

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 9, 2017

The City Council of the City of Milford met in Workshop Session on Monday, January 9, 2017 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Arthur Campbell, Lisa Peel, James Burk,
Owen Brooks Jr, Douglas Morrow and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Council Workshop to order at 6:03 p.m.

UFS Presentation-City Electric Rate Preliminary Study & Recommendation

City Manager Norenberg recalled City Council authorizing an agreement with Utility Financial Solutions (UFS) several months ago to engage in a Cost of Services Analysis and Rate Study. Since that time, UFS has been gathering data about the City's electric utility both on the cost and rate side and comparing that to our current rate design. After a review with City staff, they are prepared to present the preliminary results for dialog and discussion in order to prepare the final rate design to be presented to Council at a later date.

UFS President Mark Beauchamp then provided an overview of the process and the five-year long-term financial projection that will incorporate the City's capital improvements, power costs, etc. It will be used to set a rate track of how rates should change over a period of time to keep the utility financially stable.

The first Council decision will be to decide whether to proceed with the proposed rate track or if something different is needed. He noted that a rate decrease is actually being recommended in Milford though in most cases, a rate increase is suggested.

He will also discuss certain key financial targets the utility must maintain to ensure the financial stability of the utility is maintained during a five-year or longer period.

The last item presented will be the cost of service results. He explained the cost of survey study takes the total amount of revenue requirements, meaning how much money must be recovered from customers through the rates that are charged, and identifies who is causing the costs to be incurred.

For example, power supply includes a demand charge. The cost of survey study identifies what class is using power during the demand period in order to allocate demand-related cost estimates which result in cost causation principles.

The total cost to provide service to each class is then compared to the projected revenues to identify how each class needs to change to meet its cost of service requirement.

The minus 3% (decrease) being recommended and the cost of service study finds there is a variation between classes. The second question of City Council is how much leeway can be provided to move the classes closer to the cost of service results. They are recommending it be moved slowly over a period of time to prevent any 'rate shock'.

The third question identifies the monthly customer charge which is a definite weakness in the City's rate structure. The current charge is \$4 which include 5 kilowatt hours of electricity. The cost of service study finds that should be substantially higher.

Mr. Beauchamp will review what each customer charge represents and explain why it is important to get it to the appropriate level.

The first part in the financial projection is the assumptions with respect to the future. They are as follows:

Annual Inflation-2.5%	Power Supply Cost Changes:
Annual Growth Rate-.66%	*2018 - 5% Decrease
Capital Plan	*2019 - 0.3% Increase
*2018 - \$900,000 per year	*2020 - 0%
*2019 - \$900,000 per year	*2021 - 2.5% Increase
*2020 - \$900,000 per year	*2022 - 2.5% Increase
*2021 - \$900,000 per year	
*2022 - \$900,000 per year	

Mr. Beauchamp reiterated there are three key financial targets to assess the financial health (highlighted). The 'debt coverage ratio' is the maintenance of a certain cover ratio which is typically 1.2 or another 20% that must be generated in cash flow through operations over the debt service payment. Milford is a low-debt utility and debt coverage is not a problem.

The second target 'projected cash balances and recommended minimum cash' is based on a calculation of what cash Milford should maintain which is a minimum of \$4.7 million. Without any rate change, the projected cash balance in 2018 is projected above that at \$6 million and is projected to increase to \$10 million in 2022. Therefore, the City is in good shape with respect to cash.

The third target 'target operating income' incorporates depreciation expenses in the expense category even though it is a non-cash expenditure.

Mr. Beauchamp further explained that if Milford spent \$1 million in capital with a twenty-year life, the City will not spend a lot of money for repairs and replacement during the early years; however, it will cost more as the asset gets older. That asset is wearing down every year and that depreciation expense needs to be recovered through the customers who are using it. If not, it has to be left for the next generation.

He advised that a target operation income is established through a rate of return though it is not a way to make money. It is a rate of return to break even. If the City charged depreciation expenses, at the end of the twenty-year capital life span, that money has been theoretically recovered. The break-even target operating income is the inflationary increase of the asset replacement cost.

He emphasized that if those two factors are not recovered when establishing rates, the City will create generational subsidies which should be prevented.

The target operating income is approximately \$800,000 plus a year; the operating income does not fall below that target until 2022. They find that Milford is a very healthy utility.

PROJECTION WITHOUT RATE CHANGE

Fiscal Year	Projected Rate Adjustments	Debt Coverage Ratio	Projected Expenses	Projected Revenues	Adjusted Operating Income	Target Operating Income	Projected Cash Balances	Recommended Minimum Cash
2018	0.0%	8.44	24,378,015	26,337,865	1,959,850	810,849	6,042,803	4,732,677
2019	0.0%	7.98	24,702,326	26,511,695	1,809,369	835,173	7,586,082	4,777,493
2020	0.0%	7.78	24,994,147	26,686,672	1,692,525	859,547	9,056,338	4,816,739
2121	0.0%	6.23	25,755,313	26,862,804	1,107,491	884,033	9,985,157	4,907,484
2022	0.0%	4.62	26,538,580	27,040,098	501,518	908,673	10,349,048	5,003,744

As a result, UFS is recommending a 3% rate decrease for 2018. That lower rate can be maintained for two years. A slight rate increase of 1.5% is projected in 2020, 2021 and 2022.

Mr. Beauchamp cautioned Council that a long term projection, is based on a lot of assumptions. Every year, the projection should be updated so that as it reaches the end of the five-year projection, it can be determined what is needed.

He confirmed Council is comfortable lowering the rate by 3% considering the financial projection. He noted that even with that decrease, it is still over on the adjusted operating income.

Mr. Beauchamp further explained that the cost of service study actually showed the rates could be lowered by 4.4%; however, that was not done because there is a high probability a rate increase will be needed in 2019. He feels more of a balance over the next years is a better solution.

He confirmed that the 3% decrease is an average decrease for all classes.

RECOMMENDED RATE TRACK

Fiscal Year	Projected Rate Adjustments	Debt Coverage Ratio	Projected Expenses	Projected Revenues	Adjusted Operating Income	Target Operating Income	Projected Cash Balances	Recommended Minimum Cash
2018	-3.0%	6.29	24,378,015	25,553,279	1,175,263	810,849	5,258,216	4,732,677
2019	0.0%	5.71	24,702,326	25,721,930	1,019,605	835,173	6,007,808	4,777,493
2020	1.5%	6.59	24,994,147	26,280,070	1,285,923	859,547	7,063,571	4,816,739
2121	1.5%	6.17	25,755,313	26,850,322	1,095,009	884,033	7,969,944	4,907,484
2022	1.5%	5.724.62	26,538,580	27,432,947	894,366	908,673	8,716,607	5,003,744

Mr. Beauchamp explained the 1.5% increases are driven by power cost increases which are out of the City's control. He is assuming there will be a 2.5% increase in power costs in 2021 and 2022. They are driven mainly by natural gas prices and is an unknown at this point and one of the reason he expressed caution about the projection for years four and five. As 2020 and 2021 get closer, the 1.5% increase will need to be reviewed.

The general consensus of Council was they were comfortable with lowering the rate as long as the City recovers its costs at the same time.

Councilman Burk pointed out the study included an increase in the residential customer charge from \$4 to \$16 and asked if that was taken into account. Mr. Beauchamp does not recommend increasing the charge from \$4 to \$16 and instead suggests a tiered approach though he will discuss that when solar is addressed.

Mr. Beauchamp stated that certain factors are used to identify the minimum level of cash reserves that are needed. 'Working capital lag' is the time between when the City pays bills and when customers pay their bills. For example, the power provider bills the City for January's readings and the City pays that bill in February. The customer meters are also read the end of January though the City does not get that money until the end of the following month. He pointed out there is always at least a 45-day working capital lag when billing monthly. Therefore, cash is needed in reserves at all times to pay bills in a timely fashion and until such time it is received from the customers.

The second issue is the age of the infrastructure which means more exposure to a catastrophic event. The City's distribution infrastructure is on the older side. The average distribution system throughout the United States is about 50% depreciated and the City's system is substantially above that. Because of its age, there is going to be a need to spend a lot of money to reinvest in that system at some point in the future.

UFS wants to make sure there is sufficient funding in the reserves to start the repair and replacement process. Should something happen, there must be enough money to start the process until adequate financing can be arranged.

Though most utility customers believe that the price of electric is most important with an electric system, reliability of service is actually more important. The main focus in Milford should be to provide reliable service to our customers and the main reason for the minimum reserve level to ensure that when a capital project is needed, there is money available. When quantified, that minimum number should be \$4.7 million.

DEBT COVERAGE RATIO (NO CHARGES)

DESCRIPTION	Projected 2018	Projected 2019	Projected 2020	Projected 2021	Projected 2022
Debt Coverage Ratio					
Net Income	1,830,988	1,659,688	1,555,664	983,228	387,299
Add Depreciation/Amortization	935,591	953,591	989,591	1,025,591	1,061,591
Add Interest Expense	184,845	179,895	174,791	169,545	164,145
Cash Available for Debt Services	2,951,425	2,793,175	2,720,047	2,178,364	1,613,035
Debt Principal & Interest	349,845	349,895	349,791	349,545	349,145
Projected Debt Coverage Ration (Covenants)	8.44	7.98	7.78	6.23	4.62
Minimum Debt Coverage Ratio	1.4	1.4	1.4	1.4	1.4

ELECTRIC DEPARTMENT MINIMUM CASH RESERVE

Description	2018	2019	Projected 2020	2021	2022
Minimum Cash Reserve Allocation					
Operation & Maintenance Less Depreciation Expense	12.3%	12.3%	12.3%	12.3%	12.3%
Purchase Power Expense	11%	11.0%	11.0%	11.0%	11.0%
Historical Rate Base	3%	3%	3%	3%	3%
Current Portion Debt Service Payment	74%	74%	75%	76%	76%
Five-Yr Capital Improvements/Net of Bond Proceeds	20%	20%	20%	20%	20%
% Plant Depreciated	56%	58%	59%	61%	62%
Calculated Minimum Cash Level					
Operation & Maintenance Less Depreciation Expense	647,684	663,876	680,473	697,485	714,922
Purchase Power Expense	1,997,227	2,016,440	2,029,749	2,094,224	2,160,747
Historical Rate Base	930,307	957,307	984,307	1,011,307	1,038,307
Current Portion Debt Service Payment	257,459	259,870	262,211	264,470	269,769
Five-Yr Capital Improvements/Net of Bond Proceeds	900,000	880,000	860,000	840,000	820,000
Minimum Cash Reserve Levels	4,732,677	4,777,493	4,816,739	4,907,484	5,003,744
Projected Cash Reserves	6,042,803	7,586,082	9,056,338	9,985,157	10,349,048

ELECTRIC DEPARTMENT TARGET OPERATING INCOME

Description	2018	2019	Projected 2020	2021	2022
Target Operating Income Determinants					
Net Book Value/Working Capital	13,531,905	13,478,314	13,388,722	13,263,131	13,101,539
Outstanding Principal on Debt	<u>4,720,000</u>	<u>4,550,000</u>	<u>4,375,000</u>	<u>4,195,000</u>	<u>4,010,000</u>

System Equity	8,811,905	8,928,314	9,013,722	9,068,131	9,091,539
Target Operating Income Allocation					
Interest on Debt	3.92%	3.95%	4.00%	4.04%	4.09%
System Equity	7.10%	7.34%	7.60%	7.88%	8.19%
Target Operating Income					
Interest on Debt	184,845	179,895	174,791	169,545	164,145
System Equity	<u>626,004</u>	<u>655,278</u>	<u>684,756</u>	<u>714,488</u>	<u>744,528</u>
Target Operating Income	810,849	835,173	859,547	884,033	908,673
Minimum Cash Reserve Levels	<u>1,959,850</u>	<u>1,809,369</u>	<u>1,692,525</u>	<u>1,107,491</u>	<u>501,518</u>
Projected Cash Reserves	6%	6.2%	6.4%	6.7%	6.9%

The cost of service study implies that the residential rate should be reduced 6.3%; small general service reduced 6.7%; city street lighting increased 39%; security lighting decreased 13%; medium general service reduced 1%; large general service decreased 6% etc. as shown below:

ELECTRIC COST OF SERVICE RESULTS

<u>Customer Class</u>	<u>Cost of Service</u>	<u>Projected Revenues</u>	<u>% Change</u>
Residential Service	9,154,781	9,770,811	-6.3%
Small General Service	1,224,605	1,312,794	-6.7%
City Lighting	120,476	86,266	39.7%
Security Lighting	24,029	27,605	-13%
Medium General Service	4,841,417	4,898,582	-1.2%
Large General Service	768,587	620,401	-6.3%
General Service Primary Voltage	3,338,532	3,617,760	-7.7%
Special Contract Service	5,174,792	5,253,547	-1.5%
City Accounts	356,658	365,112	-2.3%

Total	25,003,877	26,152,877	-4.4%

Mr. Beauchamp then explained that if the reduction of rates by 3% is approved, how much bandwidth needs to be provided to move these classes closer to cost of service within a +/-2% bandwidth. That means some classes could be lowered as much as 5% while others would only see a 1% decrease. They would work in that range and move them slower toward cost of service.

If Council agrees to a +/-2% bandwidth, the residential class will most likely see a 4% decrease.

He noted that the city lighting is part of the general fund, and he will most likely only ask for a 1% decrease though it actually shows the need for an increase.

The medium general service will only get about a 1% decrease though they will work within that range to move these classes closer to the cost of service.

Mr. Beauchamp reiterated that they recommend a +/-2% bandwidth around the 3% decrease.

Mr. Beauchamp explained that a rate design packet will be created showing every class and how each will be impacted. It will show the residential class having a 4% decrease, for example. However, it will not be uniform because of the other factors involved. Some may see a 6% decrease and others may see a slight increase. Overall, all residential customers will have a 4% decrease.

Even though the rate for the class is decreasing, his preference is to increase the customer charge which means they will further lower the energy charge.

The customer charge primarily impacts residential and small general service customers and makes little difference to the larger customers. When a meter is installed on a customer's home or facility, the utility bears the cost to install, repair, replace, read, and build the meter (service drop charge). Those are all fixed costs that do not vary based on consumption.

He referenced the number of people that move to Florida during the winter as an example. If they are not charged the proper customer charge, then the year-round-rate payers are subsidizing those seasonal customers.

Mr. Beauchamp also informed Council there is an underlying belief that increasing the customer charge will more adversely impact low-income customers. He explained that what most utilities don't realize is that most low income customers tend to be higher than average electric consumers and not less. Therefore, they actually benefit from increases of customer charges. They typically do not buy a home or rent a home that was built in the last twenty years and most likely are in an older home built without the proper insulation, windows or air conditioners. They cannot afford to purchase the energy efficient appliances or change out the lightbulbs to LEDs. Other factors such as larger families or more than one family living in the home creates higher bills as well. Therefore, the higher customer charge tends to benefit most low-income families.

MONTHLY CHARGE

<u>Customer Class</u>	<u>Cost of Service Customer Charge</u>	<u>Current Average Customer Charge</u>
Residential Service	16.63	4.00
Small General Service	23.37	6.00
Medium General Service	75.67	7.00
Large General Service	152.78	18.00
General Service Primary Voltage	286.89	21.00
Special Contract Service	385.99	

He then discussed net metering in the State of Delaware which is hot topic right now because of solar. For example, a solar customer takes 1,000 kilowatt hours from the City's electric system, but gives back 600 kilowatts. The reason that happens is because solar residential customers use energy early in the morning and early in the evening. Solar production is in the afternoon. The customer is drawing from the electric system in the morning and early evening and giving it back in the afternoon. Net metering 'nets' the two together and results in a bill for the 400 kilowatt hours.

Mr. Beauchamp said everyone in the industry, including the solar companies, know that is wrong. The State of Delaware has legislation that allows that as well.

Part of the way to correct that is to adjust that customer charge up. One of his recommendations is to increase the customer charge from \$4 to \$6 and maybe \$7 because it will have an adverse impact on low users. The intent is not to create rate-shock or have customers' bills substantially rise, particularly when we are decreasing the residential rate.

Mr. Beauchamp explained that the rate design packet will show the impact of different levels of usage for residential customers.

He also pointed out that part of the reason there is a cost shift that occurs with solar customers is because residential customers peak either early in the morning or early in the evening. The City has to maintain the same sizing of transformer and distribution needs for that customer even though they are using less total electricity. This is because solar does not reduce the demand that a residential customer places on the distribution system.

Mr. Beauchamp then asked if Council is comfortable with a \$2 increase in the residential customer charge; he emphasized that will keep the energy rate lower. In total, residential customers will see an approximate 4% decrease even with the increase in the customer charge.

He also pointed out there is a portion of the distribution infrastructure that goes into the customer charge. That portion is a theoretical calculation of how much it would cost to build a distribution infrastructure. If a customer uses zero electricity

but wants to be connected to the system, there is still a wire that runs to them. That is what the customer charge is attempting to recover.

When asked if Council is comfortable with a \$2 increase in the customer charge, Mr. Brooks emphasized that when the electric rates go up in a couple years, that charge will remain. Mr. Beauchamp reiterated that his recommendation is to continue to raise the customer charge. In an ideal world, he would increase it by \$2 each year but have a corresponding reduction in the energy charge, thus moving it slowly over time.

When asked a question about the reason for the customer charge increase, Mr. Beauchamp stated that power costs are not recovered through that charge and only distribution lines. Secondly, the City of Milford has a power cost adjustment mechanism in place that is non-functioning. He recommends the City put in place a functioning power cost adjustment. That would be part of the rate design package.

The projected 2.5% increase in 2021 and 2022 in power costs would be automatically picked up through the power cost adjustment mechanism. The same would apply if there was a decrease.

Mr. Beauchamp referenced Delaware Co-Op who is increasing their rates but is advertising a 5% rate decrease because their power cost adjustment mechanism is dropping.

Councilman Campbell asked if there will be a cap on the customer charge increase projected each year; Mr. Beauchamp recommends increasing it by \$2 each year and lowering the energy rate over the next six years and until that charge becomes \$16.

Mayor Shupe asked City Manager Norenberg that if City Council should approve the 2% increase in three years or if that should be a decision made by future City Councils.

Mr. Norenberg explained the goal is to develop a multi-year plan for the City to follow. This needs to be reviewed on an annual basis because of future unknowns such as power costs. He suggests stating that we recommend and plan to make the customer charge increase over the next three to four years and study it in three to four years to make sure we are on track with the expenses and other costs that factor into that charge.

He agrees that as City Management and City Council change during that time, they will need to confer on how to proceed with the customer charge and rates. The customer charge means an increase in revenue but we are decreasing revenues to cover the same expenses in the kilowatt hour fee. Therefore, it is balancing act which is why the need for the periodic reviews.

Mr. Norenberg informed Council that DEMEC provides a forecast of the power costs and we have a good idea of what it will look like over the next couple years. Beyond that, it could change based on natural gas prices, etc.

Mayor Shupe said the point he is making is that this should continue as an ongoing operational matter with an annual review.

Councilman Campbell expressed concern that the majority of residents already feel that Milford has an extremely high cost of residential electric though it appears we are actually in the middle of the road when compared to other utility companies in Delaware.

Councilman Burk pointed out that we still need a long term plan though we may need to change directions while working toward the same goal. He likes what UFS has presented and feels it is a good plan.

Mr. Norenberg added that UFS will be providing the City Finance Director with a tool to help monitor the adjustments that have been handled by the power cost adjustment versus paying the former consultant for those services on a monthly basis. In that manner, he will keep City Council much more informed.

The City Manager then confirmed the consensus of City Council was to proceed with the preliminary plan as has been submitted by UFS, including the +/-2% bandwidth so the largest decrease would be approximately 5% and the smallest 1%,

along with the incremental change relative to the customer charge.

City Council agreed.

There being no further business, the Workshop Session concluded at 6:57 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 9, 2017

Milford City Council held a Public Hearing on Monday, January 9, 2017 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Arthur Campbell, Lisa Peel, James Burk,
Owen Brooks Jr, Douglas Morrow and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Public Hearing to order at 7:03 p.m.

City Planning Coordinator Rob Pierce was also present.

*Adoption/Ordinance 2016-15
Code of the City of Milford Part II-General Legislation
Chapter 230-Zoning
Article II-Designation of Districts & Article III-Use and Area Regulations
Creation of New Zoning District/C2-A/Riverfront Development District*

The Planning Coordinator reported a Public Notice was advertised in the Milford Beacon on November 23, 2016. He referenced the memo in the packet that was addressed to the Planning Commission and outlined the details which are the result of the Rivertown Rebirth Plan created in September 2015 and adopted in early 2016.

He noted that the Planning Commission began discussions in August at which time an ordinance was drafted similar to the C2 (Central Business District) zone. Building heights were increased to four stories and density increased to sixteen units per acre which aligns with the R3 zoning district. The proposed ordinance, also presented to the Community Affairs Committee, also includes the majority of their recommendations.

There were subsequent reviews and various components were tweaked; one being limiting the zone to riverfront properties thus separating it from Walnut, Northwest Front Street and the surrounding historic areas as can be seen in the packet.

The Planning Commission recommended approval of the new zone by unanimous vote at their November 2016 meeting.

Consistent with the Rivertown Rebirth Plan, the ordinance will promote density and housing opportunities in the downtown areas.

There being no questions or comments from City Council, Mayor Shupe opened the floor to public comment. When no one responded, the Mayor closed the public comment portion of the hearing.

Councilwoman Peel moved to adopt Ordinance 2016-15, seconded by Councilman Campbell:

ORDINANCE 2016-15
CODE OF THE CITY OF MILFORD
PART II-GENERAL LEGISLATION
CHAPTER 230-ZONING ARTICLE II-DESIGNATION OF DISTRICTS
&
ARTICLE III-USE AND AREA REGULATIONS

Creates C2-A/Riverfront Development District

WHEREAS, the City of Milford deems it necessary to classify, regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location, use and extent of buildings, structures and land for residence, trade, industry and other purposes; and

WHEREAS, the City creates districts for said purposes; and

WHEREAS, the City of Milford proposes the purpose of the Riverfront Development District is to create an atmosphere that encourages mixed use residential and commercial development along riverfront properties in the downtown area. The district shall preserve the character of the adjacent central business district and historic areas while providing an attractive and convenient combination of shopping and living units.

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 a new zoning category.

Section 2.

Article II-Designation of Districts, 230-5. Types of Districts is hereby amended as follows:

For the purpose of this chapter, the portions of the City of Milford included within the Zoning Map adopted under this chapter are divided into ~~15~~ *16* types of districts as follows:

Designation	Characteristic Description
R-1	Single-Family Residential District
R-2	Residential District
R-3	Garden Apartment and Townhouse District
C-1	Community (Neighborhood) Commercial District
C-2	Central Business District
<i>C-2A</i>	<i>Riverfront Development District</i>
C-3	Highway Commercial District
H-1	Institutional Development District
I-1	Limited Industrial District
I-2	General Industrial District
OC-1	Office Complex District
OB-1	Office Building District
BP	Business Park District
IS	Institutional Service District
IM	Institutional Medical District
R-8	Garden Apartment and Townhouse District

Section 3.

Article III-Use and Area Regulations is hereby amended by adding the following:

§ 230-13.1 C-2A Riverfront Development District

In a C-2A District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

- A. *Purpose. The purpose of the Riverfront Development District is to create an atmosphere that encourages mixed use residential and commercial development along riverfront properties in the downtown area. The district shall preserve the character of the adjacent central business district and historic areas while providing an attractive and convenient combination of shopping and living units. The district shall be limited to those properties adjacent to the Mispillion River and shall be prohibited along North and South Walnut Street, Northwest Front Street and shall not be allowed within any of the historic districts.*
- B. *Permitted uses. In a C2-A district, land, buildings or premises shall be used by right for one or more of the following:*
- (1) General merchandise stores, including such uses as department stores, apparel and accessories, hardware, shoes, drugs and variety stores.*
 - (2) Specialty retail stores, including such uses as gifts, antiques, crafts, newspapers, beer, wine or liquor, tobacco, flowers, sporting goods, books, jewelry, leather goods and stationery stores.*
 - (3) Personal service establishments, including such uses as barbers, beauticians, shoe repair and tailors.*
 - (4) Financial institutions, loan companies and banks.*
 - (5) Restaurants, excluding fast-food or franchised food service operated restaurants.*
 - (6) Retail food stores, including bakeries, confectionery, candy or gourmet shops, small convenience grocery shops (without gas pumps) and meat, fish or produce stores.*
 - (7) Professional services and administrative activities, including such uses as offices of agents, brokers, physicians, dentists, attorneys, architects, engineers, musicians and artists and governmental offices serving the public.*
 - (8) Libraries, museums, art galleries and public information centers.*
 - (9) Fraternal, social service, union or civic organization.*
 - (10) Studio for artists, designers, photographers, musicians, sculptors and related uses.*
 - (11) Municipal and public services and facilities, including City Hall, municipal parking lots, water storage towers, water reservoirs, water pumping stations, water treatment plants, sewage pumping stations, sewers (storm and sanitary), street rights-of-way, utility transmission and distribution lines, public transportation bus or transit stops, police and fire stations and substations for electric, gas and telephone facilities.*
- C. *Conditional uses subject to special requirements. The following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:*
- (1) Commercial indoor recreation activities, including amusement arcades, indoor theaters, social clubs, youth clubs or similar facilities.*
 - (2) Laundromats and dry-cleaning establishments.*
 - (3) Fast-food or franchised food service operated restaurants.*
 - (4) Day-care centers.*
 - (5) Community residential treatment program.*
 - (6) Multifamily residential when part of a mixed-use development, with commercial uses in the same building and/or on the same site.*
 - (7) Nano or microbrewery with or without associated pub.*
- D. *Area and bulk requirements.*
- (1) Maximum number of units per acre shall be 16.*
 - (2) Minimum lot area shall be 5,000 square feet.*
 - (3) Minimum lot width shall be 50 feet.*
 - (4) Maximum building coverage shall be 60%*
 - (5) Front yard setback shall be 15 feet minimum*
 - (6) Side yard setback shall be 14 feet aggregate total with a minimum of 6 feet.*
 - (7) Rear yard setback shall be 20 feet.*
 - (8) Height of buildings shall not exceed four stories or 50 feet.*
 - (9) Minimum separation distance between dwelling structures on the same lot shall not be less than 15 feet.*
 - (10) Parking shall comply with the requirements provided in Article IV of this chapter.*
 - (11) Signs shall comply with the requirements for C-2 Central Business District as provided in Article VI of this*

chapter.

(12) For mixed use residential and commercial projects, off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission.

Section 4. Dates.

Planning Commission Review and Public Hearing: December 20, 2016

City Council Introduction: December 12, 2016

City Council Review and Public Hearing: January 9, 2017

Adoption: January 9, 2017

Effective: January 19, 2017

Motion carried by the following 6-0 roll call vote:

Councilman Campbell votes yes based on the review and recommended approval of the Planning Commission and its complete review.

Councilwoman Peel votes yes based on the recommendations from the Community Affairs Committee, the Downtown Development District and the Planning Commission.

Councilman Burk votes yes for the reasons that have been stated.

Councilman Brooks votes yes for the same reasons.

Councilman Morrow votes yes and agrees with the reasons given by the previous Councilmembers.

Councilwoman Wilson votes yes for the same reasons stated by Councilman Campbell and Councilwoman Peel.

There being no further business, Councilwoman Peel moved to adjourn the Public Hearing, seconded by Councilman Burk. Motion carried.

The Public Hearing adjourned at 7:11 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 9, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, January 9, 2017.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Arthur Campbell, Lisa Peel, James Burk,
Owen Brooks Jr, Douglas Morrow and Katrina Wilson

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 7:39 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion to approve the December 12, 2016 Committee and Council Meetings made by Councilmember Brooks, seconded by Councilmember Burk. Motion carried.

RECOGNITION

Winter Storm Helena

Mayor Shupe commended the Public Works and Police Department for their aid during the recent storm which brought three to nine inches of rain in various parts of the City. These departments made sure the roads were clear and our residents were safe.

Elected Officials/Campaign Finance

Mayor Shupe reminded Council that their end of the year reports must be filed no later than January 20th.

City of Milford Promotions

City Manager Norenberg recalled Council recognizing three City Employees who were retiring. Tonight he is introducing Ralph Skinner Jr. (RJ) who has been through a training and transition process that has qualified him for a promotion to Parks Superintendent.

Parks and Recreation Director Brad Dennehy informed Council that Mr. Skinner began as a seasonal employee in the Solid Waste Department and worked himself up through the ranks. He is a dedicated employee and only the third Parks Superintendent in more than forty plus years. He also lends a hand on the recreational side and assists with the youth basketball league on Saturdays.

Mr. Skinner then stood up and Councilmembers congratulated him.

Milford Police Department Officer Recognition

Chief Brown informed Council of two incidents in which he wanted to commend his officers.

On December 23, 2016, Sergeant Timothy Lord, Private First Class John Collins and Patrol Officers Sean Hudson and Tel Clayton responded to an apartment complex in Milford where two individuals were suffering from heroin overdoses. Chief Brown said that through a grant from the State of Delaware, officers have been trained to administer Narcan, an antidote used in opiate addiction.

When the officers arrived, they found the subject in distress. Officer Hudson immediately began to administer the Narcan which saved his life. The other officers were responding to the second individual; however, that person began to respond before they were able to administer the drug. Chief Brown emphasized that it was the quick action of these four officers that saved the lives of the two individuals.

He then presented commendations to Sergeant Tim Lord, Officers John Collins, Tel Clayton and Sean Hudson which read as follows:

“In recognition of your life-saving efforts when responding to a dual heroin overdose in progress on December 23, 2016. Your immediate actions resulted in both subjects surviving the incident.”

Chief Brown then recognized Sergeant Lord’s shift for a second incident that occurred on January 2, 2017 that included K-9 Officer Timothy Webb.

He described the incident stating that Milford citizen Joshua Dickson was across the street from the Milford Diner when he heard glass breaking. He observed an individual attempting to crawl in a broken window at the restaurant and called police. K-9 Officer Webb, along with the other Milford Officers, were immediately dispatched to the scene. The K-9 officer chased the robbery suspect out of the restaurant where he was apprehended by Patrolman First Class John Collins.

Chief Brown attributed the arrest and apprehension of the defendant to Mr. Dickson’s swift actions.

Mr. Dickson was presented with a certificate which read as follows:

“In recognition of your assistance and apprehension of a burglary suspect on January 2, 2017. Your quick action to report the breaking of glass and description of the suspect assisted officers in the suspect’s apprehension and arrest.”

Sergeant Lord, Corporal Webb, Patrolman First Class Collins and Patrolman Clayton received a second commendation which read as follows:

“In recognition of the apprehension of a burglary-in-progress subject on January 2, 2017. Your professional handling of the incident resulted in the suspect being apprehended without injury to the suspect, yourself or fellow officers.”

Chief Brown then further acknowledged Sergeant Lord who in December 2016, was recognized for being awarded Delaware Crime Stopper’s Robert J. Seinsoth Memorial Law Enforcement of the Year Award for medium-sized police departments.

Lord’s recognition stemmed from major drug arrests he made over the past ten plus years which resulted in the seizure of 2,300 bags of heroin, 2,400 grams (5.3 pounds of marijuana), 56 grams of cocaine and 1 gram of methamphetamine, as well as three firearms, more than \$12,000 in drug money, as well as vehicles and video equipment and the arrests of 50 individuals.

Proclamation 2017-01/Martin Luther King Day

Mayor Shupe read the following proclamation into record acknowledging the work of the late Martin Luther King:

*PROCLAMATION 2017-01
Martin Luther King Jr. Day*

WHEREAS, the Reverend Dr. Martin Luther King, Jr. was born in Atlanta, Georgia, on January 15, 1929, and has made a lasting impression as a key leader in the American Civil Rights Movement during the 1950s and 1960s; and

WHEREAS, Dr. King dedicated his life to the advancement of the fundamental principles of freedom, opportunity, and equal justice for all; and

WHEREAS, Dr. King's outstanding leadership, inspiring speeches and diligent efforts on behalf of our nation's at-risk and minority population have encouraged millions of Americans to share his dream of civil equality and to bring this dream closer to reality; and

WHEREAS, Dr. King promoted nonviolence and compassion and his followers of all races and creeds rallied around him and his vision for universal equality, camaraderie and peace, which we continue to strive for today in our homes and communities; and

WHEREAS, his vision of a world free of hatred and injustice has changed the face of American society and continues to inspire people around the world; and

WHEREAS, let us reflect on the words and deeds of Martin Luther King Jr., and consider what each of us can do today to help keep his dream alive.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do hereby proclaim January 16, 2017 as Martin Luther King Jr. Day in the City of Milford and ask that each of us honor Dr. King's legacy and focus on bringing people together to break down the barriers that have divided us as a nation.

The proclamation will be included in the permanent records of the City of Milford.

Proclamation 2017-02/School Choice Week

The following proclamation was requested by Andrew R. Campanella, President, National School Choice Week commemorating January 22-28, 2017 as City of Milford School Choice Week:

WHEREAS all children in the City of Milford should have access to the highest-quality education possible; and

WHEREAS City of Milford recognizes the important role that an effective education plays in preparing all students in City of Milford to be successful adults; and

WHEREAS quality education is critically important to the economic vitality of City of Milford; and

WHEREAS City of Milford is home to a variety of high quality public and nonpublic schools from which parents can choose for their children, in addition to families who educate their children in the home; and

WHEREAS, educational variety not only helps to diversify our economy, but also enhances the vibrancy of our community; and

WHEREAS City of Milford has many high-quality teaching professionals in all types of school settings who are committed to educating our children; and

WHEREAS, School Choice Week is celebrated across the country by millions of students, parents, educators, schools and organizations to raise awareness of the need for effective educational options.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do hereby proclaim January 22-28, 2017 as School Choice Week and call this observance to the attention of all of our citizens.

A copy will be forward to Mr. Campanella.

Monthly Police Report

Police Committee Chairman Burk presented the monthly Police Report on behalf of Chief Brown. He referred to the events described in the report noting that our officers do much more than keep our citizens and community safe. He feels that is what separates Milford from the other police agencies in Delaware.

Chairman Burk moved to accept the Monthly Report, seconded by Councilman Campbell. Motion carried.

Chief Brown stated that on behalf of the Police Department, he would like to commend Public Works Director Mark Whitfield and City Manager Eric Norenberg for the great job their crews did at the Police Department with the snow removal. He said it was the best snow removal he has experienced and asked that they relay his appreciation. They began treating the parking lot and roadways before the snow began, were back shortly after it began falling and kept it clear throughout the event.

Monthly City Manager Report

City Manager Norenberg referenced his report with the various updates and statistics.

He added that he is continuing to proceed with the new phone system as has been discussed. The few problematic areas in some of the departments have been corrected. All the individual systems have been replaced with one master system which should be much more efficient. Training began today and new phones will be installed over the next few days with the actual changeover scheduled this Friday.

The City Manager and Mr. Pierce are working on the RFP for land development proposals for the City-owned riverfront property in downtown Milford which was the subject of the earlier public hearing.

In addition, an RFP is being prepared for the salary study and will soon be ready for release.

Mr. Norenberg informed Council that Governor Markell will make some announcements at the Touch of Italy building (former M&T Bank) related to the Downtown Development District applications tomorrow morning if any Councilmembers are interested in attending.

He also reminded Council that he recently submitted a Local Government Management Fellowship Program application as he described in one of his weekly reports. This is a shared program with the City of Rehoboth that could potentially provide some candidates later this spring who will assist in succession planning and staff development.

Lastly, Mr. Norenberg reminded Council that Milford will host the SCAT dinner on Wednesday, June 7, 2017.

Councilwoman Peel moved to accept the monthly City Manager Report, seconded by Councilman Campbell. Motion carried.

Monthly Finance Report

Finance Committee Chairman Morrow reported that through the fifth month of Fiscal Year 2016-2017 with 42% of the fiscal year having passed, 49% of revenues have been received and 37% of the operating budget expended. He noted that increase in revenues and decreased percentage of expenses is based on the timing of some accounts and purchasing and contractual requirements.

The City Manager is also reviewing the Milford Armory expenses which have increased slightly over the past few months.

Councilmember Morrow moved to accept the monthly Finance Report, seconded by Councilmember Brooks. Motion carried.

Committee & Ward Reports

None.

Communications & Correspondence

Included in packet.

Unfinished Business

Adoption/Ordinance 2016-09/Amending Chapter 79 Animal Code

City Manager Norenberg reminded Council this is a housekeeping ordinance relative to those sections referencing the Kent County SPCA. This was needed after a new State law transferred authority from the counties to the state Office of Animal Welfare to control stray animals, regulate and inspect kennels and shelters, prevent the spread of rabies, and investigate animal cruelty and dangerous dog complaints. He noted that he has worked with Chief Brown over the past few months to update the code which resulted in the following edits:

*ORDINANCE 2016-09
Code of the City of Milford
Part II-General Legislation
Chapter 79-Animals*

*AN ORDINANCE OF THE CITY OF MILFORD ADOPTING AND
AMENDING CHAPTER 79 OF THE CITY OF MILFORD CODE RELATED TO ANIMALS*

WHEREAS, the regulating of animals within the City is necessary in order to protect the health, safety and welfare of humans and other animals; and

WHEREAS, Chapter 79 of the Code of Ordinances provides for such regulations; and

WHEREAS, after a review of Chapter 79, City Council has determined it is in the best interest of the City to update and further clarify regulations regarding the control, possession and licensing of animals; and

WHEREAS, many of these animal regulations have been in existence for more than eight years; and

WHEREAS, local conditions and recent amendments to State statutes regarding the regulation of animals require modification of the current City Code.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Chapter 79 - ANIMALS

SECTION 1.

An Ordinance to Amend the Code of the City of Milford by Revising Chapter 79 entitled Animals.

SECTION 2.

Article I, entitled Definitions, is hereby amended to read as follows (new language will be bold and underlined and deleted language will be stricken through):

ARTICLE I - Definitions

§ 79-1. Terms defined.

As used in this chapter, the following terms shall have the meanings indicated:

ANIMAL — Dog, cat and any species of mammals except human beings.

ANIMAL CONTROL AGENCY — An agency of the state, county, municipality, or other governmental subdivision of the state which is responsible for animal control operations in its jurisdiction.

CAREGIVER — Anyone A person who ~~puts out~~ provides shelter, medical care, or food for to feral or free-roaming cats:

CAT COLONY — A social group of cats who avoid human contact, lacking discernible owner identification, and breed with each other to create a growing population of homeless cats; cats who group together in an alley, corner of a parking lot or

~~a grassy area. works to reduce their numbers by working to spay and neuter the animals. Free-roaming cat caregivers are not owners.~~

~~FERAL CAT — An untamed domestic A cat living that (i) is born in the wild; unaltered cats released by owners who no longer care for them; or is the offspring of such an owned or feral cat and is not socialized, (ii) is a formerly owned cat that has been abandoned cat. and is no longer socialized, or (iii) lives on a farm. Feral cats may have a temperament of extreme fear and resistance to contact with humans.~~

~~HORSE-DRAWN VEHICLE — A carriage, wagon, cart, sled or sleigh or other device drawn by horses which has a passenger carrying capacity.~~

~~OWNER — The person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of an animal.~~

~~TRAP-NEUTER RETURN (TNR) PROGRAM — A humane and nonlethal approach to feral cat population control; a comprehensive management plan where program in which healthy, feral, semi-feral, or free roaming cats lacking discernible owner identification are sterilized and, vaccinated, then against rabies, ear-tipped and returned to their habitat and provided with long-term care. a safe location near or where they were found.~~

SECTION 3.

Sections 79-2 through 79-4 of Article II, entitled Control of Dogs, Cats and Other Animals, is hereby amended to read as follows (new language will be bold and underlined and deleted language will be stricken through):

ARTICLE II - Control of Dogs, Cats and Other Animals

§ 79-2. Dogs Running at large; exceptions.

A. ~~It shall be unlawful for any person or persons to permit any animal owned, kept, maintained or in the custody or control of such person or persons to run at large either upon the public streets, sidewalks, highways, alleys or thoroughfares of the City of Milford or upon private property of any other person or persons without permission of the owner of that property or of the person in possession of that property. Dogs shall be maintained in accordance with Delaware State Code Title 16 Chapter 30f. Animal Welfare § 3048F Dogs running at large, as may be amended.~~

(1) Exceptions:

~~(a) — Such restriction shall not apply to cats.~~

~~(b) (a) Such restriction shall not apply to dogs owned by the Milford Police Department or other law enforcement agencies and maintained as Police K-9 units while under the custody and control of the trainer or handler.~~

§ 79-3. Dog license required.

A. ~~The owner or lawful possessor of any dog shall obtain a license for his dog pursuant to the licensing requirements of the county in which the owner or lawful possessor resides. License must be kept current. Any owner or possessor who fails to comply with the provision of the applicable county shall be subject to a fine of not less than \$25 nor more than \$300 Delaware State Code Title 16 Chapter 30f. Animal Welfare § 3042F Fees for dog licenses; terms, as may be amended.~~

B. ~~The owner of the dog shall affix or cause to be affixed to said dog the identification tag associated with the license required in Section 9-3A. Said dog shall thereafter, at any and all times, have attached to it said identification tag.~~

§ 79-4. Leash required; exceptions.

A. ~~No animal shall be permitted in or upon any public street, sidewalk, alley, park, parkway or other public place in the City or in or upon any property belonging to said City unless said animal is on a leash and is under the complete control of the person owning or, at the time, in possession of said animal.~~

(1) Exceptions:

(a) Cats.

~~(b) Feral cats that have been trapped, spayed or neutered and re-released are exempt from Subsection A. Each cat would be ear-tipped, clearly identifying it as a product of the Kent County SPCA Feral Cat TNR Program. (b) Dogs may run at large within the City's Dog Park in accordance with Article IV Milford Dog Park of Chapter 165 of the City of Milford Code.~~

- B. *Notwithstanding anything in this article to the contrary, no person shall be compelled to keep any animal in his possession on a leash while in or upon any public street, alley, parkway or other public place in the City if, at the time, said animal is securely confined in an automobile **provided that the animal is safe and its welfare is not endangered by such confinement in accordance with Delaware State Code Title 11, Chapter 5, Subchapter VII, Cruelty to Animals, as may be amended.***

SECTION 4.

Sections 79-5 and 79-6, entitled *Feral Cats and Outdoor Housing Facilities, Feral Housing*, of Article II, are hereby rescinded in their entirety and Sections 79-7 through 79-12 renumbered as Sections 79-5 through 79-10 and amended to read as follows (new language will be bold and underlined and deleted language will be stricken through):

~~§ 79-5. Feral cats.~~

- A. ~~Individuals who choose to apprehend a feral cat running at large within the City of Milford shall have the feral cat delivered to the Kent County SPCA.~~
- B. ~~No individual will trap a feral cat off his/her property of record except the Kent County SPCA pursuant to specific authorization from the City of Milford Police Department.~~
- C. ~~Each feral cat colony will be registered by the caregivers with the City of Milford and Local Animal Control Agency, which will serve as a clearinghouse for information on current caregivers and assistance for persons found in violation of this section. A caregiver who fails to register within the time allowed shall be subject to a fine of not less than \$100 nor more than \$300.~~
- D. ~~Any person or caregiver determined to be in violation of Subsections E(1) through (4) below shall be in violation and may be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance.~~
- E. ~~Failure to comply in the time given will result in issuing a violation citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:~~
- ~~(1) Sterilize (spay/neuter) all adult cats that can be captured.~~
 - ~~(2) Vaccinate against rabies, as required by law, all cats that can be captured.~~
 - ~~(3) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.~~
 - ~~(4) Make every attempt to sterilize all kittens over eight weeks of age and before five months of age.~~
 - ~~(5) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or for humane euthanasia.~~
 - ~~(6) Assume responsibility and arrangements for feeding the cat colony regularly throughout the year, including weekends, holidays and vacations.~~
 - ~~(7) Keep feeding areas clean and orderly.~~
 - ~~(8) Maintain secure and safe winter shelter as required in § 79-6C of this article.~~
 - ~~(9) A microchip implant and ear-tipping will be mandatory and used on feral cats in order to be identified as a spayed or neutered and vaccinated member of a managed colony.~~
 - ~~(10) The feral cat caregiver shall be vaccinated for rabies; the expense will be the responsibility of the individual or rescue group.~~
 - ~~(11) Maintain proof of sterilization, vaccination, medical records, and implant identification for all cats. These records must be provided to the animal control or law enforcement agency upon request.~~
- F. ~~Animal(s) creating a public nuisance. The designated agency/rescue group will be notified within 48 hours of removal of any feral cats.~~
- G. ~~In the event the feral cat caregiver fails to comply with this section, the designated agency/rescue group will be notified within forty-eight-hour period before removal of any animal. The designated agency/rescue group will attempt to resolve the situation prior to removal of a cat by an enforcement agency.~~

~~§ 79-6. Outdoor housing facilities; feral housing.~~

- A. ~~The following categories of cats must not be kept in outdoor facilities, unless the attending veterinarian specifically approves that practice:~~
- ~~(1) Cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;~~
 - ~~(2) Breeds of cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-hair breeds in cold climates); and~~
 - ~~(3) Sick, infirm, aged or young cats.~~

- ~~B. When their acclimation status is unknown, cats must not be kept in outdoor facilities when the ambient temperature is less than 50° F.~~
- ~~C. Shelter from the elements. Outdoor facilities for cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, vertically stretch and lie in a normal manner, and to turn about freely. It must be large enough to contain all the animals at one time. Shelters in outdoor structures for cats must contain a roof, four sides, and a floor; building surfaces in contact with animals must be impervious to moisture. Metal boxes/barrels, cars, refrigerators or freezers, and the like must not be used as shelter structures. Shelter structures must:~~
- ~~(1) Provide the cats with adequate protection and shelter from the cold and heat;~~
 - ~~(2) Provide the cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;~~
 - ~~(3) Be provided with a wind break and rain break at the entrance; and~~
 - ~~(4) Contain clean, dry bedding material if the ambient temperature is below 50° F. Additional clean, dry bedding is required when the temperature is 35° F. or lower.~~

§ 79-7. **79-5** - Noisy animals.

No person shall keep any animal which causes frequent or long-continued noise so as to disturb the comfort or repose of any person in the vicinity. Any violation of this section, in addition to the penalties set forth in § 79-12, is declared to be a nuisance and as such may be abated.

§ 79-8. ~~79-6~~ - Authorization for Animal Control Official; impoundment procedure.

~~The Society for the Prevention of Cruelty to Animals of the State of Delaware, Kent County, 32 Shelter Circle, Camden, DE (KC SPCA) has been designated as the animal control agency for the City of Milford. It shall be the duty of the SPCA to apprehend any animal found in violation of the provisions of this article and to impound such animal in a suitable place. A record of the breed, color and sex of the animal and the number of its license, if any, shall be made at the time of impoundment and shall be maintained by the SPCA.~~

City ordinances may be enforced by Milford Police Officers and City Code Enforcement Officials as appropriate. The City of Milford Chief of Police shall designate an Animal Control Agency/Official for the City of Milford.

§ 79-9. **79-7** - Right of entry by Animal Control Official or designee; impoundment.

Upon presentation of proper credentials, an ~~official of the SPCA and/or~~ Animal Control Official, a City of Milford Code Official or Milford Police Officer may enter upon the yards of private property in order to enforce the provisions of this article. ~~It shall be the duty of the~~ The Animal Control Official or his duly authorized representative ~~to(s)~~ may impound all animals over the age of six months that are untagged, as provided for in this article, or that are in or upon any private property without the permission and consent of the owner of such property or that are in or upon any public street, alley, sidewalk, park or other public place unleashed.

§ 79-10. **79-8** - Redemption of impounded animals; costs.

The owner of any dog apprehended and impounded by the ~~SPCA~~ Animal Control Official may reclaim said dog upon the payment of any fine and cost imposed for any violation of this chapter. ~~Further, if the animal is of a character which requires a license under the laws of the State of Delaware and does not bear a license when impounded, proof of proper licensure must be demonstrated to the SPCA prior to redemption by the owner. If proof of proper licensure cannot be demonstrated by its owner, the animal cannot be reclaimed until such time as the owner has procured a proper license.~~ or the Delaware State Code, in accordance with Delaware State Code Title 16 Chapter 30f. Animal Welfare, as may be amended.

§ 79-11. **79-9** - Obstruction of Animal Control Agency/Official.

No person shall willfully oppose, restrict, delay or obstruct the ~~SPCA~~ Animal Control Officer in the discharge or attempt to discharge or perform any act or duty authorized or prescribed herein.

§ 79-12. **79-10** - Violations and penalties.

Unless otherwise established herein, the following fines and penalties shall apply to Article II of this chapter: Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$25 but not more than \$300, plus the costs of prosecution.

SECTION 5.

Sections 79-13 through 79-15 of Article III entitled Prohibited Animals, are hereby renumbered as Sections 79-11 through 79-13 and amended to read as follows (new language will be bold and underlined and deleted language will be stricken through):

ARTICLE III - Prohibited Animals

§ ~~79-13~~. **79-11** - Keeping or slaughtering of certain animals within City limits.

No person shall keep or slaughter any swine, cow, bull, sheep, goat, goose, duck, hen, rooster, turkey or like animal or other farm animal within the City of Milford unless in conformity with Chapter 230, Zoning, and properly licensed and inspected by the appropriate state agencies.

§ ~~79-14~~. **79-12** - Exception for parade animals.

A. Animals used in parades where a City of Milford parade permit has been issued are exempt from the provisions of this chapter.

§ ~~79-15~~. **79-13** - Violations and penalties.

Any person found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$100 but not more than \$500, plus the costs of prosecution.

SECTION 6.

Article IV, entitled Horse-Drawn Vehicles, is hereby amended to read as follows (new language will be bold and underlined and deleted language will be stricken through) and Subsection D renamed Subsection E and a new Subsection D inserted:

ARTICLE IV - Horse-Drawn Vehicles

§ ~~79-16~~. **79-14** - Conditions and restrictions.

The provisions of Article III shall not be applicable to any person who brings into the City a horse for the purpose of providing transportation in horse-drawn vehicles carrying passengers on a fixed route under the following terms and conditions:

- A. Each route shall be approved by the City Manager.
- B. The horse shall not be kept or maintained within the corporate limits of the City when not being used for the purpose of providing transportation.
- C. Horse-drawn vehicles are prohibited from all other streets and areas within the City unless specifically approved by the City Manager for providing point-to-point transportation for special events, including but not limited to weddings, theatrical performances and funerals.
- D. Owners/operators of horse-drawn vehicles are responsible for cleanup after the horses.**
- ~~D. E.~~ No person shall drive or operate a horse-drawn vehicle on any day or at any time that the ~~Chief of the Milford Police Department or his designee~~ **City Manager** makes a specific determination that it would be inconsistent with other special events or public safety requirements.

SECTION 7.

Dates:

Council Introduction: December 12, 2016

Council Adoption: January 9, 2017

Motion to adopt Ordinance 2016-09 made by Councilwoman Peel and seconded by Councilman Burk. Motion carried.

*Adoption/Ordinance 2016-24/Amending the Code of the City of Milford
Adding a New Chapter 90 Entitled Business License*

City Manager Norenberg recalled that over the past few months, there have been a number of conversations about implementing a business license. The Community Affairs Committee met to discuss the ordinance and a public workshop was held during which time public comment was taken. Following that workshop, the Committee decided not to move forward with the business license.

When that recommendation was presented to Council, Councilman Campbell asked that Council consider a revised version which was introduced on December 12th and is before Council for a final determination.

Councilmember Campbell stated that he did some research related to the \$50 rental permit. Originally, the fee was \$50 per landlord but was later increased to \$50 per rental unit. He has been told there was an extensive discussion by the landlords and a lot of concern expressed at that time. He was informed it only impacted the landlords and not the brick and mortar establishments.

It was verified the rental permit ordinance was unrelated to business licenses.

Councilmember Campbell understands that a few of the business owners will be upset, but feels that a \$120 business license, or \$10 a month, is very reasonable. He believes its benefits to the City will outweigh any negatives. The City will have the ability to more easily identify the various businesses and types of businesses and to ensure they are accountable for their actions. It will also protect the general public health and safety of others.

Councilman Campbell is proposing this only apply to brick and mortar establishments and not people selling services or an out of town business that periodically comes into Milford. He feels those types of activities will be too difficult to police.

Councilwoman Peel disagreed and recalled the meetings stating that the Council Chambers was packed. Many business owners spoke against the license and no one spoke in favor of it. She said she is a representative of those businesses who are her constituents, which is a concern.

The Councilwoman feels the business owners made valid points because it is not solving the problem that needs to be solved with code enforcement.

Councilman Campbell stated that he has lived here ten years. When he moved here, the population of Milford was around 6,000; another 4,000 residents now live here and the City continues to grow. He said he is not trying to offend his fellow colleagues, but the cost to these businesses is \$10 per month and this will help the cost of adding another code enforcement official.

Councilman Brooks said we have a rental ordinance and were supposed to hire a code enforcer. According to Councilman Brooks, two years later the City never hired a person to do that job and we are still taking that money.

Councilman Campbell said his understanding is the additional code official was hired and was laid off a few weeks afterwards. Councilman Brooks said he doesn't remember hiring anyone.

Councilman Campbell said he confirmed that someone was hired and then let go. His point is we still have the same number of code officials as when he moved here. We have a current population of 10,000 and with a \$300 million hospital being built validates another code official in his opinion.

Councilman Brooks feels that the City of Milford is still collecting money for a rental person and that we should just hire one.

Councilwoman Wilson pointed out there has been a lot of work done on this ordinance and it covers a number of issues. Her personal opinion is that it should only apply to those businesses that are physically located within the limits of Milford. She feels that a license creates accountability and eliminates someone from coming in and just opening up a random business of any type. This gives the City the ability to be aware of each and every business operating within the City. She also is aware that as this ordinance was being created, there was a comparison done to other towns and this is well within in reason when compared to other towns. She does not believe the City is going to make money from it though it will support the code official though not all of his/her costs. She feels that overall it involves simple accountability.

Councilman Campbell recalled that currently only Bridgeville, Seaford and Milford do not have business licences. Though he is not saying Milford should do this only because the other towns have a license, it does seem justifiable to him.

Councilman Burk stated that he will respectfully disagree with Councilman Campbell. He said that Councilwoman Peel has already explained a public workshop was held and there was serious opposition expressed at that time. There was a follow-up meeting of the Community Affairs Committee and a full house present at that time as well. The Committee voted not to recommend this be approved. The business owners took time out of their day on two different occasions and they will not recommend moving forward. Tonight would be the third time this will be addressed though those business owners may not be here because of the inclement weather.

He continued by saying that when he looks at the City Manager's report and sees the number of code cases, he feels we have an opportunity for improvements. But he has to represent his constituents, some of whom own property in his ward and run businesses in his ward.

Councilman Burk pointed out that when you need something for a fundraiser, these are the businesses that donate and are involved in our community. He recalled they were willing to be part of a registry which was one of the concerns and solves one of the problems.

Councilwoman Wilson stated that she, too, respectfully disagrees. She stated that having been on City Council for twenty plus years, she always stresses that she represents the City of Milford and all the residents. She represents the fourth ward, but we, and she means all members of City Council, make decisions for the entire City of Milford. She is very passionate about that and feels it is important that Council remember the decisions they make are for the benefit of the entire City.

Councilwoman Wilson does not feel it is appropriate to base all decisions on one small group; instead the entire package needs to be considered. She knows we have constituents that disagree with a business license. However, two or three constituents in one ward should not make decisions for the whole City nor do they know what is best for Milford.

She said she did not bring this up, but someone did who felt it was needed. That person has done a lot of work as can be seen by the ordinance.

Councilwoman Wilson recalled when the landlord rental ordinance was adopted, the Council Chambers was really packed and it was standing room only at that time. Council listened to everyone who wished to speak and considered all of the reasons stated but also looked at the facts of why that rental license was needed. Council told those landlords that they appreciated and understood the concerns. But for the betterment of the City of Milford, it was necessary to put it in place.

She said it is almost like a pattern of how things have been done and many decisions have been based on one group and not the entire City which is a concern to her.

Mayor Shupe said he would respectfully say that although it was voted that a rental fee be adopted for a third code official, that third code official is not here. Three years in a row during the budget hearings, the City has promised the individuals who have these rentals that their money would be used for the third code official. Now we are saying, we are going to take their money, but we need even more money for another code official.

Mayor Shupe said he has discussed this with the City Manager and the Planning Coordinator to try and see how this would be beneficial to the business community as well as the public. At the end of the day, he said there is money already budgeted for the third code official and that needs to be used.

Councilman Campbell said he was unaware the money from the rental license was supposed to pay for a code official.

Councilman Brooks argued that we got the rental license because we were going to have gatekeepers who were going to list who was renting the house and how many people lived there. One night there was a fire on North and Second Street and they got eleven women and kids out of the house. The firemen didn't know if they had to go back in and get the men or not. Then someone told them the men were all working.

He reiterated that we got a rental license to have a gatekeeper so we knew who lived in that house and how many in case there as a fire.

Councilwoman Wilson stated she is uncertain how that problem can ever be fixed.

Councilman Brooks said we listened but the gatekeeper and the conditions of the house were the reason it was approved. He does not see where businesses have anything to do with getting a code official to do code enforcement on rental houses. Councilman Campbell pointed out the code official inspects the houses when needed. Councilman Brooks said we already have \$60,000 in the budget for that.

Councilman Campbell said he is looking at this from a different perspective. Our population has increased to about 10,000 and we still only have 1½ code officials, which to him, is way out of balance. If we drive around the City and see some of the places our residents live in, he feels another code official is needed to handle this.

Councilman Brooks reiterated there is already \$60,000 in our budget that should be used to hire this person.

Councilman Campbell repeated that anyone riding through our City who sees some of these facilities will be appalled. He emphasized he does not believe one code official or 1½ people can handle it. We want the doctors and nurses who are going to be working at this \$300 million hospital to move into the City of Milford and right now it is not appealing.

Councilman Burk asked if the businesses should be the ones to pay for that; Councilman Campbell responded by stating he feels we need a business license to properly operate the commercial establishments in the City of Milford.

Councilman Burk said that Councilman Brooks just said there is already money in the budget for the third code official even though no one has been hired year after year.

City Manager Norenberg feels it is important to recognize the operation of the code official, zoning and building inspector, in that department. He explained that with the exception of Planning Coordinator Rob Pierce, they are all paid out of the general fund. The money that comes in from the rental licensing goes into the general fund. The money that would hypothetically come from the business license will also go into the general fund.

He explained there is no money sitting somewhere unspent waiting for a third person to be hired to do rental licensing. We are doing rental licensing and as much code enforcement, that our one employee dedicated to enforcement can do, with the money in the general fund appropriated for that. If Council wants another code enforcement officer to be able to do more, there will need to be a few choices made that will revolve around creating more revenue.

Mr. Norenberg continued by stating that the argument surrounding this particular issue seems to be concentrating on whether the money generated by a business license should fund another code enforcement officer. He stated that we are missing some of the benefits of having a business license which Mr. Pierce can articulate all those points. But we are aware there are situations where businesses come into town, set up shop without checking in with the City. We then realize later they are operating in a location that is not properly zoned or there are other problems with the business. Whatever might be happening can be prevented if we had a business license and registration program in place.

Councilman Burk asked how many times a business has come in, opened and did not meet zoning requirements; Mr. Norenberg said two to three have been identified though he is unsure over a period of time.

Councilman Burk repeated only two to three a year; Councilwoman Wilson said she can think of a couple as well and recalls one major issue. She feels that this license gives the City of Milford the power to go into that business and tell that owner they are not operating in accordance with our zoning ordinance.

Councilwoman Wilson recalled a few years ago and remembered a big festival that did not have the proper licensing. They also indicated they were nonprofit and it was later determined that was incorrect. Councilwoman Peel asked how we got rid of them. According to Councilman Morrow, the City called the State of Delaware.

Councilwoman Peel said that is the other point. These business owners are already regulated by a State agency, by an accrediting body or by some sort of health and public safety body. They felt like they had already done what they were supposed to and is unsure people will follow the rules with the license if they are not following them now.

Councilwoman Peel referred to Councilman Morrows' statement that the City was able to get rid of them through the State and asked why we would not continue to do that. Councilman Morrow recalls a few incidents where we had problems with businesses in town adding that the City is not set up to shut down a business unless there is some criminal activity that is occurring.

Councilman Morrow agrees we can get the information from other sources for free. He thinks it will be too much of a bookkeeping issue to manually handle this. We will need to hire an assistant or half an assistant just to keep track of this and that information should already be out there on the internet. If there are any issues with businesses, he feels we can simply make a call to the State of Delaware or if it is a criminal issue, we can call the police. If it is an alcohol and tobacco issue, we call that agency to handle it.

The Councilman continued by saying that originally it was set up to get information from these businesses but feels that is available in other places. He does not feel the City is in the business to shut down businesses and we are not going to get businesses that are not registered to register.

If we need a new code official, we need to do what the City Manager says and looks at the budget and looks at those areas where we can increase revenues to pay for another code official.

Councilman Brooks reiterated that Council put \$60,000 in the budget and the previous City Manager took that money and put it somewhere else. Councilman Morrow said he also remembers that and added that we need to do some back stepping ourselves.

Mayor Shupe confirmed that when Councilman Brooks says City Manager, he is not referring to Mr. Norenberg. Councilman Brooks emphasized he is not talking about Mr. Norenberg and explained this was a few years ago. He said what good will it do to get another \$60,000 to pay for something else adding the City already has \$60,000 to get it.

Councilman Burk stated that the people that were opposing the ordinance are those that contribute to our community. They do not want to be taxed for this new code enforcement official.

There being no further discussion, Councilman Campbell moved to adopt Ordinance 2016-24 to institute a business license at \$100 or \$120 per year for brick and mortar establishments, seconded by Councilwoman Wilson. Motion failed by the following 2-4 vote:

Campbell-Yes
Peel-No
Burk-No
Brooks-No
Morrow-No
Wilson-Yes

Councilwoman Wilson votes favorably stating that because of the research and effort that was put into this ordinance and there was a need as was determined by City Staff, and that it would be beneficial while creating accountability for all businesses in the City.

NEW BUSINESS

Acceptance/City of Milford Fiscal Year 2015-2016 Audit

Finance Committee Chairman Morrow reported that the Finance Committee met earlier this evening at which time the City Auditors provided a review of the FY16 Audit, provided a good description of the audit and summarized some areas.

Below is a summary of the Auditor's results:

1. The auditor's report expresses an unmodified opinion on whether the financial statements of City of Milford, DE were

- prepared in accordance with GAAP.
2. One significant deficiency disclosed during the audit of the financial statements is reported in this schedule of findings and questioned costs. No material weaknesses are reported.
 3. No instances of noncompliance material to the financial statements of City of Milford, DE, which would be required to be reported in accordance with Government Auditing Standards, were disclosed during the audit.
 4. No material weaknesses in internal control over major federal award programs for the City of Milford, DE are reported.
 5. The auditor|s report on compliance for the major federal award programs for City of Milford, DE expresses an unmodified opinion on all major federal programs.
 6. Audit findings that are required to be reported in accordance with 2 CFR section 200.516(a) are reported in this Schedule.
 7. The program tested as a major program was:
 - *U.S. Department of Agriculture, Rural Utilities Services, Direct Loan for Water and Waste Disposal Systems, CFDA No. 10.760.
 8. The threshold used for distinguishing between Type A and B programs was \$750,000.
 9. City of Milford, DE was determined to be a low-risk auditee.

Councilman Morrow moved to accept the FY 2015-16 City of Milford Audit as presented, seconded by Councilman Burk. Motion carried.

City Manager Norenberg added that we have a small operation and only a few staff and the challenge is to separate responsibilities. The auditor was extremely complementary of our staff and found no material weaknesses and that our staff does a fine job. In addition to the Finance Director and his staff who are on the front line, all employees have a high degree of accountability and do a great job of expending the funds entrusted to us by the taxpayers.

Councilman Burk commended City Manager Norenberg for a job well done.

Introduction/Ordinance 2017-01

*Downtown Properties of Milford LLC/Conditional Use to allow Dwellings with Nonresidential Uses
Southwest corner of the NW Front Street and N Walnut Street Intersection
Present Use: Commercial Retail; Proposed Use: Commercial Retail with Apartments.
.05+/- Acres in a C2 (Central Business District) Zoning District
Tax Map MD-16-183.10-04-46.00; MD-16-183.10-04-46.01*

Mayor Shupe introduced Ordinance 2017-01 and deferred to Planning Director Pierce.

Mr. Pierce explained this involves a conditional use application at the former Lou's Bootery Building. The ordinance will be presented to the Planning Commission this month for their review. It will then be presented to City Council for a public hearing and determination on January 23, 2017.

Introduction/Ordinance 2017-04

*Change of Zone/Lands belonging to City of Milford
East Side of South Washington Street abutting Mispillion River
Current Zone C1/Proposed Zone C2A
1.78 +/- Acres
Tax Parcel 3-30-6.20-006.00 & 3-30-6.20-010.00 (portion)*

Mayor Shupe introduced Ordinance 2017-04 and deferred to Planning Director Pierce.

Mr. Pierce explained this ordinance is related to the former Washington Street Water Treatment Plan owned by the City of Milford. The application is for a change of zone from its current C1 designation to the newly approved C2A district earlier this evening. The ordinance will be seen by the Planning Commission for their recommendation this month and presented to City Council for a public hearing and determination on January 23, 2017.

Authorization/Progressive Engineering 2017 Miscellaneous Services Contract and Per Diem Rate Schedule

Mr. Norenberg reported that Progressive Engineering handles the City's electric design work. What is before Council is a renewal contract for 2017 which includes the per diem rate schedule. Though they anticipate the overall associated cost will be between \$10,000 and \$15,000 this fiscal year, it seemed appropriate to present to Council for a vote.

The City Manager has talked to the Public Works Director and Electric Superintendent about soliciting proposals later this year to ensure the Progressive Engineering fees are competitive with similar firms. He feels it is important to test the marketplace in terms of professional services every few years and they are recommending a one-year renewal while other avenues are explored.

Councilperson Brooks moved to authorize the 2017 Progressive Engineering Miscellaneous Service Contract and Per Diem Schedule, seconded by Councilperson Peel. Motion carried.

Authorization/Funding Source/City of Milford Parking Lot Paving & Striping Project

City Manager Norenberg advised this project involves the parking lot the City recently purchased which abuts the new Touch of Italy Restaurant.

He referenced the following memo:

It is recommended that the City Council authorize the expending funds from the Economic Development Fund to renovate the City parking lot at the northwest corner of Walnut and NW Front Street. This lot was purchased in June and is adjacent to the future Touch of Italy restaurant. The parking lot will serve not only the restaurant's customers and staff, but patrons of nearby businesses.

Rather than contracting with one vendor at possibly greater expense, the Public Works Department is managing the project and is doing some work in house and subcontracting other aspects. Projected expenses are:

<i>Concrete curb and sidewalk</i>	<i>\$23,000</i>
<i>Pavement repairs</i>	<i>\$18,500 * (This will not pave the entire lot; only patching)</i>
<i>Lighting (poles and lights)</i>	<i>\$ 8,000 (Powder coating old poles and new LED light heads)</i>
<i>Repl. vinyl privacy fence</i>	<i>\$ 8,000 * (Expect to cost split with adjacent property owner)</i>
<i>Consulting engineer</i>	<i>\$ 5,000 *</i>

As this project will be done in phases over the next couple of months, it is recommended that the Council approve expending up to \$65,000 from Economic Development Fund for rehabilitation of the City parking lot located at the northwest corner of Walnut and NW Front Street.

Public Works Director Mark Whitfield stated that prices were solicited from a couple of outside contractors. The City is serving as the project manager and coordinating those efforts in lieu of bidding out the project as one large project. They felt this would help expedite the project.

Work has begun and they are presently in the process of powder coating the old light poles and ordering new ones. The concrete contractor will commence work within the next two weeks. They were hoping to have the paving done by January 15th though they are running out of time and decent weather. The plant shuts down on that date and will not reopen until March 1st though they can be first in line to ensure this is completed in time for the opening of the Touch of Italy.

Councilman Campbell moved to authorize up to \$65,000 from the Economic Development Fund for the work described, seconded by Councilwoman Peel. Motion carried.

EXECUTIVE SESSION

Councilmember Wilson moved to go into Executive Session reference the below statute, seconded by Councilmember Burk:

{Pursuant to 29 Del. C. §10004(b)(9)} Personnel Matter

Motion carried.

Mayor Shupe recessed the Council Meeting at 8:18 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Morrow moved to return to the Regular Session, seconded by Councilmember Wilson. Motion carried. City Council returned to Open Session at 8:29 p.m.

Mayor Shupe announced that no action was needed as a result of the discussion in Executive Session.

ADJOURN

There being no further business, Councilmember Burk moved to adjourn the Council Meeting, seconded by Councilmember Campbell. Motion carried.

The Council Meeting adjourned at 8:30 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC
City Clerk/Recorder