely, they can sell the front portion and preserve the athletic areas as they currently exist.

Mr. Burt asked if a deed restriction will be added because he has had a lot of people call him about this. Dr. Kohel said from what she has been told, there is no need to add a deed restriction because the school district has absolutely no intention of doing anything other than using it as a recreational area.

Dr. Kohel noted that MSD students still need the athletic fields even though they have to be transported to this site. She explained that even if a new school with new fields were built, the athletic fields would still need to be maintained. She recalled when this was discussed with city council and the city discussed removing that area so it could be retained as a recreational site for the public.

Mr. Burk said the people that called him had a concern that it could change at a later date.

Mr. Rutt then informed Mr. Burk that he cannot put conditions on the application. The property is zoned R-1 and as a by right can be subdivided. Council does not have the legal right to put conditions on a subdivision.

Mr. Burk said he understands though all the people calling him do not understand.

Ms. Peel likes it being clarified for the public record.

Dr. Kohel explained that they also clarified during the planning commission hearing that there is no intent to do anything other than to leave it as recreation.

Mr. Brooks asked if he can put in his motion that 23-plus acres must be kept recreational; Mr. Rutt reiterated that council does not have the legal right to add conditions. He explained it is already zoned R-1 and the school has the right to use it for anything allowed in the zoning district.

The solicitor said by council requiring them to solely use it for recreational purposes will essentially amend the R-1 district through the motion for approval. He emphasized that no conditions or restrictions can be placed on their right to use the property.

Mr. Brooks stated that Dr. Kohel said the 23 acres would continue to be recreation and they had no intention of changing it. Mr. Rutt said that is correct, but the property is owned by the school district and five years from now things could change. He told Mr. Brooks that by law, council is restricted from placing any condition on a subdivision.

Representing the application, Robert Nash of Merestone Consultants asked on behalf of Milford School District, if they could add a restriction to the deed if they sold the property. Mr. Rutt said that could be done in the deed, but as a public body, Milford City Council does not have the right to do that.

Mr. Brooks said we do not know who will be the school head when they sell that land.

Mayor Shupe then opened the floor for public comment; no one responded. The floor was then closed.

Mr. Mergner moved to approval the final minor subdivision of the Milford Middle School property, seconded by Mr. Burk. Motion carried.

Crop Production Services LLC

Chance of Zone/Current Zone R-3; Proposed Zone I-2

Holly Hill Road

Tax Parcels MD-16-18207-01-01.00 - 99.00; MD-16-18207-02-01.00 - 99.00; MD-16-18207-03-01.00 - 23.00

Adoption/Ordinance 2015-25

Mr. Pierce advised this application involves the former Amberwood Subdivision currently owned by Crop Production Services.

He reported the following:

The site is approximately 34 acres on the south side of Holly Hill Road adjacent to Baltimore Air Coil Facility. The present comprehensive plan designation is employment; the current zoning is R-3, garden apartment and townhouse district. The proposed zoning is I-2, general industrial district.

This land is currently undeveloped. The proposed use is a fertilizer sales and storage facility. It located on an established rural road as depicted on DELDOT's functional classification map. It is surrounded by residential and industrial districts.

The properties to the north are zoned R-8 (proposed garden apartment and townhouse community) and A-C (agricultural conservation in Kent County). The property to the west is the site of Baltimore Air Coil and is zoned I-L (limited industrial) within Kent County. Properties to the east are zoned A-C (agricultural conservation in Kent County) and are currently being used for agricultural purposes.

The properties to the south are zoned R-2 (residential) within city limits and are currently being used for agricultural purposes. The property is bounded on the south by an active railroad right of way.

The project site is located within an excellent groundwater recharge area and any development of this parcel must adhere to the city's Source Water Protection Ordinance. The proposed use for this property will require a conditional use site plan review.

Mr. Pierce then continued by explaining that groundwater recharge is a process by which water moves downward from surface water to groundwater. Recharge is the primary method in which water enters an aquifer. An ordinance adopted in 2008 by city council defines source water protection areas and provides a policy to protect the city's drinking water. The policy provides a table for Land Use Restrictions and Uses in Source Water Protection Areas that requires conditional use approval for chemical processing and storage facilities.

The planner explained that the proposed change of zone meets all area regulations outlined in the City Zoning Code/Chapter 230-17 (I-2 general industrial).

The applicant requested an amendment to the Comprehensive Plan Future Land Use Maps to revise the area of petition from Moderate Density Residential to Employment. The amendment was prepared and reviewed by the Office of State Planning Coordination in June 2015. Comments were received from the Office of State Planning Coordination in July 2015. The comp plan amendment was then approved by City Council in October 2015.

If approved this evening, the existing residential parcels would be consolidated prior to the site plan process.

This matter was reviewed by the Planning Commission who recommended approval by unanimous vote on December 15, 2015.

Gregory Moore from Becker Morgan Group stated they are the architects and engineers representing the applicant. He noted there are representatives from Crop Production Services also present.

He explained that Crop Production Services is an operating business on Rehoboth Boulevard. They will simply continue that operation on this property on Holly Hill Road. The property works for them because of its size; it is also next to Baltimore Air Coil, which from a planning aspect, is positive for the area.

Mr. Moore noted that the State of Delaware agencies agree that putting residential uses next to Baltimore Air Coil is not compatible mainly because those residents will most likely complain about the adjacent industrial uses.

Baltimore Air Coil is very much in favor of this project.

He continued by stating that the rail behind both Baltimore Air Coil and Crop Production also attracted them to this site. As a result, there could be a joint effort to have rail provided to the rear of both facilities which would benefit both businesses. The initial phase of their relocation would not include the rail though it is a possibility in their future.

Mr. Moore then reported that the Source Water Protection was actually implemented by DNREC; it was promulgated to the City of Milford to create an ordinance. The overlying rules and regulations were put forth to protect the wells.

He noted that this property is not in a section that contains wells that need protection; this is the third and last protection area and it simply states that the soil on this property is good for draining as any farm would. Baltimore Air Coil is located in the same zone with the same criteria. Therefore, there is no direct connection to the water wells and instead, water that will go into the ground and ultimate groundwater.

Mr. Moore informed council that the entire Dover International Speedway is in the same classification. When DNREC created this mappings, many facilities similar to Baltimore Air Coil and Crop Production Services ended up in that classification.

He emphasized that aquifers that draw water are much deeper than where these connections would be.

Council had no questions for the applicant.

Mayor Shupe opened the floor to comments from the audience. When no one responded, the floor was closed.

Mr. Grier moved to adopt Ordinance 2015-25, approving the change of zone from R-3 to I-2 on the property owned by Crop Production Services LLC, seconded by Mr. Mergner:

*ORDINANCE 2015-25
Change of Zone/Lands belonging to Crop Production Services LLC
Tax Parcel MD-16-18207-01-01.00 through 99.00
MD-16-18207-02-01.00 through 99.00
MD-16-18207-03-01.00 through 23.00
34.17 +/- Acres
Current Zone R3/Proposed Zone I2*

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 34.17 +/- acres of real property from R3 to I2 on Holly Hill Road, Milford, Delaware. Present Use: Vacant. Proposed Use: Fertilizer Sales and Storage Facility. Tax Map and Parcel: MD-16-18207-01-01.00 through 99.00, MD-16-18207-02-01.00 through 99.00, MD-16-18207-03-01.00 through 23.00

WHEREAS, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on December 15, 2015; and

WHEREAS, Milford City Council will hold a Public Hearing on January 25, 2016 to allow for public comment and further review of the ordinance; and

WHEREAS, it is deemed in the best interest of the City of Milford to allow a change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Upon the adoption of this ordinance, tax map and parcels MD-16-18207-01-01.00 through 99.00, MD-16-18207-02-01.00 through 99.00, MD-16-18207-03-01.00 through 23.00, owned by Crop Production Services located on Holly Hill Road, is hereby zoned I2.

*Dates:**Introduction: December 14, 2015**Planning Commission Public Hearing & Recommendation: December 15, 2015**Adoption Date: January 25, 2016**Effective Date: February 4, 2016*

Motion carried by unanimous vote for the following stated reasons:

Mr. Mergner-votes yes noting that it makes sense to bring this facility to this area with the industrial zoning.

Mr. Grier-votes yes stating that industrial is a suitable zone for this particular property and facility.

Ms. Peel-votes yes and agrees with what they said and trusts the reassurance by the applicant regarding the water.

Mr. Burk-supports the recommendation of the planning commission.

Mr. Brooks-votes yes stating the business is in his ward now and he never had a complaint on the crops.

*Code of the City of Milford**Part II-General Legislation/Chapter 230 Zoning**Article X-Site Plan Review**§230-52- Review Procedures**Adoption/Ordinance 2015-26*

City Planner Pierce reported that this ordinance amends the Site Plan Review Section of the Code of the City of Milford related to the timing of the signing of a subdivision/development agreement and removing the reference of a public hearing for by right site plan applications.

It has always been the city's policy that by right site plans do not require a public hearing before the Planning Commission. The intent is to remove this language from the code to prevent future confusion.

The last paragraph will be removed as is noted on the document in the packet.

The Planning Commission recommended approval with a unanimous vote on January 19, 2016

Mayor Shupe clarified this ordinance is not eliminating anything that was previously done. We are simply changing the language to coincide with our current practices.

Solicitor Rutt explained that for some reason, the code contained the term public hearing. The city planner and planning commission review the plan to ensure it complies with all the technical requirements in the ordinance. Under Delaware law, if it does comply, it is considered a by right subdivision. If the streets are required to be a certain width or heights of buildings and density are restricted, for example, and the site plan meets all criteria, it is a by right subdivision according to the solicitor.

Mr. Rutt said this simply eliminates the step of holding a public hearing when the public hearing has no impact.

Council had no comments.

Mayor Shupe asked for comments from the public; no one responded and the floor was closed.

Ms. Peel moved to adopt Ordinance 2015-26, approving the amendment of the City of Milford Zoning Code, Chapter 230, Article X-Site Plan Review Procedures, seconded by Mr. Burk:

ORDINANCE 2015-26
CODE OF THE CITY OF MILFORD
PART II-GENERAL LEGISLATION
CHAPTER 230-ZONING
ARTICLE X-SITE PLAN REVIEW
§230-52- REVIEW PROCEDURES

WHEREAS, the City of Milford deems it necessary to assure that the large-scale developments are in accord with the Comprehensive Plan and that such developments comply with the regulations of this chapter. Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the City's adopted building and design standards, the Comprehensive Plan, and the City's Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design; to provide an understanding of the impacts of proposed development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this chapter; and

WHEREAS, the Planning Department deems it necessary to update the Site Plan Review procedures.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning by adding and renumbering as follows:

A. Preliminary approval.

- (1) A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in § 230-57.*
- (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.*
- (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.*
- (4) Preliminary approval from the Planning Commission shall be void after one year, unless an extension is requested by the owner and approved for good cause by the Planning Commission prior to the expiration.*

B. Final approval.

- (1) A final plat and documents, as specified by the Planning Department, shall be prepared by the applicant and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in § 230-57.*
- (2) The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed consistent with the preliminary plan, if applicable, and in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.*
- (3) The Planning Commission shall review the application and shall approve the application with or without conditions, deny the application, or table the application.*
- (4) Prior to receiving final site plan approval, the City Engineer shall provide a copy of the signed subdivision agreement to the City Planner.*
- (5) Within 90 days of final approval from Planning Commission, the applicant shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and*

page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Three sets will be returned to the applicant.

- (6) Upon recordation of the plat, the applicant shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.
- (7) Failure to record the plat within 90 days of Planning Commission approval will result in the approval being voided.

C. The site plan review by the Planning Commission shall be limited to those proposed developments enumerated by this chapter and to those proposed developments that require a site plan review as determined by the City Planner. No other site plans shall be considered by the Planning Commission for review.

~~D. Prior to the Planning Commission holding a public hearing to review the application for the site plan, the City Engineer shall provide a copy of the signed subdivision agreement to the City Planner.~~

Section 2. Dates.

Planning Commission Review and Public Hearing: January 19, 2016

City Council Review and Public Hearing: January 25, 2016

Adoption: January 25, 2016

Effective: February 4, 2016

Motion carried.

Change of Zone of Annexed Lands belonging to Mispillion Realty LLC

Adjacent to Fieldstone Avenue/Brookstone Trace Subdivision

Current Zone M-R; Proposed Zone R-3

Tax Parcel 1-30-3.00-080.02

Adoption/Ordinance 2016-01

Adoption/Resolution 2016-04

Mr. Pierce advised that the ordinance relates to the establishment of the zone for the proposed annexation of the Mispillion Realty LLC lands.

The planner reported the following:

Petition submitted on October 17, 2014 to annex 2.0 +/- acres currently zoned medium residential within Sussex County. The site is located adjacent to Brookstone Trace subdivision, which was approved by city council as a 119-townhouse community in September 2006.

A Comprehensive Plan Amendment was required and subsequently submitted to Office of State Planning Coordination in June of 2015 requesting to change the future land use designation, for the area of petition, from low density residential to moderate density residential. The state had no objection to the modification to the city's future land use plan.

City council approved the amendment to the comprehensive plan in October 2015.

The annexation committee met in November 2015 to discuss the advantages and disadvantages. The committee recommended approval of the petition, with an R-3 zone, by a unanimous vote.

He referenced the map showing the location of the site, which is currently landlocked.

The annexation agreement was reviewed by our solicitor and approved and executed by the applicant.

The planning commission recommended approval of the zoning designation of R-3 on January 19, 2016.

Jamie Masten of Mispillion Realty then addressed city council stating that his intent is to incorporate this landlocked parcel into the Brookstone Trace subdivision which is in the city.

Mr. Brooks asked if they will be joined together; Mr. Masten stated yes, it will become part of Brookstone Trace.

Mr. Burk asked what Mr. Masten is planning to build; Mr. Masten said he is unsure at this point. The Brookstone subdivision was approved for townhouses. Since that times, the code has changed and because rear alleys are now required, this will most likely be apartments or condominiums.

Mayor Shupe opened the floor for comments from the audience; no one responded and the floor was closed.

Mr. Grier moved to adopt Resolution 2016-04 annexing the approximate two-acre Tax Parcel 1-30-3.00-080.02 into the limits of the City of Milford, seconded by Mr. Brooks:

Resolution 2016-04

Annexation/Lands belonging to Mispillion Realty LLC

1.99 +/- Acres

Current Zone M-R/Proposed Zone R-3

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City the following described lands, to wit:

Tax Parcel No. 1-30-3.00-80.02

All that certain lot, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County and the State of Delaware, as depicted on a survey prepared by Bob Nash Associates, Inc., dated August 2013, last revised 30 September 2013, east of but not adjacent to the easterly right of way line of Shawnee Road, also known as SCR 619, at sixty (60) feet wide, adjoining other lands now or formerly of Frank Emmi, Jr., lands now or formerly of Brookstone Trace Subdivision, lands now or formerly of Brian T. Warnock, lands now or formerly of Jayson D. Crouch, lands now or formerly Vincent M. Consentino, lands now or formerly of Leah B. Tazelaar, lands now or formerly of Betty J. Anderson and lands now or formerly of Arthur R. Bradley, being more particularly described as follows, to wit:

BEGINNING at a corner for other lands now or formerly of Frank Emmi, Jr., and at a corner for lands now or formerly of Jayson D. Crouch, said point being distant 300 feet more or less from the centerline of Betty Street and 308 feet, more or less, from the right of way line of Shawnee Road; thence proceeding with said Emmi lands North 26 degrees 07 minutes 16 seconds East 107.84 feet to a found concrete monument at a corner for lands known as Brookstone Trace Subdivision; thence proceeding with said Brookstone Trace Subdivision the following four courses and distances: (1) North 26 degrees 11 minutes 09 seconds East 86.58 feet to a found concrete block on end; (2) South 64 degrees 58 minutes 51 seconds East 222.13 feet to a found concrete monument and (3) South 25 degrees 03 minutes 03 seconds West 191.72 feet to a found concrete monument at corner for lands now or formerly of Brian T. Warnock; (4) South 25 degrees 03 minutes 03 seconds West 191.64 feet to a found concrete monument at a point in the line of Vincent M. Consentino; thence following lands of said Consentino and in part with lands now or formerly of Leah B. Tazelaar, Betty J. Anderson and Arthur R. Bradley, North 65 degrees 14 minutes 12 seconds West 228.68 feet to a found iron pipe at a corner for lands of Brian T. Warnock; thence finally running with lands now or formerly of said Warnock and Jayson D. Crouch, North 25 degrees 54 minutes 02 seconds East 190.02 feet to the place of beginning,

CONTAINING 1.99 ACRES of land, more or less.

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation on whether or not to proceed with said annexation, having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code, having held a Public Hearing on February 18, 2014, having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code, the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved,

That this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in Sussex County, Delaware where said lands are situate.

The Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

That ten days following the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.

The annexation area is contiguous to Ward 2 and City Council intends that these parcels become part of and be included within the Ward 2 area upon annexation.

That the Official Zoning Map and Boundary/Ward Map(s) of the City of Milford, Delaware be amended to include the herein described property.

Now I, Bryan W. Shupe, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on January 25, 2016 at which a quorum was present and voting throughout and that the same is still in full force and effect.

Motion carried by the following unanimous roll call vote:

Mr. Mergner-votes yes stating that it makes sense to tie the two properties together.

Mr. Grier-votes yes stating that it is appropriate to incorporate this land into the Brookstone Trace subdivision.

Ms. Peel-votes yes in conjunction with the planning commission motion.

Mr. Burk-votes yes and supports the recommendation of the planning commission and the State Office of Planning's approval.

Mr. Brooks-votes yes because the owner wants to join this land with the other land.

Mr. Burk moved to adopt Ordinance 2016-01 changing the zoning of the Mispillion Realty LLC land from Sussex County's M-R to the City of Milford's R-3 zone, seconded by Mr. Grier:

*ORDINANCE 2016-01
Change of Zone of Annexed Lands belonging to Mispillion Realty LLC
Tax Parcel 1-30-3.00-080.02
2.00 +/- Acres
Current Zone MR/Proposed Zone R3*

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 2.00 +/- acres of real property from MR to R3 adjacent to Fieldstone Avenue in Brookstone Trace, Milford, Delaware. Present Use: Vacant. Proposed Use: Garden Apartment/Townhouse. Tax Map and Parcel: 1-30-3.00-080.02

Whereas, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on January 19, 2016; and

Whereas, Milford City Council will hold a Public Hearing on January 25, 2016 to allow for public comment and further review of the ordinance; and

WHEREAS, it is deemed in the best interest of the City of Milford to allow a change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Upon the adoption of this ordinance, tax map and parcels 3-30-3.00-080.02, owned by Mispillion Realty LLC located on Fieldstone Avenue in Brookstone Trace, is hereby zoned R3.

Dates:

Planning Commission Review & Public Hearing: January 19, 2016

City Council Introduction: January 11, 2016

City Council Public Hearing: January 25, 2016

Adoption: January 25, 2016

Effective: February 4, 2016

Motion carried by the following unanimous roll call vote:

Mr. Mergner-votes yes based on the recommendation of the planning commission.

Mr. Grier-votes yes because this zoning coincides with the R-3 zoning of the existing subdivision this parcel will be incorporated into.

Ms. Peel-votes yes for the same reasons.

Mr. Burk-votes yes stating it is a reasonable request that fits the nature of the zoning of nearby properties.

Mr. Brooks-votes yes stating the same that Councilman Grier said.

James Roll on behalf of Manufacturers and Traders Trust Company (M&T Bank)

Final Minor Subdivision

1 NW Front Street

Tax Map MD-16-183.10-03-56.00; MD-16-183.10-03-82.00; MD-16-183.10-03-87.00

City Planner Pierce informed council this involves the previous M&T Bank at Front and Walnut Streets. The property is currently zoned C-2 and the most recent use was a bank and the proposed use is a parking lot and a bank.

He said that it appears that over the years, the bank purchased either houses or adjacent lots that created three different parcel numbers. One lots contains a portion of the lot, another lot contains the bank, drive-thru and some portions of the parking lot. In addition, there is an odd shaped parcel toward the rear that contains an additional parking area.

The applicant is seeking to consolidate the three parcels into two parcels and carve out the bank building solely. The residual would involve the parking lot areas.

Mr. Pierce said the lot consolidation is consistent with Chapter 230-13 and meets all design standards and area regulations. The C-2 district does not require setbacks nor off street parking. The intent of the C-2 zone is for those businesses to utilize the downtown public parking areas.

Steven Warren of 730 North Shore Drive, Milford, was present to represent M&T Bank. He stated they simply want to clean the property up and create two deeds instead of one for the new owner.

When asked for public comments; there was no response. The floor was then closed to public comment.

Mr. Grier moved to approved the final minor subdivision, seconded by Ms. Peel. Motion carried.

With no further business, Mr. Mergner moved to adjourn the public hearing portion of the meeting, seconded by Mr. Grier. Motion carried.

— The Public Hearing adjourned at 7:49 p.m.

Respectfully submitted,

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

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 25, 2016

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, January 25, 2016.

PRESIDING: Mayor Bryan W. Shupe

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

City Manager Eric Norenberg, Police Chief Kenneth Brown and
City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:49 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Jonas Winter Storm

Mayor Shupe thanked the utility and street departments for their assistance during what was declared as one of the largest snowstorms on the east coast. He recognized Milford Police Department for their 24/7 coverage despite the weather conditions and Carlisle Fire Company for their ongoing assistance. He noted there were a number of people driving during the storm who had to be helped by our first responders.

City Manager Norenberg reported that we had a number of employees from various city departments plowing the streets. He said they worked throughout the day Saturday. Our water crews were then called back out for a water main break at 1:00 a.m. Sunday morning. That created a lot of ice in the area though it was later taken care of.

As a result, the temporary patch at the intersection of SE Second and Washington will need to be permanently repaired at a later date.

Mr. Grier thanked the city manager for his communication throughout the entire storm. He said it was great having an answer when people questioned him about the storm.

Mr. Norenberg said he could not have done it without the help of the police department staff and Sussex and Kent County Emergency Operation's ongoing notifications. They arranged several conference calls on Friday and Saturday that kept everyone in the loop and enabled him to have the right information to pass on.

COMMUNICATIONS

Included in packet.

UNFINISHED BUSINESS

Approval/Employee Contract

Mr. Grier moved to approve the employment contract for Chief Kenneth Brown as discussed in executive session on January 11, 2016, seconded by Mr. Brooks. Motion carried with no one opposed.

— NEW BUSINESS

Adoption/Resolution 2016-03/All Hazard Mitigation Plan for the City of Milford

City Manager Norenberg stated that in accordance with the Disaster Mitigation Act adopted by the United States Congress, each county is required to plan mitigation efforts that must be updated every five years. Kent County Levy Court adopted their updated Multi-Jurisdictional All Hazard Plan which became effective October 13, 2015.

He noted that Sussex County recently started their update process and because Milford is a bi-county municipality, city council will see a similar resolution for Sussex County in the coming months.

Brandon L. Olenik, Administrative Officer from Kent County Department of Public Safety Emergency Management Division introduced himself noting that the levy court adopted the completed plan in October.

He referred to the 269-page plan available on the city's website.

Mr. Olenik reported that the process took about a year with the help of a consultant who will also be working with Sussex County. Following its completion, every municipality in the county will be contacted by the consultant for feedback.

Mr. Norenberg will be meeting with Mr. Olenik to discuss the locally specific mitigation actions needed including moving Milford Fertilizer out of the floodplain, a backup emergency radio system, an update reverse notification system and the development of riparian buffer standards for building setbacks along the Mispillion River which is already underway.

— Mr. Norenberg will be updating council on the status of the implementation of those items.

Mr. Olenik noted that by adopting the Kent County plan makes the City of Milford eligible for hazard mitigation assistance programs and more specifically, the mitigation grant program and pre-disaster mitigation program which involves two FEMA grants. That will allow federal money to cover the actions included in the plan.

Mr. Brooks moved to adopt Resolution 2016-03, seconded by Ms. Peel:

ADOPTION OF KENT COUNTY ALL HAZARD MITIGATION PLAN

WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local government develop and adopt natural hazard mitigation plans in order to receive certain federal assistance, and

WHEREAS, a local Hazard Mitigation Advisory Committee comprised of county governmental departments, municipal council members, business community representatives, nonprofit organizations and citizens working in Kent County of the State of Delaware, convened in order to study the City of Milford's risks from, and vulnerabilities to natural, technological and terrorism and to make recommendations on mitigating the effects of such hazards on the city, and

WHEREAS, a contract was issued to an experienced consulting firm to work with the Kent County Hazard Mitigation Advisory Committee and the Delaware Emergency Management Agency to develop a comprehensive All Hazard Mitigation Plan for Kent County in Delaware, and

— *WHEREAS, the efforts of the City of Milford, Kent County, and the consulting firm have resulted in the development of an All Hazard Mitigation Plan for Kent County and the City of Milford.*

NOW THEREFORE, BE IT RESOLVED by Milford City Council, that the updated Kent County All Hazard Mitigation Plan, dated October 13, 2015, is hereby approved and adopted for the City of Milford and Kent County in the State of Delaware. A copy of the plan can be found on the City of Milford website.

— Motion carried.

Approval/Amended & Restated City of Milford Retirement Plan

Mr. Norenberg explained that the city's retirement plan must also be re-adopted every five years, including any voluntary amendments or changes that have been made to the plan. At this time, there have been no changes or amendments to the current plan though we must restate the plan by January 31, 2016.

This was requested by Human Resources Manager Lisa Carmean.

Mr. Burk moved to approve the amended and restated City of Milford Retirement Plan, seconded by Ms. Peel. Motion carried.

EXECUTIVE SESSION

Mr. Mergner moved to go into executive session, seconded by Ms. Peel, reference below reason.

Property Sale/Lease/Incentives-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

Mayor Shupe temporarily recessed the Council Meeting at 8:02 p.m. for the purposes as are permitted by Delaware's Freedom of Information Act.

— *Return to Open Session*

City Council returned to regular session at 8:39 p.m.

Approval/Letter of Conditions

Ms. Peel moved to approve the Letter of Conditions discussed in Executive Session, seconded by Mr. Burk. Motion carried.

ADJOURN

Mr. Mergner moved to adjourn the Council Meeting, seconded by Mr. Grier. Motion carried.

The Council Meeting adjourned at 8:41 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder