

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 14, 2016

The City Council of the City of Milford met in Workshop Session on Monday, November 14, 2016 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Arthur Campbell, Lisa Peel,  
James Burk, Owen Brooks Jr. and Douglas Morrow

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 5:33 p.m.

City Planner Rob Pierce was also present.

City Manager Norenberg reported that the City is trying to go through a thoughtful and thorough consideration and felt that this workshop would provide another step in considering the proposed business license that has been discussed with City Council during the budget process and the Community Affairs Committee meeting. Earlier this summer, the concept was presented to the Chamber of Commerce Board of Directors. Tonight the City is providing the opportunity for some public feedback.

City Planning Coordinator Rob Pierce followed with a presentation about the proposed ordinance after which Mayor Shupe will invite public comment.

*Presentation/City of Milford Business License Proposed Ordinance*

Planning Coordinator Pierce then reviewed the following details of the proposed ordinance:

*Program Details-*

*Require businesses to register annually (Jan-Dec) with the City through the business license program.  
Business is defined as "any person engaged in the sale of goods or services including, but not limited to, any retail, wholesale, service, food service, professional or personal service or other general commercial activity that requires a business license with the State of Delaware, Division of Revenue."*

He noted that we already require licensing for contractors. Anyone that works on your homes, landscaping, paving, etc. is required to register with the City.

Peddlers, solicitors and vendors are also required to register with the City.

The new ordinance will bring the other businesses into alignment with those types of services.

*Exemptions-*

*Deliveries of goods or property to a licensed business.  
Utility companies authorized by the City to operate.  
Charitable, religious, educational, public service facility, social association or club, governmental agency.  
Exhibitor in a museum, the Milford Library, an education facility.  
Yard or garage sales not part of a regularly recurring activity.  
Sale of agricultural or nursery items grown on the premises of the property owner and sold seasonally.*

*Business activities of insurance agents and companies specifically exempted from municipal business license fees under 18 Del. Code Chapter 712.*

*Any activities permitted pursuant to Chapter 168 Peddling, Soliciting and Transient Merchants, Chapter 107 Contractors, or Chapter 180 Residential Rental Operating Licenses.*

#### *Time Line/New Businesses-*

*Beginning January 1, 2017, new businesses will be required to obtain a business license from the City.*

*New businesses will be required to obtain a certificate of zoning from the Planning & Zoning Department prior to issuance of the business license.*

*Fee for certificate of zoning will be included in the cost of the business license for new businesses.*

#### *Time Line/Existing Businesses-*

*Existing businesses can begin registering with the City January 1, 2017. All existing businesses will have until June 1, 2017 to obtain their business license.*

#### *Application and Fee-*

*Application will include the company name, phone number and street address; owner name, phone number, street address; EIN or SS# (last four digits only); type of business; number of employees; copy of other licenses issued by the State or other agencies; statement of compliance with City ordinances.*

*The proposed fee will be \$120/year. For new businesses registering after July 1, the fee will be prorated at \$60 for the half year.*

#### *Protection of Business Community-*

*Ensure Businesses within the City are legitimately licensed and insured.*

*Provides data that can enable Milford Police Department, City services/utilities, or other first responders to contact business owners in emergency situations.*

*Enforcement tool to address businesses with illegal activities.*

*Ensure business properties are compliant with City ordinances.*

#### *Exposure and Networking-*

*Supports creation of a comprehensive database that tracks business activity within the City. The dataset will allow the City to track new businesses, closed businesses and estimated employment figures.*

*The dataset will provide a list of available commercial/industrial buildings and suites that can be incorporated into the City's mapping system and be shared with economic development agencies.*

*The City will be able to provide specific information regarding available commercial space to potential investors and entrepreneurs which will promote full build out and occupancy of existing commercial space.*

*Can also assist existing business with expansion needs.*

*The City may have the ability to provide basic business, contractor and solicitor information – based on registration data – on the City's website to view.*

Mr. Pierce referenced the City Manager's comments in relation to the March Community Affairs Committee meeting and the June Budget Hearings when this ordinance was discussed. A follow-up meeting with the Community Affairs Committee was held in June during which time some of the general perimeters were discussed and laid out. At that time, we had accumulated a list of other municipalities that require business licenses and were able to compare fees and requirements, which were used to develop Milford's plan of action.

With no questions from City Council, Mayor Shupe opened the floor for public comments.

Randy Marvel of Marvel Agency first addressed Council stating he has been in business since 1975. Every year it seems as though they have to put up another license and pay another fee to somebody. His wall is covered with licenses and there are a lot of towns around the state that require business licenses. There are a number of people present from the real estate community and he wants to make sure it is clear that the City is not requiring a license for each individual agent and instead only for the company. If he reads the ordinance correctly, it references the Division of Revenue business license and not a professional license from the Division of Regulation.

Mr. Norenberg confirmed that is correct.

Mr. Marvel reconfirmed that an individual real estate agent would not have to get a business license. Mr. Norenberg stated that is correct the draft before Council is only a proposal and the reason the City is taking feedback tonight.

Mr. Marvel said that will relieve a lot of people in the real estate community,

Mr. Marvel stated his other concern is that when they went through the proposed residential rental license of \$50 per unit four or five years ago, they were told at that time certain things would be provided to them. Most of the people present this evening feel that has not been the case with regard to inspections. They feel it was just another way for the City to accumulate additional money and a license should be a quid pro quo with something received or a benefit provided. They hope that is not the case with the business license and instead will get something in return.

Planning Coordinator Pierce reiterated the proposal is for only the broker to register. In terms of the rental license, he does not disagree with Mr. Marvel. However, the City is in the process of creating a proactive rental inspection campaign and the intent is to do 800 unit a year or approximately one half of the total rentals. The City intends to be much more proactive on rental inspections beginning with the new year.

He stated a comparison of similar rates statewide was made; some municipalities utilized gross receipts and based it on the amount of revenue the businesses were generating. Others had a flat rate. We have attempted to pick a fee that is competitive with those communities and feel in addition to being fair, it covers the expenses associated with running the operation.

Mr. Pierce further explained that the license will mainly apply to brick and mortar operations. Many businesses involve contracting work and are required to register under the Contracting Ordinance. An attorney coming into Milford to do work is not a concern. It would include certain home occupations but if you are selling items on line and work from home for another company, that would not be a concern. However, if you have a sign in the front of your residence or a computer repair business, with customers coming and going, the City would want them registered.

Councilman Burk asked if a business license would be required if there were no sign and no clients or if someone was working from home and had a business license with the Division of Revenue, would they automatically be required to register. Mr. Pierce stated that all businesses physically located in Milford are required to have a license.

Mr. Pierce then referenced the following list of exemptions:

- (1) Deliveries of goods or property to a licensed business for use or resale in that business.
- (2) Utility companies otherwise authorized by the City to operate within the City limits.
- (3) Charitable, religious, educational, or public service facility, social association or club, or governmental agency, except to the extent that such operates a separate retail facility or other ancillary business that would require a business license.
- (4) Exhibitor in a museum, the Milford Library, an educational facility, or other public building where such exhibition is part of a limited scheduled event or show.
- (5) Yard or garage sales, book sales, and auctions, where not part of a regularly recurring or continuous business activity.
- (6) Sale of agricultural or nursery items grown on the premises of the property owner and sold seasonally.
- (7) Any activities permitted pursuant to a current peddler's license or otherwise exempt from obtaining a peddler's license as outlined in Chapter 168 ("Peddling, Soliciting and Transient Merchants").
- (8) Construction activities for which a license is required and has been secured in accordance with Chapter 107 ("Contractors").

- (9) Business activities of insurance agents and companies specifically exempted from municipal business license fees under 18 Del. C. § 712.
- (10) Rental activities for which a rental license has been obtained pursuant to Chapter 180 ("Residential Rental Operating Licenses").

Councilman Burk questioned whether a real estate agency who is based out of town but has several properties listed in Milford would be required to obtain a license. He recalled a previous conversation about anyone doing business in town having to register. Mr. Pierce stated that will not apply.

Councilmember Burk confirmed that the local real estate agent's brokerage firm who has a business in town would apply. Mr. Burk referenced an equal playing field comparing a local agency to Rehoboth Realty. The local agency is required to have a license but the Rehoboth agency does not. He noted that other municipalities handle this differently.

Mr. Pierce explained this ordinance can be tailored however Council feels is most appropriate.

City Manager Norenberg reiterated this is still the information gathering phase for staff and City Council. A draft was prepared but is not being introduced for Council action. Tonight provides an opportunity for questions and answers that will provide staff and City Council some direction. Changes can be made before it is officially prepared for action by City Council.

Emmett Venett stated he has six rental units in town and is a real estate agent. He has another concern unrelated to the business. Recently he has employed home health care providers for his wife. Generally they involve small businesses who are trying to minimize their fees. He anticipates using the Caring Hearts or a different agency the next time. It will be prohibitively expensive for those types of service providers to get a business license. He does not think the City wants the ordinance to be punitive on the population.

He referenced the \$60 and asked if that means someone could only purchase a half years license in case they are seasonal workers. For example, he may hire someone to clean up the grounds and they may be summer students. He asked if they will have to pay the full \$120 license when they are only working in the summer.

Mr. Pierce said the topic of health care providers can be left up to City Council. However, he does not think this ordinance was drafted to make those people register.

Councilmember Peel pointed out it could apply to someone working for a larger agency who has already registered and should be looked at, similar to a real estate agency. Mr. Pierce feels the focus is more on an operation that has their business/headquarters physically located within the City.

Councilmember Brooks feels that kids cutting grass for money do not need a license. Mr. Pierce pointed out that technically, landscaping businesses must be registered under the existing contractors license. Mr. Pierce is unaware if there is an age limit in the Contractor Code which has been on the books for several years and many of those contractors are already registered. However, he doubts the intent is to go after high school students to register so they can cut grass for a few dollars.

Councilmember Burk pointed out it is required with other municipalities. He agreed that landscapers are already required to be registered in the City. There are people contracted in the City to do property maintenance who are already licensed in the City. He emphasized that will have no impact on the business licenses.

Craig Crouch of Kent Sussex Industries stated for the record, they are one of the exemptions and he appreciates that consideration. He is not here to speak for or against the proposal, but wants to seek additional information. The first question he wants to ask is 'why now' because many of these businesses have been in the city a long time. He also asked how much the contractor fee is now.

Mr. Crouch said he has become concerned about fees that pop up out of budget discussions. When people say it's not about the money, it's always about the money.

He then asked the estimated revenues for the business license. He is also curious to know if there is an ongoing expense to the City going forward to enforce and maintain and how much that is. It is easy for things to come into play according to Mr. Crouch, and then become bigger than themselves later on.

He said this seems to be a fee that is associated with those that want to follow the rules. The people that will apply already have a State of Delaware business license so we know who they are and that they are in good standing with the State of Delaware.

He understands the need to make sure the people are reputable who are providing business to our citizens and are doing so in a safe manner and have insurance and other required things but questions the City requiring people that already have a State of Delaware business license to be the only ones that have to apply and missing the guy the City should be going after.

Mr. Pierce said in answer to why now, these discussions started back in February shortly after the new City Manager was hired. Mr. Pierce has been here about eighteen months and there are issues he has seen that this business license would address. The City is not in contact with the businesses at the forefront of their investment in Milford and there have been some occasions where people have gotten fairly far down the road of setting up their business and investing money before a problem is found. It could involve a tenant fit out or something similar, after which they find out they do not meet the zoning requirements. Or there are things they were unaware of that this license application would have prevented if the business owner had been informed ahead of time.

As his department tries to enforce the zoning regulations, Mr. Pierce is sure there are quite a few businesses around town that have popped up over the years that should not be in the locations they are in. This will help alleviate a lot of those issues.

The contractor fee is currently \$100 annually, the vendor fee is \$50 annually and the contractor fee can be prorated quarterly. The City estimated there are approximately 500 brick and mortar businesses though that number may be higher. Estimated revenue is \$60,000.

The intent is to add a Code Enforcement Official to handle the rental inspections. These duties will be split among two Code Officials plus an administrative position in that department. They will be issuing approximately 500 licenses annually.

Mr. Pierce has not estimated the amount of hours needed to issue and renew the licenses. The City has the ability to maintain this program based on what will be provided in the fees and anticipated staffing as of January.

He agrees the businesses are registered with the State of Delaware though it seems appropriate for them to register with the City in order to have a better pulse on the business climate. We hope to be able to provide information to a business before it opens up, operates and expands.

Mr. Norenberg clarified the definition revolves around the businesses required under the Delaware Code to register. That does not mean that every business registered with the State has to register with the City. We are simply using the State's definition and we are not trying to say we will only register those that are registered at the State. Someone failing to register with the State of Delaware does not exempt them from being registered with the City of Milford.

Mr. Pierce added that we have more local enforcement capabilities than the Division of Revenue to be able to address licensing and insurance compliance.

According to Mr. Norenberg, some of the other municipalities that require business licenses list every business category and charge a different fee for each.

Councilwoman Peel is curious about the process for the State to enforce an illegitimate business or doing something that is not regulation. She asked if the State is enforcing that; Mr. Piece explained that if the businesses were caught, they could do something though he does not think they are proactively looking for those violations.

Councilwoman Peel asked if they are reported if something happens; Mr. Pierce stated he is unsure.

The Planner reported that the proposed violation for a business license is \$100 and each day would be considered an infraction or \$100 per day.

Councilwoman Peel asked if anything would make this worth their money because that has not been talked about. She stated that Mr. Pierce talked about what would be provided but is curious if it were something he was looking for. Mr. Pierce agrees that if the business owners feel any additional information should be provided or there are things the City could add, he welcomes those comments and will incorporate those ideas he can.

(Inaudible-speaking from audience.)

The City Planning Director responded by stating that those people that apply for permits will be run through the system to ensure they are registered as a contractor. His staff finds people who are in violation of the contractor license requirement and in fact, found two contractors today that were unlicensed and were required to pay the pro-rated \$25 fee for the remainder of 2016.

Robert Pingue stated he is the Project Engineer with Sound-n-Secure. He asked if there will be an actual enforcement panel who will oversee this. Or what happens if someone comes along and doesn't have a license but does a job and it is reported. He compared the \$120 license fee to the \$100 fine. Mr. Pierce clarified the fine is \$100 per day.

Mr. Pingue asked what happens if it is a one-day job. Mr. Pierce explained that depends whether it falls under the current contractor's license that has separate rules and regulations. He said anyone repairing, remodeling, altering, plumbing or electrical work or paving work, etc. is required to have a City contractor's license.

Mr. Pingue asked if security and sound work falls under that. Mr. Pierce said home security would be considered contracting work in his opinion. Mr. Pingue said he is licensed through the State of Delaware and has four different State licenses in addition to background checks.

Mr. Pierce confirmed that Mr. Pingue sets up internal security systems. Mr. Pingue added setting up security systems, fire alarm systems, paging systems, PA systems, audio and security.

Mr. Norenberg then read the following definition from the Contractor Code:

Any person, firm, corporation or jobber engaged in building, alteration, repairing, remodeling, construction and/or maintenance of buildings or engaged in any other type of construction, including but not limited to paving, curbing and sidewalk installation or repair, plumbing, electrical or other types of maintenance or construction.

Mr. Pingue then stated that his firm would then be exempt because they are not builders or carpenters. Mr. Norenberg asked if his work involves electrical work; Mr. Pingue said no. Mr. Norenberg asked again if no electrical work is required. Mr. Pingue said no it is all low voltage and reiterated they would be exempt. He said it is considered a low voltage situation and they are not contractors but security and communication people who perform work similar to a PA system. They do repairs to PA systems and install PA systems.

Mr. Pingue continued by stating that with all due respect to City Council and the City, is this being moved along a little farther and referenced the January start date, adding there seems to be a lot of questions. He said we need to have a little more talk with the local businesses instead of having it so near the starting date. He is aware Mr. Pierce spoke with the local business organizations such as the Jaycees.

Mr. Pingue then asked again why the fine is only \$100 and why not charge someone \$200 if they get caught. In his opinion, there is no reason to get a license. If someone gets caught, they just pay the \$100 which is less than the license. Mr. Pierce explained that they will have to pay the \$100 fine but must also register and pay for the \$120 license.

Mr. Pingue understands there are a lot of transient people but he is just saying if there is going to be a fine, then make it a fine. He said they run into a lot of people who are not licensed, not bonded and do not have the proper documentation or

background checks especially for the State of Delaware. If there is a problem with the State license, the State Police handle it. He thinks there should a fine that is more than what the businesses are being charged for the actual license.

Mr. Pingue then noted that the vendors who sell agricultural items are exempt and referenced the Farmer's Market. He informed Mr. Pierce that there are actual craft and other vendors at the Farmer's Market that are not related to agriculture. He asked if they would be exempt and considered under the umbrella of the Farmer's Market.

The Planning Coordinator referenced the proposed revisions to the Peddling, Soliciting and Transient Merchants Code which clarifies language related to the Farmer's Market. It is not in the Business License Ordinance and as he mentioned earlier, there are other licenses already in place that apply to other licensing areas. If they fall under the Peddling, Soliciting and Transient Merchants licensing requirement, for example, that is an exemption under the Business License Code.

Mr. Pierce said that the City Manager was more involved with the amendments to the Peddling, Soliciting and Transient Merchants Code and asked if Mr. Norenberg would elaborate more on the Farmer's Market. Mr. Norenberg said it has been awhile since he worked on that draft and when they realized there were several corresponding and existing sections of the code that needed to be changed, potential edits were submitted. For example, the Peddling, Soliciting and Transient Merchants Ordinance does not address food trucks and related language will be added to their more recent popularity. Other exemptions included vendors related to the Farmer's Market and other community festivals. He said they feel it is not necessary for a vendor to get a permit for only one day if tied to a special event. That is covered in another area though Council has not yet seen that proposal.

Mr. Pingue asked when that would be available; Mr. Norenberg explained the Business License Code is a pivot point and based on tonight's feedback, Council will be reviewing the amendments proposed in other codes.

When asked if there will be another town hall meeting regarding this matter, Mayor Shupe said he is pleased there have been a lot of comments and concerns expressed this evening. His recommendation is that this ordinance to go back to Community Affairs and determine first, whether this needs to move forward and second, how it will look. He would then recommend it come back to Council and hear from the business community again. He agrees we do not want to produce something that is not clear.

Cathy Jackson then stated she has a full time job in the community though she is also an independent consultant with Tastefully Simple and became an independent consultant with jewelry and candles more recently. She lives outside the City limits but does public events including the Bug and Bud and Riverwalk Festival. She asked if she will be required to have a license and noted there are other independent consultants throughout the City this may apply to as well.

Mr. Pierce asked if her consulting business requires a business license from the State of Delaware. Ms. Jackson stated that when she got her business started with Tastefully Simple, as independent consultants they are only required to file a tax return using their individual social security number. Therefore, she does not have a business license with the State.

Mr. Norenberg stated that based on the current definition, she would not be required to have a Milford business license because she does not have a State of Delaware business license. Any vending done at local festivals is also exempt. He added that we are working through this feedback and emphasized the proposed document is not final.

Councilman Burk feels we should first review the State of Delaware law because Ms. Jackson may have been given good counsel from her company even though they may not be familiar with Delaware's laws for business licenses.

Joe Wiley of Milford Rental stated that when he first started his business, they were required to have a license for the rentals. A few years ago, the State of Delaware went on a witch hunt to get more revenue and went to businesses like Mr. Wiley's because they also had retail items. As a result, Mr. Wiley now is required to have multiple business licenses including one to rent equipment and another license to sell spray paint. In his mini store business, a license is required to rent mini storage units but they also need a license to sell boxes. They need yet another license to rent trucks.

They now have multiple business licenses and he is curious what Milford's intent is and because he has six business licenses through the State and asked if he will need six City of Milford business licenses.

Mr. Wiley asked what other towns require business license and the fees they charge. Also if the City anticipates issuing 500 to 600 licenses, do they anticipate making a profit from the licenses.

The Planning Coordinator reported that the list of business licenses is a result of a query from those that responded to the City Clerk's office several months ago. However, he is aware that there are other towns that require business licenses that are not included:

Blades	\$100
Camden	\$100 for General; \$250 for Professional
Clayton	\$50
Dewey Beach	\$109; \$382
Fenwick Island	\$75 if less than \$1500 annually; \$185 if over \$1500 annually
Frederica	\$50
Harrington	\$100
Lewes	\$125; \$300
Millville	\$100
Milton	\$100; \$125
Newark	\$100 to \$500 depending on type of business
Newport	\$75
Ocean View	\$150
Dover	Varies based on type of business and/or Gross Receipts
Smyrna	\$

Mr. Pierce explained that if the various businesses are under the umbrella of Milford Rental, the City would only require one license. If Milford Rental has a separate entity inside that is called another name, that business would need to be registered as well.

(Inaudible—speaking from audience.)

Mr. Pierce responded by stating he believes Mr. Wiley would just submit all of this licenses with the one application at this point.

(Inaudible—speaking from audience.)

Ramsey Schrader of Arena's recalled a comment that a business license would somehow prevent someone from being in the wrong zoning district. He said that people have to through the Building Inspector and Code Enforcement process and does not understand how that would apply. He pointed out that if an electrical and structural sign off is needed, where does the business license do anything to help that person from being in the wrong.

Mr. Schrader said Mr. Pierce also mentioned a new Code Enforcement person and he is curious if that is the reason for the license is to pay that new employee's salary.

Mr. Pierce said there have been a few incidents where people were pretty far into their building improvements. Some did receive building permits though they should have been funneled through the planning and zoning department to clarify what actual uses were allowed in those districts. He said there are also cases where someone did not require a building permit and simply moved their business into an existing building though the use was not permitted. The City simply wants to be able to catch those businesses at the earliest point of investment. Once people understand the City has a business license, we would be able to resolve those type issues at that time.

(Inaudible—speaking from audience.)

Mr. Pierce responded by stating it should be on the responsibility of the business owner to find those things but there are instances where people do not follow the proper procedure. It is one of the benefits listed.

(Inaudible-speaking from audience.)

Mr. Pierce then responded by stating the addition of the business license would help offset the budget in terms of hiring the new employee. It would reduce the need for a tax increase that may be needed to fund the position.

(Inaudible-speaking from audience.)

The Planning Coordinator stated it will cover the expenses for the additional Code Enforcement position.

(Inaudible-speaking from audience.)

Mr. Pierce responded by stating the rental license revenue was used to balance the budget.

(Inaudible-speaking from audience.)

Joe Wells stated he has been a long time realtor and appraiser in the Milford area. He said while he didn't own a business in a brick and mortar location in the City, he does business in the City on a daily basis. As an example, his wife does appraisals in the City of Milford on a regular basis as a service. He asked if she would be required to be registered to provide appraisal services.

His point goes back to a couple of programs already in place and in particular, the landlords' registration program and the contractor registration program. Mr. Wells understands the justification of those two programs on the sense the City has a building code specific to the contracting profession which makes sense. He agrees that things need to be done to code and that contractors should be registered to do business in the City to ensure they are on track with the City code.

Mr. Wells also understands the Landlord/Tenant Code even though he was not in favor at the time. But from a health and safety point of view, there was a need for a Code Enforcement Officer to bring up the quality of rental units and to make sure smoke detectors were in place, etc.

In both cases, the City is charging a fee and there is a benefit. There is a benefit in terms of code conformance and to tenants to make sure things are safe.

However, in this situation, in the area of real estate sales or appraisal, they are already governed by State boards and commissions. There are already vehicles in place that people can complain to if they were unjustly treated in that service being provided. He asked what this will do for the public and how this will protect them from business people who are doing business in town.

He stated that if Milford is interested in registering businesses who already have a business license, the City already has a registration in a sense because landlords are required to register. He then asked if that includes commercial landlords as well as residential. If only residential, he said that perhaps commercial should be considered. Perhaps a commercial lessor needs to be included in the residential licensing requirement that could require the lessors who rent commercial space to provide a copy of their business license to assure it is a licensed business in the State.

As far as people who already own brick and mortar businesses, he pointed out the City already has a data base of people who are paying taxes and own property in the commercial zones. The City could require they submit a copy of their business license to show they are in good standing.

Mr. Wells believes these are easy ways to handle this. The broader picture is the number of people who come and go in and out of the City on a daily basis providing various services. He is unsure how that can be monitored.

Mr. Wells had a for sale sign in the City of Harrington this year and received a phone call from the City telling him he needed a business license. They saw him as an independent contractor as opposed to an employee of the company. He was informed that each individual realtor had to have a license to list properties in their town.

He does not feel the consumer will complain to the town that they were unfairly treated by an unscrupulous realtor. Instead they are going to go to the real estate commission.

Mr. Wells has an appraisal corporation and a business license and wonders if that means he has to have a City of Milford business license? To him, he feels this is a thinly veiled tax. If more revenue is needed to hire additional enforcement people, the City should be able to figure that out.

Louis Fevrin then addressed Council stating is an All State Insurance Agent who is fairly new to town. He said it seems the reason we are trying to get this license is because we are trying to fix some zoning issues as well as find some of the 'ghost' businesses in town that are unable to be found. It seems the legitimate businesses are the ones that will pay the fee to find these mysterious businesses. He asked why we can't just grandfather legitimate business that we know are here who already have State licenses and then go after any new business or that the City discovers do not have licenses. He feels those are the ones that should be required to get a City of Milford license.

He said it also sounds like the City is going to be looking at businesses that have addresses in Milford and what will stop someone from having a post office box which causes the same problem the federal government has where businesses are moving money out of the country just to avoid taxes, which is what he feels this is.

The last comment is that it sounds to him like nothing is really being provided, other than someone's salary or additional revenue.

Mr. Pierce explained that he only mentioned addressing as a way to simplify the process though the intent is mainly brick and mortar businesses. The City does not only use an address to attempt to find a business. Instead they want the ones that are physically within the City to be able to track that particular business activity and acquire a better idea of what businesses are here, which ones have moved out and associated employment figures.

He stated that we would keep that database available for anyone coming into the office and asking about what spaces are available. This would allow Mr. Pierce to point them in the right direction and provide them with maps, contact information, etc.

(Inaudible-multiple people speaking from audience.)

With regard to the zoning and ghost businesses, the Planning Coordinator stated that as we get the registrants in, the City will proactively go out and enforce the ones not registered and make them come into compliance. It is not a case where the City will only collect a license from those honest business owners. Instead we will proactively pursue those that are avoiding the process.

(Inaudible-speaking from audience.)

Mayor Shupe asked City Solicitor Rutt to comment.

Solicitor Rutt stated that one piece of the proposed ordinance that has not been addressed is the good standing requirement that states "no license shall be issued to any person or business unless all taxes, assessments, sewer, water, electric, trash charges and other fees due the City are paid and in good standing."

The Solicitor stated that one of the things he finds in other municipalities is this is a good tool to find businesses who have City licenses but haven't paid their electric bill, water bill or taxes. Then their license is revoked or not issued. The City can put them out of business or make them current and bring those accounts up to date. That protects the good businesses in his opinion. For example, if a business wasn't up to date on their bills and they came in to request a zoning change or wanted a building permit because they planned to renovate their office, they would need to pay these other bills. If they are not up to date on what they owe the City and are not up to date on their business license, they can be denied any permits.

He continued by stating that one of the enforcement and penalty provisions is not clear in the proposed draft though believes it will be in the final version. It states that the City can institute a civil suit or use any other lawful methods authorized by

the City charter or the laws of Delaware to recover any unpaid fee. One of the things that should be added is an injunction to shut them down. If a business is not operating within the rules that everyone else is operating within, the City could get an injunction and close them down. This would keep the business community in good standing.

Mr. Rutt agrees the good standing is very important and provides the ability to collect a lot of those back charges. He believes that everyone will be surprised on how much could be collected as a result.

Mike Perfetti, owner of Delaware Branding Company stated most of his questions have been addressed but not answered. He asked what fund the collected revenues will go into, will there be additional hires for inspections, who has been performing this function, even though there hasn't been business licenses in the past and what caused the tax to be necessary now. He said his big question is whether the additional license is business friendly.

Mr. Perfetti said he asked and found out that a lot of other cities do this. So he jumped on line and did a cursory search and found out that a lot of cities are now repealing it because it is adverse to the goal. He then read the following quote "our community is open for business and ready for growth. The only barriers are our potential for economic growth and the limits we place on ourselves" made by Ed Murray who is the Chair of the Business Advocacy Committee when they repealed the City license tax for Tallahassee, Florida.

Mr. Pierce responded by stating the revenue generated from this will be placed in the general fund. His department is already in the process of hiring an additional Code Enforcement Official whom he believes will be hired regardless of if the business license is adopted.

(Inaudible-speaking from audience.)

Mayor Shupe asked if anyone else in the audience wished to comment.

Elizabeth Alban stated her husband is Dr. Steven Alban who operates a dental business in the community. Speaking on behalf of her husband, he had commented that there could be language in the ordinance that the amount of the license cannot be raised beyond that of the State license. She thinks that would be bizarre because in their opinion the State has more things they are concerned about and more things the license pays for.

Ramsey Schrader of Arena's readdressed Council and asked is we are we lacking the ability to enforce some of the things we are looking to enforce already. Or are we just doubling up and adding yet another fee and license where if someone is operating a business that is not legal and we do not have the ability to enforce it through a municipal code or police activities.

Mr. Pierce explained that once we have the additional Code Official, we will be able to focus more on property maintenance, rental licenses and business licenses while having the ability to sustain all of that. Right now we are only finding these businesses by accident, many times after they are too far along. It is hard to proactively go after something that we don't have a good inventory of. He agrees we could try and cross reference a number of different datasets. But that would still not provide a good clean list of which businesses are doing business in the City.

(Inaudible-speaking from audience.)

The City Planning Coordinator stated that one example would be a business owner who comes in and needs a zoning certificate from the City in order to perform a certain type of service. Mr. Pierce sometimes has to tell that person he can't give them a zoning certificate because they are in violation of the City Zoning Code.

If someone opened a business in an area that is not properly zoned, and no building permits were required, that person may have already invested a substantial amount of money and time in getting that business up and running. Mr. Pierce then has to work with that person to try and get that rectified.

Mr. Pierce explained it is not a solo case and it is difficult for him to discuss specific cases without providing too much information. Essentially the City would like to be able to track business activity in the City, store in a database, weed out

illegitimate business, help identify businesses that are not in conformance with the zoning ordinance and just make sure we are moving collectively in the right direction with the types of businesses and where they are located.

(Inaudible-speaking from audience.)

Mr. Pierce responded by stating if the landlord is delinquent on their taxes, the city would proceed with a monition sale.

(Inaudible-speaking from audience.)

Mr. Pierce stated that if the customer is behind on water and sewer or some other utility, the City has the right to disconnect that service. However, is someone is behind on taxes, the City has the ability to lien the property through a long process and eventually take it to monition sale.

(Inaudible-speaking from audience.)

Councilman Mergner arrived at this time.

Health Felker owns and operates Sing with Me on Front Street stated that obviously for her tiny boutique this burden is much greater than some of the big businesses out on Route 113. It seems to be in direct opposition to the downtown revitalization last year. She pointed out this is a year later and those same spaces are still sitting open. However, they could be businesses of the caliber of hers though we are now making it harder to get those small businesses in.

(Inaudible-speaking from audience.)

Mr. Pierce stated that a portion of the program is collecting the data. We need to account for the time spent to accumulate and maintain the data. That is a portion of this program. However, the City needs to generate some fee to account for that time, paperwork and putting the data in.

An unknown person in the audience stated the Chamber of Commerce has the information and between the different chambers, they have the bulk of the information that the City needs. The City can simply ask for it. It was also recommended to put out a memo asking for the information from businesses and it will gladly be sent.

(Inaudible-speaking from audience.)

Mr. Pierce responded by stating that he has a lot of people that come into his office who want to open a business. Before they get too far, he wants to inform them what areas can be considered for their business, based on the City's Zoning Ordinance. He will also tell them not to look at an area their use is prohibited. It gives them the ability to narrow down their focus to appropriate sites.

He does not specifically drive them to these locations, nor does he unlock the door and show them a building. However, he will give them a list of properties within the City limits where a use is permitted or a conditional use. At that point, he explains the process of how to obtain a conditional use if required.

If they come back and need more information, Mr. Pierce can pull in the Building Inspector to talk about renovating a portion of an existing building, for example. That establishes a line of communication with the City that they will need and use throughout the process to make sure their project is successful and done correctly.

Mr. Pierce emphasized he does not have the time to replace a real estate agent and does not represent individual properties. However, he can provide a starting point for an interested party to focus on certain sites where they can legally operate that specific business from.

He said this is not a big part of his duties but does take a decent amount of time, particularly with the downtown area the City is working on. Having an inventory of potential sites allows him to direct them. He believes one of his economic

development responsibilities is to provide information about what is available and to try to help fill those vacant spaces and lots.

It was determined there is one Building Inspector and one Code Official in the City of Milford.

There being no further comments, Mayor Shupe stated that the ordinance being proposed for a business license has not been presented to City Council and not something that Council will be voting on tonight. It will be presented to City Council during an open session.

In his opinion in moving forward, Mayor Shupe stated that there are a lot of questions that need to be answered before anything goes back to the Community Affairs Committee, where he thinks this should go. That would be done before City Council would host the public again. He appreciates the businesses coming here and though he is a business owner himself, he is not an expert in all of these areas nor are the members of City Council. He said it is great to have so many experts in business here to go through the questions and provide information to City Council.

Mayor Shupe said his recommendation would be to have the Community Affairs Committee review and discuss this.

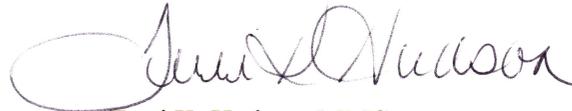
Councilmember Peel then stated that she chairs the Community Affairs Committee and took three pages of notes. She heard many concerns tonight loud and clear. They will be considered before moving forward with this proposal. She noted it is still at the Committee level and the draft is still under review. Part of the review process was to get everyone's feedback early rather than a final document that is before City Council and ready for a vote.

ADJOURN

There being no further business, Councilmember Peel moved to adjourn the Council Workshop Session, seconded by Councilmember Campbell. Motion carried.

The Council Meeting adjourned at 6:57 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, MMC  
City Clerk/Recorder

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 14, 2016

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 14, 2016.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Arthur Campbell, Lisa Peel,  
James Burk, Owen Brooks Jr. and Douglas Morrow

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 7:03 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion to approve the September 13, October 4, October 10, October 24 (Council Meeting only) and November 2, 2016 Committee and Council Meeting minutes made by Councilmember Brooks, seconded by Councilmember Mergner. Motion carried.

RECOGNITION

*Code Purple 2016-17 Update*

*Avenue United Methodist Church Pastor Tom Pasmore and Cold Purple Chair Joyce Bonani*

Pastor Pasmore reported that Avenue Church has been a proud part of the community for over 200 years and we are blessed to continue in that relationship.

As the newest installment of the Code Purple Shelter program, Avenue Church is excited to announce that the work of their volunteers will make this shelter possible. They are looking to supplement the work that Pastor Richie Portalatin of the Milford Community Center has been doing the last couple of years by housing women and children in Milford on cold weather nights. They plan to do the same thing for men.

Ms. Bonani explained they will be open in November and December whenever the temperature is below 32 degrees. Beginning in January and February through March 12<sup>th</sup>, they will be open every night regardless of the temperature. At that point, they will be back to the point of 32 degrees.

She stated that this is a community effort and not just an Avenue mission.

They will welcome people in at 7:00 p.m. after which they will be provided a warm meal and a place to sleep. They will also try to address any particular needs. They would then be provided with a peaceful place to sleep and would leave at 7:00 a.m. after they have had breakfast.

Ms. Bonani advised they also want to provide them with bags to take with them that would include food for the day.

She said they were open on Saturday night and learned a lot from that experience. They also understand they will need to reach out to the homeless community because they are not hearing the public announcements on television, radio, newspaper and electronically.

Rebecca Gasperetti then introduced herself as the current Miss Wilmington 2017. She said she began her journey as Miss Milford 2016 which was an incredible experience and thanked Mayor Shupe and City Manager Norenberg for their help.

She explained that with their help, she started a program called "Code Backpack". She would collect backpacks and fill them with non-perishable food items, reusable water bottles, socks, toiletries and \$5 Wawa gift cards. She would then ride around and deliver them to the homeless in Milford, Magnolia and other areas of Delaware.

Ms. Gasperetti advised that she has been trying to compose a proclamation and finally Governor Jack Markel proclaimed December 2016 as Homelessness Awareness and Prevention Month. She then followed with a reading of the Governor's proclamation. Several fundraisers are planned for Code Purple.

Mayor Shupe thanked Milford Police Department for their assistance in past years by providing information to individuals who needed a place when the temperatures get low. He concluded by stating it is a great private/public partnership which benefits those that are unfortunate.

#### *Recognition/Milford Police Department Officers*

Chief Brown recognized and commended Sergeant Shane Young, Corporal Al Sargent and Patrolman Brandon Hartlove. He reported the three officers were working when the department received a call about a subject who was attempting suicide. They arrived and found the subject had hung himself from a tree. Sergeant Young was able to get beneath the subject and lift him enough to take weight off the ligature. Patrolman Hartlove climbed the tree and cut the subject down. Sergeant Young and Corporal Sargent then accessed the subject but found no pulse at the time. All three officers successfully provided CPR which restored his pulse. The Carlisle ambulance then arrived and transported him to the hospital.

As a result of their actions, the subject is alive today, has since been released from the hospital and is in good health.

Chief Brown then presented the following certificate to Sergeant Young, Corporal Sargent and Patrolman Hartlove:

*Certificate of Recognition presented in recognition of your lifesaving efforts in responding to a suicide in progress on October 9, 2016. Your immediate action of removing the ligature from around the subject's neck and performing CPR saved his life.*

The Chief also issued life saving pins to wear on their uniforms after which photos were taken of Chief Brown, Mayor Shupe and the officers.

#### MONTHLY POLICE REPORT

Police Committee Chairman Burk presented the monthly report on behalf of Chief Brown noting the officers were extremely busy in October in comparison to the same month in 2015.

Councilmember Mergner pointed out the arrests and complaints have really increased over the past three months. He asked if there is anything specific causing this or if it is the result of additional officers. Chief Brown pointed out they are only one officer below full staff, in addition to things continuing to become busier.

Chief Brown announced that in conjunction with the City Manager's Workplace Halloween contest, the women at the police department decorated the department's lobby where Chief Brown and his secretary who gave out candy. The secretary dressed up along with Chief Brown's fiancé.

Councilmember Burk moved to accept the police report, seconded by Councilmember Morrow. Motion carried.

#### CITY MANAGER REPORT

Mr. Norenberg referenced his report in the packet and referred to the summary report for the previous month.

He also announced an event that will compliment Shop Small Saturday the weekend following Thanksgiving. The City's Tree Lighting Ceremony is returning and is scheduled at 5:30 p.m. in front of City Hall.

The City Manager announced that we continue to work on the City Charter process so tomorrow night's Charter Review Committee meeting will be canceled tomorrow night while we prepare the final draft for Council consideration.

Councilmember Burk confirmed the City has nineteen new code enforcement cases that were opened in October and sixty-six closed cases. He also referenced the interviews that were conducted in early November for the new Code Official position and asked if anyone applied. Mr. Norenberg stated that of the six applicants, five were interviewed.

Councilmember Burk asked if we need to implement the business license to fund the new position; Mr. Norenberg stated he will need to review the finances to make that determination.

Councilman Burk does not want to hire someone and then find out there is no money and recalled that situation happening in the past.

Mr. Norenberg explained if we do not institute the business license and we lose that potential income, we would need to consider other methods to balance the budget. He will provide Council with a year-to-date revenue report so they can decide whether the position could be filled or a supplemental appropriation would be needed.

The consensus at the meeting was to schedule a Community Affairs Committee meeting to discuss the matter further. Prior to that, the City Manager will obtain the information so he is able to provide answers to that question.

Councilmember Brooks moved to accept the monthly City Manager report, seconded by Councilmember Morrow. Motion carried.

#### MONTHLY FINANCE REPORT

Finance Committee Chairman Morrow reported that through the third month of Fiscal Year 2016-2017 with 25% of the fiscal year having passed, 35% of revenues have been received and 23% of the operating budget expended. He explained that revenues show higher during the first quarter of the fiscal year due to the real estate taxes that are paid.

Councilmember Burk moved to accept the September Finance Report as presented, seconded by Councilman Campbell. Motion carried.

#### COMMITTEE & WARD REPORTS

##### *Public Works Committee*

Chairman Brooks reported his Committee met on November 7<sup>th</sup> and talked about the sewer vacuum truck, Airport Road project, recycling grant, Washington Street Water Treatment Plant and other things. It was a good meeting and the next meeting is scheduled for December 12<sup>th</sup> at 6:00 p.m.

##### *Ward Two*

Councilman Burk reported that he and Councilwoman Peel met with a constituent this past weekend about some concerns over a City real estate transaction and specifically, about the procedure for unloading surplus property. He suggests we look at that process during the charter review.

## COMMUNICATIONS &amp; CORRESPONDENCE

*December 27<sup>th</sup> Council Meeting/Canceled*

Mayor Shupe reported that as always, we are trying to cancel the second meeting in December so that everyone can spend more time with their families. As a result, they are proposing the Tuesday, December 27<sup>th</sup> meeting be canceled. It was noted that observed City holidays are Friday, December 23<sup>rd</sup> and Monday, December 26<sup>th</sup> and City offices will be closed on those days.

The City Manager prefers full council support in lieu of a one-person decision.

Councilmember Peel moved to authorize the cancellation of the December 26<sup>th</sup> meeting, seconded by Councilmember Burk. Motion carried.

## UNFINISHED BUSINESS

There being no unfinished business, Council proceeded with new business.

## NEW BUSINESS

*Bid Award/Sewer Jet Vacuum Truck/NJPA Purchasing Plan*

Public Works Director Mark Whitfield reported on the need for the replacement of the sewer jet/vacuum truck used by the Water/Sewer Division. The present 1995 unit has over 4,100 hours of use and has reached the point that repair parts are no longer readily available. City Council authorized \$130,000 be set aside in its Capital Budget for the past three years to cover the anticipated cost of the unit. Presently \$390,000 is available for the purchase.

The truck is used for the maintenance of sewer lines, manholes and pump stations and removes grease, roots and other debris from the sewer mains.

The Water/Sewer Division staff has evaluated several different units and decided the Vactor unit available on the NJPA Purchasing Contract, which can be obtained through the Delaware State Contract, is the most suited unit. The price is \$378,647.00 which is approximately \$11,000 under budget.

The Public Works' Committee and he recommend authorization of this purchase as presented.

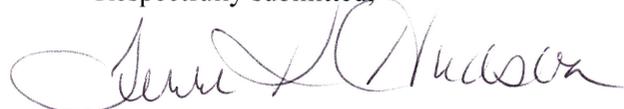
Councilmember Campbell moved to award the bid through the NJPA Purchasing Agreement/Delaware State Contract to Maryland Industrial Trucks for a Vactor Sewer Jet Vacuum Truck in the amount of \$378,647.00, and funded from the Water/Sewer Capital Reserves, seconded by Councilmember Mergner. Motion carried.

## ADJOURN

There being no further business, Councilman Mergner moved to adjourn the Council Meeting, seconded by Councilwoman Peel. Motion carried.

The Council Meeting adjourned at 7:31 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder