

*MILFORD CITY COUNCIL*  
 MINUTES OF MEETING  
 November 28, 2016

Milford City Council held a Public Hearing on Monday, November 28, 2015 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Arthur Campbell, Lisa Ingram Peel, James Burk, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.  
 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 7:18 p.m.

*Community Development Block Grant Program - Sussex & Kent County - Fiscal Year 2017*

Mayor Shupe advised the City of Milford, Delaware, in cooperation with Sussex County Council, Kent County Levy Court and the Delaware State Housing Authority, is holding a public hearing for the purpose of providing any interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant Program.

Mike Jones from Sussex County Community Development and Housing and Albert Biddle from Kent County Housing and Community Development were in attendance to present the information.

Mr. Jones thanked the Mayor and City Council explained they are both with the Community Development Block Grant (CDBG) program. The CDBG program receives funds from HUD (Department of Housing and Urban Development) and the Delaware State Housing Authority (DSHA) administers State's CDBG Program.

The purpose of DSHA is to provide affordable, decent, safe and sanitary housing to low and moderate income persons. The funding has been used for mainly housing rehabilitation and demolition, including basic repairs, doors, windows, electrical, plumbing etc.

Mr. Jones stated that approximately \$2.2 million is available for the various towns in both Sussex and Kent Counties. He explained the Delaware State Housing Authority, thru their consolidated plan, lists the activities the funding can be used for.

The current guidelines, established by HUD, are as follows:

	30% OF MEDIAN	Kent County		30% OF MEDIAN	Sussex County	
		LOW	MODERATE		LOW	MODERATE
1 Person	13,200	22,050	35,250	13,000	21,650	34,650
2 Person	16,020	25,200	40,250	16,020	24,750	39,600
3 Person	20,160	28,350	45,300	20,160	27,850	44,550
4 Person	24,300	31,450	50,300	24,300	30,900	49,450
5 Person	28,440	34,000	54,350	28,440	33,400	53,450
6 Person	32,580	36,500	58,350	32,580	35,850	57,400
7 Person	36,730	39,000	62,400	36,730	38,350	61,350
8 Person	40,890	41,550	66,400	40,800	40,800	65,300

Mr. Jones explained the homes have to be the primary residence and occupied by the homeowner. All property taxes must be current on both the county and municipal sides. The homes must be insurable in order for the work to be performed. Liens are placed on the properties; a five-year lien is placed on homes in which the property owner is older than 62 years of age and a ten-year lien is placed on the home for those owners younger than 62.

Over the past fifteen years on the Sussex side, Milford has received more than \$487,000 for 35 different homes. Currently there are 14 people on the waiting list. Nothing has been received on the Sussex side for a couple years though Kent County did receive Milford funding in FY16.

Mr. Jones stated that typically Milford receives money for housing rehabs. Other areas, such as sidewalk repairs/replacements, sewer connections, etc. can be requested, though their main focus is on rehabs. Anything other than rehabs requires matching grants from the municipality.

Mr. Biddle then addressed Council stating that Kent County operates under the same guidelines though the income limits, established by HUD, are slightly higher.

He emphasized that funding is available for the fiscal year that began July 1, 2016 with \$74,000 earmarked for four properties. Of those, some are under contract and some are still in the application process. Other homeowners are working with other agencies to find ways to partner in order to maximize the funding benefits.

Mr. Biddle explained that they are here this evening to discuss the program that begins July 1, 2017. The application process has started. The Housing Authority requires the applications be submitted before the end of February. Shortly before July 1, 2017, they will be informed whether or not the City of Milford receives any awards for housing rehabilitation.

He reported that the Housing Authority has been funding Milford every other year or so. Milford has the ability to receive funding from Kent County one year and Sussex the next year which is a benefit.

Mr. Biddle noted that the available \$2.2 million is for all municipalities as well as the unincorporated areas in Kent and Sussex Counties, including the City of Dover. Though not a lot of money, if they continue to work on the problems, it does help and does make a difference. He emphasized it is not a cure all or fix all, but provides the municipality with some assistance particularly with those projects the City has to address on a continuous basis. It is a source of funding that can help eliminate some of the problems in Milford.

Mr. Biddle said the purpose of the hearing is to solicit information from the public to decide if the City should turn in an application.

He encouraged anyone with questions to contact their office in the appropriate county.

There being no questions from City Council, Mayor Shupe opened the floor for public comment. No one responded and the public comment portion of the hearing was closed.

Mayor Shupe announced the associated resolutions will be on the December 12<sup>th</sup> meeting for adoption, after which time, they will be forwarded to Mr. Jones and Mr. Biddle.

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

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 28, 2016

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 28, 2016.

PRESIDING: Mayor Bryan W. Shupe

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

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

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

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

INVOCATION AND PLEDGE

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

RECOGNITION

*Proclamation 2016-15/Congratulating Milford High School Boys Soccer Team*

Mayor Shupe recognized the MHS Soccer Team by presenting the team with the following proclamation:

*PROCLAMATION 2016-15  
Commending MHS Boys' Varsity Soccer Team*

*WHEREAS, the Milford High School Boys' Varsity Soccer Team ended another successful winning season with a record of 8-6-1; and*

*WHEREAS, this was the fourth winning season in the past five years and back-to-back years of making the DIAA State Tournament; and*

*WHEREAS, Milford Soccer continues to play one of the toughest schedules in the entire state, playing seven state tournament teams; and*

*WHEREAS, the team was directed by Head Coach Todd French and Assistant Coach Ed Evans; and*

*WHEREAS, Managers Rebecca Castenada, Wendy Lara and Morgan Dawson provided support throughout the season; and*

*WHEREAS, Team Captains Kiki Torres, Matt Mitzel and Zach Domercant led their team to victory along with Team Members Ricardo Florestal, Eshnighdter Estime, Alex Toledo, Kyle Barbutes, Sametone Corvil, Khi Hovington, Ronalson Corvil, Daniel Sanchez, Jaxson Turner, Erens Mondelus, Lensky Legros, Miguel Morales-Lopez, Davidson Marcellus, Josh Strassle and Edwin Perez; and*

*WHEREAS, Kiki Torres earned All-State and All-Conference Honors and Matt Mitzel, Zach Domercant, Jaxson Turner and Erens Mondelus earned All-Conference Honors; and*

*NOW, THEREFORE BE IT RESOLVED that I, Bryan W. Shupe, Mayor of the City of Milford hereby honor and congratulate*

*the Milford High School Boys' Soccer Team for their excellence and perseverance. Their success reflects credit upon themselves, their coaches, their parents and the Milford Public School District.*

Photos followed the presentation.

*Proclamation 2016-16/Congratulating Milford High School Field Hockey Team*

Mayor Shupe recognized the MHS Field Hockey Team by presenting the team with the following proclamation:

*PROCLAMATION 2016-16  
Honoring MHS Varsity Field Hockey Team*

*WHEREAS, led by eight hard-working, strong Seniors, the unparalleled reputation of the Milford High School Varsity Field Hockey Team continued to grow during the 2016 season; and*

*WHEREAS, under the direction of Head Coach Andrea Fleming, Assistant Coach Dawn Robinson and Assistant Coach Brittany Blacksten, the team triumphed over its opponents scoring 63 goals (2<sup>nd</sup> in the state), recording 7 shutouts and only allowing twelve goals during the entire season; and*

*WHEREAS, earning a bid in DIAA Tournament, they beat Concord in overtime action during the First Round, becoming MHS's only Field Hockey Team to accomplish a playoff victory since 1996; and*

*WHEREAS, the Lady Bucs finished out their season with an extraordinary 13-2 record of which the only two losses were at the hands of the eventual 2016 State Champion Delmar Wildcats; and*

*WHEREAS, Team Members Rajene Bowe, Megan Fry, Daphne Leighty, Katelyn Melvin, Deja Rodriguez-Santiago, Hayden Shockley, Margaret Sollie, Megan Wolfe, Leah Barnett, Darby Brennan, Kaylee Groce, Cameron Quinn, Samantha Remus, Anna Marie Sollie, Emily Sylvester, Brianna Wells, Vanasha Daniels, Allie Davis, Jessica Donovan, Courtney Kohel, Silvara Santiago, Emma Shockley, Sara Wallace, Olivia Cromer and Kayleigh Wright have had an outstanding season; and*

*WHEREAS, Darby Brennan was named First Team All-State; Kate Melvin and Rajene Bowe named Second Team All-State; Reagan Bowe, Megan Fry, Darby Brennan, Hayden Shockley and Kate Melvin named First Team All-Conference; Daphne Leighty and Deja Rodriguez-Santiago named Second Team All-Conference and Margaret Sollie received All-Conference Honorable Mention honors; and*

*WHEREAS, Managers Kaitlyn Davies, Michaela Roach, Christina Kimmel provided support throughout the season; and*

*WHEREAS, the successful season is a testament to the skill and dedication of each of the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Milford High School community.*

*NOW, THEREFORE BE IT RESOLVED that I, Bryan W. Shupe, Mayor of the City of Milford, do hereby congratulate and commend the Milford High School Varsity Field Hockey Team for their excellence and teamwork. Their success reflects credit upon themselves, their coaches, their parents and the Milford Public School District.*

Photos followed the presentation.

*Proclamation 2016-17/Congratulating Milford High School Cross Country Team*

Mayor Shupe presented those members of the MHS Cross Country Team with the following proclamation:

*PROCLAMATION 2016-17  
Honoring MHS Girls Cross Country Team*

*WHEREAS, Cross Country is one of the more grueling high school sports, requiring dedication, determination and many hours of intense training; and*

*WHEREAS, the Milford Senior High School Girls' Cross Country Team began the season with a goal of winning the Henlopen South Divisional Title; and*

*WHEREAS, the members of the team performed at the highest level of excellence throughout the season winning twelve regular meets, three tri-meets and two quad-meets; and*

*WHEREAS, the Girls' Cross Country Team continued their winning streak by clinching the Kent County Championship on November 1, 2016; and*

*WHEREAS, not only did they accomplish their goal by bringing home the Henlopen South Divisional Title, but on November 5, 2016, they completed a sensational season by winning the 2016 Henlopen Conference Championship; and*

*WHEREAS, this winning team was directed by Head Coach Bobby Spath who was named the 2016 Henlopen Conference Girls' Coach of the Year; and*

*WHEREAS, the champion runners are Summer Arthurs, Rejene Bowe, Deja Rodriguez-Santiago, Holly Tesoro, Emily Holstein, Victoria Little, Magaly Tijerino-Chaj, Silvara Santiago, Olivia Cromer, Ainsley Kenton and Georgina Valdez.*

*NOW, THEREFORE, BE IT RESOLVED, that I, Bryan W. Shupe, Mayor of the City of Milford, do hereby congratulate and commend the Milford High School Girls Cross Country Team for their excellence and perseverance. Their success reflects credit upon themselves, their coaches, their parents and the Milford Public School District.*

Photos followed the presentation.

*Proclamation 2016-18/Congratulating Milford High School Varsity Football Team*

Mayor Shupe read the proclamation into record though it was reported by the audience that the team had been advised they would be recognized at the December Council meeting.

The matter will be put on hold for confirmation.

*Proclamation 2016-14/Honoring Retired Police Chief E. Keith Hudson for 39 Years of Service*

Mayor Shupe referenced the following proclamation that was presented to Retired Chief Hudson at a celebration held in his honor on November 9th:

*PROCLAMATION 2016-14*

*Honoring Chief E. Keith Hudson On the Celebration of His Retirement from the Milford Police Department*

*WHEREAS:*

*We are here today to pay honor to and celebrate the thirty-nine year career of Retired Police Chief E. Keith Hudson;*

*Retired Chief Hudson began his public safety career when he joined the Milford Police Department in May 1977 as a Police Dispatcher;*

*Recognized for his diligent work and demonstrated ability, he was hired in September 1978 as a Law Enforcement Officer after which he graduated from the Delaware State Police Training Academy in December of that year;*

*He advanced through the ranks serving as Patrolman, Patrolman First Class, Corporal, Sergeant, Staff Sergeant, Patrol Lieutenant, Administrative Lieutenant, Captain and most notably as Police Chief beginning in June 2002;*

*Having attended the Northwestern University Center of Public Safety and the University of North Florida Institute of Police Technology and Management, he is also a graduate of Delaware Technical and Community College and the 158th Session of the FBI National Academy;*

*A recipient of many accolades throughout his career, in 1990 he was named Milford Police Officer of the Year by the Benevolent and Protective Order of Elks Lodge 2401 for showing Exemplary Leadership and Service to the Community, in 2011 received the Department of Defense Patriot Award from the United States Secretary of Defense for Model Employment Practices of Employees who Serve in the United States Armed Services, in 2012 received the Community Blue Diamond Award from the Milford Public School District for Ongoing Support of the School Resource Officer Program and Commitment to Student and Teacher Safety and in 2016 was nominated for Citizen of the Year for Distinguished Police Service to the Community by the Greater Milford Chamber of Commerce, just to name a few;*

*Some of the achievements occurring during his administration include the implementation of a Seasonal Cadet Program, Senior Volunteer Program, Upgraded Car Camera System, Computer-Aided Dispatch System, Increased School Resource Officer Presence, Upgraded Communications Room, Addition of a Second Workstation and Police Dispatcher, Reestablishment of the Department's K-9 Program and Addition of a Second Unit and the Twenty-Five Year Building Rededication;*

*Recognizing the need to reduce the number of Officer injuries associated with violent encounters and decrease the number of injuries to violent and resistive suspects, under his command, the Milford Police Department continued to be a leader in the use of technology in law enforcement, becoming the first Agency in Delaware to purchase and equip the Departments' Officers with Taser devices; and*

*Involved in many law enforcement and community organizations, Retired Chief Hudson is a Lifetime Member of the Delaware Police Chiefs' Association, Lifetime Member of the International Association of Chiefs' of Police (IACP), Member of the Sussex Chiefs' Association, Kent County Chiefs' Association, Delaware Police Chiefs' Goals Committee, Special Law Enforcement Assistance Fund Committee, Maryland-Delaware Chapter FBI National Academy Associates, Delaware Police Chiefs' Foundation, Former Member of the IACP Victim Services Committee, Former Member of the Fraternal Order of Police Lodge #3 and Former Fourteen-Year Member of Carlisle Fire Company.*

*Now, Therefore, Be It Proclaimed, that on this 9<sup>th</sup> day of November 2016, I, Bryan W. Shupe, Mayor of the City of Milford, on behalf of the entire Milford City Council, express gratitude to Retired Chief E. Keith Hudson for his untiring service and unselfish contributions to the Milford Police Department and the Milford community at large, and I personally wish him the very best in this new chapter of his life.*

*s/Mayor Bryan W. Shupe*

## RECESS

Councilman Mergner moved to recess the Council Meeting to proceed with the Public Hearing, seconded by Councilwoman Peel. Motion carried.

The Council meeting recessed at 7:18 p.m.

## RETURN TO COUNCIL MEETING

Mayor Shupe called for a motion to reconvene. Councilman Mergner moved to reconvene the Council Meeting at 7:29 p.m., seconded by Councilman Campbell. Motion carried.

## COMMUNICATIONS & CORRESPONDENCE

*Community Affairs Recommendation:*

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

*License*

Chairperson Peel reported a Committee Meeting was held on November 21<sup>st</sup> following a Public Workshop held the week prior. Several business owners attended the workshop at which time they presented their concerns regarding the proposed City of Business License.

After that workshop, the Committee recommended the City not move forward with the business license considering the overwhelming concern expressed from those business owners present.

The Chair also reported there were two other code changes considered at that time. They will be discussed and introduced later this evening.

Councilman Mergner asked if any of the fees related to the business license were part of the balanced budget approved by City Council in June; Mr. Norenberg explained that when the business license was reviewed during the budget process, and after the initial discussions by the appropriate committee, the intent was for the fee to supplement the general fund for code enforcement. He explained that should City Council accept the recommendation of the Community Affairs Committee not to proceed with the business license program, other funding alternatives will have to be considered.

Councilman Mergner recalled that this business license would help with the organization of all the businesses in Milford to ensure zoning and use compliance. In addition, it would provide the City with data and the ability to know exactly who is doing business in Milford as well as the types of services/goods being offered.

Community Affairs Chair Peel stated that based on the information received from the business owners, they are already licensed by another agency and this would create another layer. In the discussion, several of the businesses said they would be willing to provide the City with whatever information was needed to create a registry. Based on that discussion, they are already licensed and regulated by the State of Delaware so the information already exists.

Councilman Campbell stated that he gathered from the meeting, that most of the businesses were licensed with the State of Delaware and that they felt the \$120 was excessive considering the licensing fees they are already paying. He noted that he has worked in various cities and towns, of which required a business license.

Chairperson Peel explained that her impression was that they felt there was no return on the license fee which was a key concern. They also referenced a past increase in the rental license fee and believed there was no return on that investment. As a result, many of their concerns were based on previous increases.

According to Councilman Brooks, City Council approved hiring another rental person to do inspections. A year or two later, City Council found out the person had never been hired.

Concern was expressed by Councilman Campbell and Mergner about the need for a business license and the cost of doing business.

Mr. Mergner asked if there is a fear that businesses will not come to Milford because of the business license fee. He asked if the business license fee should be reduced from the proposed \$120 to \$50 a year.

It was agreed that the businesses have already agreed to provide the information to create a registry.

Ms. Peel agreed that originally she felt the business license would provide a better way to police businesses in the City though the Committee was told that they would be punishing those that already have a State license versus those that are operating without a license or someone who is violating our code.

Mr. Burk noted that the Committee was also told that each business has to pay \$75 for a State license who provides state regulatory boards for doctors, realtors, etc. The business owners felt like they were receiving a service for the \$75 State fee and complained the City fee was \$120.

He also pointed out that the business owners did not want to pay \$120 and an example was given that if we know someone is coming in town, the City can prevent them from putting their business in an area that isn't zoned properly. He heard from several business owners who felt they were being penalized for someone not doing their research on where they could legally put their business.

Mr. Burk said they felt it was the business owner's responsibility to do their own research before they leased a building to ensure the zoning was proper.

When asked if this can be reconsidered, City Solicitor Rutt then explained that there is a recommendation from the Committee not to introduce the ordinance; however, any Councilperson has the right to introduce an ordinance. There is no motion pending at this time and only a committee recommendation.

Mr. Brooks said he thinks the people were told that they could come back and listen to Council and then speak. Mr. Rutt reported that if an ordinance is introduced, it would be put on an agenda at a later date and a public hearing would be required. The people from the community could then voice their pros and cons prior to City Council voting on it and this would create a record on the ordinance. That would be done in lieu of a workshop where the Council only listened to comments.

Mayor Shupe questioned the public hearing and recalled that only zoning matters required a public hearing. Solicitor Rutt agreed a public hearing is not required on the ordinance in this case though Council has the right to ask for comments and people are able to submit correspondence.

Councilman Campbell recalled the consensus of the businesses was that a portion of the business license fee was going to assist with the costs of the new code official which they did not feel that was appropriate. Councilman Burk stated that a few business people indicated that when the rental license was instituted in Milford, a person was supposed to be hired to do the rental inspections and that did not work out. The more tenured business owners were concerned about that because they had been down the road with the City in a similar situation.

Councilman Campbell feels this matter should be revisited.

When asked the process, Solicitor Rutt explained an ordinance must be formally introduced and added to an agenda. Any Councilperson has the right to introduce an ordinance.

City Manager Norenberg explained that because the Committee considered three different ordinances at its last meeting, two were supported by the Committee and both are on the agenda for introduction later in the meeting. They are also on the December 12<sup>th</sup> agenda for potential adoption. At that time, City Council can discuss the ordinances prior to taking any action.

The City Manager will have the business license ordinance added to the next agenda for introduction only; it will be on the next Council meeting for further discussion and possible adoption in January.

*Police Committee Recommendation:*

*Certified Police Officer Hiring Bonus*

Police Committee Chairman Burk reported that the Police Committee met on November 21<sup>st</sup>. Because the department was not receiving any police applications, an incentive was discussed to attract certified police officers.

At this time, Chairman Burk prefers to postpone any discussion.

*Economic Development Committee Recommendation:*

Economic Development Committee Chairman Mergner reported that his Committee met prior to the Council meeting to discuss the City's current ordinance related to impact fees. They are proposing a code change which would support \$1 million projects and stimulate economic growth. There are several options under consideration though the Committee

asked that additional work be done. Therefore, no further discussion is needed on that matter at this time.

Chairman Mergner announced the second item involves the RiverPlace and South Washington Street development projects. The Rivertown Rebirth plan cited both areas and the Planning Coordinator is requesting to move forward with the potential development(s).

The Committee is recommending City Council support these projects and that we move forward with the Land Development Request for Proposals (RFP).

City Manager Norenberg offered to provide a presentation on the RFP process at the next meeting if Council wants more information.

#### COMMUNICATIONS

Mayor Shupe reported that the return of the Tree Lighting Ceremony was very successful this past Saturday evening. He was pleased with the turnout and thanked those that attended.

The Mayor also expressed appreciation for those people that came out for Small Business Saturday. He said that as a small business owner personally, he was grateful for the support. He has spoken with a lot of businesses in the downtown area, as well as a few others, who expressed their gratitude.

He also reminded City Council that the Holiday Stroll is scheduled for Friday night, December 2<sup>nd</sup> and encouraged everyone to support the downtown businesses during this event.

Mayor Shupe acknowledged the many new holiday lights that are up and operating throughout the City adding that the decorated poles and trees look very festive.

#### UNFINISHED BUSINESS

There being no unfinished business items, Mayor Shupe proceeded with new business.

#### NEW BUSINESS

##### *Milford Community Parade Committee/Charles Gray/Report & Request*

The City Clerk advised that Mr. Gray was unable to attend this evening and the item will be moved to the December 12<sup>th</sup> agenda.

*Introduction/Ordinance 2016-21*

*Introduction/Ordinance 2016-22*

*Introduction/Ordinance 2016-23*

Mayor Shupe introduced Ordinances 2016-21, 22 and 23:

*ORDINANCE 2016-21  
Change of Zone/Lands belonging to City of Milford  
Tax Parcel 3-30-11.09-030.00  
.42 +/- Acres  
Current Zone II/Proposed Zone R3*

*AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning .42 +/- acres of real property from I1 to R3 on Marshall Street, Milford, Delaware. Present Use: Vacant. Proposed Use: Watergate subdivision. Tax Map and Parcel: 3-30-11.09-030.00.*

WHEREAS, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on November 15, 2016; and

WHEREAS, Milford City Council will hold a Public Hearing on December 12, 2016 to allow for public comment and further review of the ordinance; and

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

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

Upon the adoption of this ordinance, tax map and parcels 3-30-11.09-030.00, owned by City of Milford located on Marshall Street, is hereby zoned R3.

Dates:

Planning Commission Review & Public Hearing: November 15, 2016

City Council Introduction: November 28, 2016

City Council Public Hearing: December 12, 2016

Adoption: December 12, 2016

ORDINANCE 2016-22  
Change of Zone/Lands belonging to Liborio Watergate LLC  
Tax Parcel 3-30-11.09-031.00  
.42 +/- Acres  
Current Zone I1/Proposed Zone R3

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning .42 +/- acres of real property from I1 to R3 at 643 Marshall Street, Milford, Delaware. Present Use: Vacant. Proposed Use: Watergate subdivision. Tax Map and Parcel: 3-30-11.09-031.00.

WHEREAS, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on November 15, 2016; and

WHEREAS, Milford City Council will hold a Public Hearing on December 12, 2016 to allow for public comment and further review of the ordinance; and

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

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

Upon the adoption of this ordinance, tax map and parcels 3-30-11.09-031.00, owned by Liborio Watergate LLC located at 643 Marshall Street, is hereby zoned R3.

Dates:

Planning Commission Review & Public Hearing: November 15, 2016

City Council Introduction: November 28, 2016

City Council Public Hearing: December 12, 2016

Adoption: December 12, 2016

ORDINANCE 2016-23  
Liborio Watergate LLC  
Conditional Use/Amended PUD & Preliminary Major Subdivision

Liborio Watergate LLC for a Conditional Use for an amended Planned Unit Development and a Preliminary Major Subdivision of 47.39 +/- acres in an R3 (Garden Apartment and Townhouse) Zoning District. Property is located on the east

side of Marshall Street approximately 650 feet north of the Elks Lodge Road intersection, Milford, Delaware. Present Use: Townhouses and Vacant Land; Proposed Use: 43 Single Family units, 48 Duplex units, 129 Townhouse units, 80 Apartment units for a total of 300 unit subdivision. Tax Map 3-30-11.09-029.00; -029.03; -30.00 through -032.00; 3-30-11.09-101.00 through -304.00.

WHEREAS, the City of Milford Planning Commission will consider the conditional use application at a Public Hearing on November 15, 2016; and

WHEREAS, Milford City Council will hold a Public Hearing on December 12, 2016 to allow for public comment and further review of the ordinance; and

WHEREAS, it is deemed in the best interest of the City of Milford to allow a Conditional Use for an amended Planned Unit Development and a Preliminary Major Subdivision as herein described.

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

Section 1. Upon the adoption of this ordinance, Liborio Watergate LLC is hereby granted a Conditional Use Permit to allow an amended Planned Unit Subdivision and a Preliminary Major Subdivision to be known as Watergate in accordance with the application, approved plans and any conditions set forth at the Public Hearings.

Section 2. Construction or operation shall commence within one year of the date of issuance of the permit otherwise the conditional use becomes void.

Section 3. Dates.

Planning Commission Review & Public Hearing: November 15, 2016

City Council Introduction: November 28, 2016

City Council Public Hearing: December 12, 2016

Adoption: December 12, 2016

Planning Coordinator Pierce explained that all three ordinances relate to the Watergate project; the first two involve change of zone applications. The third ordinance is an amendment to the conditional use/planned unit development (PUD) for the subdivision.

Mr. Brooks asked the location; Mr. Pierce explained it is toward the south end of Marshall Street on the east side.

Mr. Brooks said he thought the property had already been sold and recalled when a certain amount of money was offered for the land and Councilman Grier said the City needed to sell it. At that time, Council voted to sell it. Solicitor Rutt explained there is a contingency in the contract that the land be rezoned.

Mr. Pierce noted that public hearings are scheduled for all three ordinances at the December 12<sup>th</sup> Council meeting.

*Introduction/Ordinance 2016-25/Chapter 107/Contractors Code Amendment*

Mayor Shupe introduced the following ordinance:

*ORDINANCE 2016-25  
Contractors-Chapter 107*

WHEREAS, City Staff has reviewed several Ordinances related to licensing and permitting fees; and

WHEREAS, the annual fee for a Contractor Permit is included in the codified Contractors Code Chapter 107; and

WHEREAS, there is a need to adjust fees for certain services from time to time and incorporate all adjusted and/or new fees for licensing and permitting services; and

WHEREAS, City Council finds the combination of certain fees into a single comprehensive Resolution will provide a simplified and more efficient manner for residents and those doing business in the City of Milford to access applicable fees.

NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by modifying Chapter 107 entitled Contractors.

Chapter 107 - Contractors

Section 2. Section 107-4 - Issuance of permit; records; payment of fees is hereby amended by removing the language indicated in strikethrough as follows:

§ 107-4. - Issuance of permit; records; payment of fees.

Upon proper application and payment of a prescribed fee, a permit, signed by the City Manager or his designated representative (~~permit officer~~), shall be issued to each applicant. Each such permit shall be valid and effective from the first day of January of each year or the date of issuance to the last day of December in that year. A record of all permits issued and permit fees paid shall be maintained at the City Hall. Each such permit shall be on a form provided by the City.

Section 3. Section 107-6 - Permit Fees; Refunds; Exemptions is hereby amended by removing the language indicated in strikethrough and adding the language and new Subparagraph A indicated in underline, as follows:

§ 107-6. - Permit fees; refunds; exemptions.

~~A. The annual permit fee shall be \$100.~~

~~(1) Permit fees associated with new applications are prorated on a quarterly basis.)~~

~~(2) The annual renewal fee is \$100.~~

~~(3) Second renewals are subject to a late fee of \$50.~~

~~(4) The penalty fee shall be \$100.~~

~~B. No prorationing, rebate or refund of any permit fee or part thereof shall be made by reason of nonuse of the permit or by reason of a change of location or business rendering the use of the permit ineffective. The City Manager or permit officer shall have the authority to refund a permit fee only if the permit fee was collected through an error. All 501(c)(3) nonprofit companies are exempt from permit fees.~~

A. The fee for a contractor license shall be set by the City Council s part of the City Fee Schedule.

(1) The contractor license fee shall be prorated after July 1<sup>st</sup> of each year. No refund shall be given for any contractor that ceases to operate during the licensing period.

Section 4. Section 107-12 – Violations and Penalties is hereby amended by removing the language indicated in strikethrough and adding the language indicated in underline, as follows:

§ 107-12. - Violations and penalties.

A. Any contractor/person providing services within the City without a valid permit will be subject to a penalty fee of \$100 penalties as provided for under this section.

B. A stop-work order will be issued by the Code Official and will stay in effect until the contractor complies with all conditions associated with the issuance of a valid permit, including annual permit and penalty fees.

C. Continued violation of any provision of this chapter is subject to fines in accordance with Milford City Code Chapter 1, Article II General Penalty.

D. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

Section 5. Dates.

*Council Introduction: November 28, 2016*

*Council Adoption: December 12, 2016*

Planning Coordinator Pierce explained this amendment involves minor amendments that were discussed by the Community Affairs Committee.

*Introduction/Ordinance 2016-26/Chapter 168/Peddling, Soliciting and Transient Merchant Code Amendment*

Mayor Shupe introduced the following ordinance:

*ORDINANCE 2016-26  
Peddling, Soliciting and Transient Merchants-Chapter 168*

*WHEREAS, City Staff has reviewed several Ordinances related to permitting and licensing fees; and*

*WHEREAS, there is a need to adjust fees for certain services from time to time and incorporate adjusted and/or new fees for licensing and permitting services; and*

*WHEREAS, City Council finds that combining certain fees into a single comprehensive Resolution will provide a simplified and more efficient manner for residents and those doing business in the City of Milford to access applicable fees; and*

*WHEREAS, it is found appropriate to update the language in Chapter 168 by which the City reviews, evaluates and acts upon applications for Peddling, Soliciting and Transient Merchants.*

*NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1. The Code of the City of Milford is hereby amended by modifying Chapter 168 entitled Peddling, Soliciting and Transient Merchants, as follows:*

*Chapter 168 - Peddling, Soliciting and Transient Merchants*

*§ 168-1. - Definitions and word usage.*

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

*PERSON — Any natural person, association, partnership, firm or corporation.*

*SOLICITING and PEDDLING*

- (1) SOLICITING — The seeking or taking of contracts or orders for any goods, wares, merchandise or services for future delivery or for subscriptions or contributions upon any streets or sidewalks or from house to house within the city **City**.*
- (2) PEDDLING — The selling or offering for sale of any goods, wares, merchandise or services for immediate delivery which the person selling or offering for sale carries with him/**her** in traveling or has in his/**her** possession or control upon any of the streets or sidewalks or from house to house within the city **City**.*
- (3) Neither the word "soliciting" nor "peddling" shall apply to:*
  - (a) Farmers seeking or taking orders for or selling or offering for sale their own produce.*
  - (b) The Vendors at farmers' markets or special events that are approved by the City to use public streets, parks and facilities for their event. seeking or taking of orders for or the selling or offering for sale of bread or bakery products, meat or meat products or milk and milk products by any manufacturer or producer thereof.*

*SOLICITOR or PEDDLER — Any person who shall engage in soliciting or peddling, respectively, as hereinabove defined.*

***FOOD ESTABLISHMENT - A business operation that stores, prepares, packages, serves, vends or otherwise***

provides food for human consumption.

**MOBILE FOOD VEHICLE – A Food Establishment that is located upon a vehicle including motorcycles and bicycles, or which is pulled by a vehicle, where food or beverage is cooked, prepared or served for individual portion service. This definition includes but is not limited to: mobile food kitchens, pushcart vendors, bicycle cart vendors, mobile food trucks, canteen trucks, and coffee trucks. This definition does not apply to “meals on wheels” program vehicles, or food home delivery services.**

**PRIVATE PARTY – A social gathering on private property not open to the public.**

TRANSIENT MERCHANT — A person who engages or proposes to engage temporarily in merchandising business in the ~~city~~ **City** and occupies a room, building, tent, vehicle, **Mobile Food Vehicle**, lot, stand or other premises for the purpose of selling, trading or bartering goods, **food**, wares and merchandise.

B. Word usage. The singular shall include the plural.

§ 168-2. - Registration required.

No person shall engage in soliciting or peddling or act as a transient merchant in the ~~city~~ **City** without first registering with the City Code Official.

§ 168-3. - Information to be supplied.

- A. Every person desiring to engage in soliciting or peddling in the ~~city~~ **City** shall first register, under oath, with the Code Official. Upon such application, such person shall give his/**her** name, address and age; **undergo his previous a criminal background check through the Delaware State Bureau of Identification record, if with the report sent to the Code Official any;** the name and address of the person for whom he/**she** works and a letter appended to the application authorizing the applicant to represent the firm the applicant purports to represent, if any; the type or types of article, device, subscription, contribution, service or contract which he/**she** desires to sell or for which he wishes to solicit within the ~~city~~ **City**; the length of time he wishes to be registered; the type of vehicle he/**she** uses, if any, and its registration number; and the name, address and title of a company officer upon whom process or other legal notice may be served, if the applicant is a corporation or company.
- B. Where a person makes application for him/**herself** and one or more helpers, all applicable personal information specified above shall be given for each helper, and an individual license shall be required for each helper. No license issued under this chapter shall be transferable from one person to another.
- C. **When applying for a permit for a Mobile Food Vehicle, a current, valid Food Establishment permit from the Delaware Department of Health and Social Services Division of Public Health and any inspection reports shall be provided to the City.**

§ 168-4. - Fees.

**The fee for a permit or license shall be set by the City Council each year as part of the City Fee Schedule. The license or permit fee shall be prorated after July 1. No refund shall be given for any solicitor, peddler, or transient merchant that ceases to operate during the licensing period. No permit or license shall be issued under this chapter except upon payment of a fee of \$50.**

§ 168-5. - Issuance of license or permit; list of vendors.

- A. Upon registering with the ~~city~~ **City** as aforesaid, each solicitor or peddler shall be issued, **unless he shall have been convicted of a crime involving moral turpitude,** a license or permit and may, ~~unless he shall have been convicted of a crime involving moral turpitude,~~ be permitted to solicit or peddle or act as a transient merchant within the ~~city~~ **City** for the licensed period beginning on the date such license or permit is issued and ending on the expiration date thereof. Such license or permit shall not be transferable.
- (1) No license or permit shall be issued to any person or business unless all taxes, assessments, sewer, water, electric, trash charges and any other fees due the ~~city~~ **City** are paid and in good standing.
- B. Notwithstanding the provisions of Subsection A hereof, **organizers of special events that are approved by the City to use public streets, parks and facilities for their event may restrict or select the vendors or transient merchants that can participate at their farmer’s market or event, provided that any Mobile Food Vehicles are properly permitted**

**in accordance with the provisions of this Chapter. Event organizers shall provide a list of the approved vendors (including Mobile Food Vehicles) to the City no less than one week prior to the event. the Code Official shall be authorized to delegate the issuance of transient merchant licenses to the owner of any validly existing marketplace for casual retail sales and barter by independent vendors upon condition that said owner shall provide to the Code Official a complete list of vendors to whom licenses were issued.**

(1) ~~The list required by this subsection shall contain a statement on behalf of said owner as follows: "This list constitutes a complete list of vendors for the reporting period. Each of said vendors was issued a transient merchant license in compliance with the City of Milford Municipal Code."~~

(2) ~~The list shall be provided at least once each month or as required by the Code Official.~~

§ 168-6. - Evidence of registration; display of license; restrictions.

- A. Every solicitor or peddler shall, at all times while engaged in soliciting or peddling in the ~~city~~ **City**, carry evidence of such registration upon his/**her** person and shall exhibit such evidence upon request to all police officers, ~~city~~ **City** officials and citizens.
- B. Every person holding a transient merchant license shall post said license in a prominent place in his/**her** business premises and shall maintain said license as such at all times.
- C. No solicitor or peddler shall engage in selling or offering for sale or in seeking or taking of orders or contracts for any goods, wares, merchandise, article, device, subscription, contribution, service or contract not mentioned upon such license, nor shall any person use any vehicle for soliciting or peddling other than the vehicle registered upon his/**her** license.
- D. No license issued upon the provisions of this chapter may be transferred from one person to another. The person designated in said license shall be the only person authorized to engage in such business thereunder.

§ 168-7. - Hours of sale.

No person shall engage in soliciting or peddling at any time on Sunday or on any other day of the week before 9:00 a.m. or after 5:00 p.m. except upon invitation from or an appointment with the resident.

§ 168-8. - Noise.

No person engaged in soliciting or peddling or as a transient merchant shall hawk or cry his/**her** goods, wares, merchandise, articles, contracts or services upon any of the streets or sidewalks of the ~~city~~ **City**, nor shall he use any loudspeaker or horn or any other device on public property for announcing his/**her** presence by which members of the public are annoyed.

§ 168-9. - Vehicles.

No person engaged in soliciting or peddling or as a transient merchant shall park any vehicle upon any of the streets or alleys of the ~~city~~ **City** in order to sort, rearrange or clean any of his/**her** goods, wares or merchandise or any samples, order books, contracts, circulars, literature or advertising matter pertaining thereto, nor may any such person place or deposit any refuse upon any such street or curbstone market or soliciting or peddling office by parking any vehicle upon any street or alley in the ~~city~~ **City** for longer than necessary in order to solicit from or peddle to persons residing in the immediate vicinity, **unless prior written permission is provided by the City Manager.**

§ 168-10. - Prohibited acts.

- A. No person engaged in soliciting or peddling or acting as a transient merchant shall occupy any of the streets or alleys or sidewalks of the ~~city~~ **City** for the purpose of soliciting or peddling, with or without any stand or counter, **unless prior written permission is provided by the City Manager.**
- B. No person engaged in soliciting or peddling shall enter upon premises for the purpose of soliciting or peddling which are posted with signs indicating that soliciting or peddling thereon is prohibited.
- C. No peddler or solicitor shall peddle, vend or sell his/**her** goods or wares within 200 feet of any church or place of worship or any place occupied exclusively as a public or private school or for school purposes, nor shall he permit his/**her** cart, wagon or vehicle to stand on any public highway within said distance of such school property.
- D. No person shall solicit any business whatsoever at the scene of any accident within the incorporated area of the ~~city~~ **City**.
- E. **No transient merchant shall conduct business on a residential lot in a residentially zoned area unless the merchant is permitted by the property owner to provide food, goods or services for a Private Party.**

§ 168-11. - Sales at public functions on ~~city~~ **City** property.

Notwithstanding any other provision, no person shall sell merchandise at any public function held in the ~~city~~ **City**, on lands owned by the ~~city~~ **City**, without first obtaining written permission therefor from the City Manager.

§ 168-12. - Records; supervision of license holders.

The Code Official shall keep a record of all registrations made under this chapter, and the Code Official shall supervise the activities of all holders of such licenses.

§ 168-13. - Exemptions from license requirements.

The following persons are exempt from the license requirements of this chapter:

- A. Farmers engaged in selling only produce of their own farms from a truck or other vehicle.
- B. Persons engaged in the sale of goods, wares and merchandise, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- C. Persons 16 years of age or under.

§ 168-14. - Revocation of license; hearing for reinstatement.

- A. Any license hereinafter issued may be revoked by the Code Official upon the failure of the licensee to comply with the standards of conduct established herein or upon ascertainment that the licensee has made any false statements in the application for the license hereunder or upon such licensee being arrested and convicted of any crime involving moral turpitude.
- B. Any person whose license has been revoked shall be entitled to appear, with counsel if desired, before the City Council at a regular or special meeting and be heard on behalf of a request for reinstatement of said license.

§ 168-15. - Form and contents of permit.

Each permit shall be issued in card form, shall be carried by the person for whose benefit it is issued and shall contain the following: the number of the permit, fee paid, date of issue, expiration date and the name, age, weight, color, name of employer, address and signature of the holder. The reverse side of such permit shall contain any regulations then in effect and controlling the holder, as well as any conditions and/or limitations to which such permit is subject.

#### **§ 168-16. – Mobile Food Vehicle Rules and Regulations**

##### **A. General. The following rules and regulations apply:**

- (1) No operator of a Mobile Food Vehicle shall park, stand or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate;**
- (2) The issuance of a permit does not grant or entitle the exclusive use of a location to the Mobile Food Vehicle permit holder, other than the time and place as approved for the term of the permit;**
- (3) No Mobile Food Vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and standup counters, unless a proposal for such seating/standup arrangements is submitted with the permit application and approved by the City Manager;**
- (4) Permit holders shall provide customers with single service articles, such as plastic silverware and paper plates, and a waste container for their disposal. All Mobile Vehicles shall offer a waste container for public use that the operator shall empty at his or her own expense if not provided by the Special Event sponsor.**
- (5) No Mobile Food Vehicle shall make or cause to be made any unreasonable or excessive noise in violation of the City's Codified Ordinances.**
- (6) No permittee shall employ the use of flashing or moving lights on or near a Mobile Food Vehicle as part of its operation.**
- (7) A Mobile Food Vehicle may not operate on public property, including right-of-way, unless the City has otherwise granted approval on the Special Event Permit application for its operation at the particular location during specific times.**
- (8) The City reserves the right to relocate a Mobile Food Vehicle to an alternate location as determined by the City Manager if the approved location needs to be used for emergency purposes or other public benefit.**
- (9) Mobile Food Vehicles shall adhere to all applicable parking regulations.**

##### **B. The operation of Mobile Food Vehicles shall at all times be in compliance with all applicable governmental rules and regulations, including but not limited to those of the Delaware Department of Health and Social Services Division of Public Health and the Delaware Department of Transportation.**

§ 168-~~174~~6. - *Violations and penalties.*

- A. *Violation of any provision of this chapter shall be punishable, upon conviction, by a fine of not less than \$100 nor more than \$500. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.*
- B. *In addition to or as an alternative to the above-provided penalties, the ~~city~~ City may also maintain an action or proceeding in the name of the ~~city~~ City in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.*
- C. *In addition, any person who violates any provision of the foregoing may be subject to a loss of the license privilege herein granted.*

*Section 2. Dates.*

*City Council Introduction: November 28, 2016*

*City Council Proposed Adoption: December 12, 2016*

Mr. Pierce advised the ordinance involves various changes to Chapter 168, in addition to some clarifications that were needed involving mobile food permits, all of which were discussed by the Community Affairs Committee.

ADJOURN

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

The Council Meeting was adjourned by Mayor Shupe at 7:55 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder