

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 12, 2016

Milford City Council held a Public Hearing on Monday, December 12, 2016 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilmembers Arthur Campbell, Lisa Ingram Peel, James Burk,
Owen Brooks Jr., Douglas Morrow, James Starling Sr. and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

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

City Planning Coordinator Rob Pierce was also present.

ADOPTION/ORDINANCE 2016-21

*Change of Zone/Lands belonging to City of Milford
Tax Parcel 3-30-11.09-030.00
.42 +/- Acres
Current Zone I1/Proposed Zone R3 Zoning District
East side of Marshall Street approximately 850 feet north of Elks Lodge Road intersection
Present Use: Vacant. Proposed Use: Watergate Subdivision*

ADOPTION/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 Zoning District
643 Marshall Street
Present Use: Vacant. Proposed Use: Watergate Subdivision*

ADOPTION/ORDINANCE 2016-23

*Liborio Watergate LLC for a Conditional Use
Amended Planned Unit Development and Preliminary Major 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.
47.39 +/- acres in an R3 (Garden Apartment and Townhouse) Zoning District
East side of Marshall Street approximately 650 feet north of Elks Lodge Road Intersection
Present Use: Townhouses and Vacant Land
Proposed Use: 43 Single Family units, 48 Duplex units, 129 Townhouse units,
80 Apartment Units for Total of 300 Unit Subdivision*

Mr. Pierce explained that he will talk about all three items on the agenda at the same time because it all relates to the Watergate Subdivision project.

He noted that the parcels are located along Marshall Street north of the Elks Lodge Road intersection. They are currently zoned I-1 and the request is to downzone to R3.

Because the Comprehensive Plan designation is moderate density residential, the applications would bring the land into compliance. Currently both parcels are vacant and the plan is to incorporate them into the existing planned unit development (PUD) known as the Watergate Subdivision.

Of the two parcels proposed for the change of zone, one parcel is owned by the City of Milford and the other is owned by Liborio Watergate LLC.

The Planning Coordinator recalled the final approval of the PUD was granted by Council to Lyndalia Land Company in November 2006. The subdivision proposed 303 total units with a mixture of single family detached, semi detached, townhouses, multi-family and live/work units in a community facility. In 2012, the property was sold to Liborio Watergate. In 2015, Liborio Watergate granted permission for the City to construct a new sanitary sewer forcemain thru a portion of the lots in the center of the community as part of the Shawnee Acres capacity upgrades. The owner agreed to relocate those units which, according to Mr. Pierce, is being handled in the next application.

In the spring of 2015, it was determined the City owned a parcel adjacent to Watergate. The City contacted the owner who expressed an interest in purchasing the property. An appraisal was then done and Liborio and the City of Milford agreed to the terms of the appraised value which is reason that parcel is proposed to be rezoned.

Mr. Pierce then referenced an analysis of the adjacent uses. This community is surrounded by industrial residential zoning districts. Properties to the north and west are zoned I-1 and those east and south are zoned R-3. When combined with the Watergate Subdivision, the proposed change of zone meets the area regulations outlined in Section 230-11 of the City of Milford Code.

The application was reviewed by the Planning Commission at their November meeting who recommended approval by a unanimous vote.

There being no questions of City Council, Mayor Shupe asked the applicant for comments.

Scott Lobdell of Van Cleef Engineering spoke on behalf of the applicant. He stated that the City Planning Coordinator covered the items from their perspective. The rezoning of the two parcels help fix some subdivision issues that were found through the redesign process. He feels Council will have a better understanding of the need for the change of zone once the next matter is discussed.

The Planning Coordinator continued by referencing the next staff analysis report for the amended PUD/Conditional Use application. He explained the applicant is seeking a modified PUD which would include the two parcels for an additional .84 acres. This would essentially reduce the number of overall units in the subdivision from 303 to 300. The proposed conditions are outlined in the staff report.

Mr. Pierce also referenced the breakdown in the number of types of units based on the 2006 approved plans and the overall decrease. The applicant proposes to reduce the number of duplexes and single family detached units and increase the number of mansion apartments and townhouse units.

The applicant also proposes to remove the live-work component that was included in the original application.

Also proposed is a slight increase of open space in the subdivision which is impacted by the installation of the sewer easement through the cluster of townhouses. They have been relocated which will result in a large community open space in the center of the subdivision.

In addition, to accommodate another twelve-townhouse unit, there was a redesign of a semi-circle with a handful of townhouses to create a more traditional appearance.

Most of the units lost in the central location are being relocated to the front of the community which include the two

parcels under consideration for rezoning and originally planned for townhouses.

Some of the irregularly shaped duplex and clustered lots that created non-perpendicular property lines and caused odd building envelopes on some of the lots, will be squared off and cause fewer challenges for the developer.

The City Engineer and Planning staff had concerns regarding the proposed one-way streets within the center of the community. The applicant has agreed to change the one-way streets to two-way streets and widen them to a width of 24 feet. These streets are also adjacent to the proposed community open space.

Mr. Pierce further explained that many of the standard requirements, set by the Planning Commission over ten years ago, does not meet the current code due to a number of waivers, including lot widths, sizes and setbacks. That will remain and should Council decide to deny the application, the owner still has the right to construct the units as was previously approved, without the proposed enhancements.

Councilman Mergner asked if the developer will be required to install sidewalks and will there be any frontage or beautification buffer to separate the unit from the street. For example, he asked if some trees or some other form of landscaping be used for separation; the Planning Coordinator explained that DelDOT took some land off the front of the existing property which was the area the live-work units were planned. He anticipates an extension of the sidewalk will be required to the northern end of the right-of-way.

Mr. Pierce confirmed the City did not require any plantings in the front on the Marshall Street side.

He reported that the owner of Milford Mini Storage has requested the screening be at least 85 feet from the right-of-way to prevent obstruction of their property by vehicles headed north on Marshall Street. He believes that will bring it back more toward the edge of the parking lot.

When questioned about sidewalks, Mr. Pierce stated that DelDOT will review the amended plan. Because they were requiring sidewalks in the previous plan, he believes that will not be changed. In addition, the City can require the extension of sidewalks to be reconnected back into Marshall Street.

Councilwoman Wilson recalled that sidewalks were required in the City and asked if that has changed; Mr. Pierce explained this facility is along a state right-of-way so DelDOT has to approve the plan. If they were installing a multi-modal sidewalk, it would need to be consistent though he will make sure it gets installed.

Mr. Mergner expressed concern there will be rear yards abutting Marshall Street which is a heavily-traveled road. Added is the sidewalk that will be used by pedestrians and appears to be in the rear yard of the two units.

Mr. Pierce pointed out the two existing buildings that have no screening. He then referenced some changes which have created a little more open space when compared to the original plan.

Because the approved plan has been on the books for several years, Ms. Wilson asked if it would be grandfathered in based on the old regulations.

Mr. Pierce noted that the Planning Commission recommended approval of the application by unanimous vote, with conditions, though one member abstained due to arriving late and not being privy to the entire presentation.

The recommended conditions that would apply prior to final subdivision and plan recordation are as follows:

- * Pursuant to final terms and conditions of settlement agreement related to pending legal action in Chancery Court between the applicant and neighboring property in which the City of Milford is also named;
- * Amend Note 12 regarding access to parcel 34 pending details and agreement between the neighboring property owners;
- * Amend Note 11 on the title page of the plan to read "Lot 218 to be conveyed to Milford Rental Incorporated..."
- * Amend the buffer requirement to 3' on the north side of parcel -030.00 with an 85 depth off Marshall Street.

When asked about the time span of the litigation, Mr. Pierce explained it started with the original owner in 2006.

Mr. Lobdell readdressed Council stating that the area of the original plan is where the parking is shown, That was initially a small portion of open space with a proposed city right-of-way. The Planning Commission also discussed eliminating it. Because it is now parking, they are going to take the right of way off and make it part of the apartment lots otherwise the parking lot would have been the City's responsibility. They wanted to eliminate that responsibility and remove the right-of-way line.

He also pointed out that with the exception of the one lot and the widening of the two lanes, the subdivision layout is basically the same in regard to the right-of-way of the streets, pond location, etc. They tried to minimize the impact of what was originally recorded but tried to fix some of the issues that Mr. Pierce alluded to.

They hoped to make a better product than what was initially proposed.

Councilman Mergner referred to his earlier comment regarding the three units on Marshall and asked if there are any plans to separate the rear yards of those units with possibly a fence or something similar. Mr. Lobdell said they are not at that point which would be included in the landscaping plan.

He deferred to the owner who was in attendance and asked if there were any issues with adding a fence or landscaping to the area on Marshall Street.

Owner Lee Ramunno then stated that he has no problem with putting something there though he prefers a fence because landscaping is an ongoing problem.

Mr. Ramunno reiterated that the City of Milford wanted to put a very large sewer line through the development which was not for Watergates' benefit. By doing that, it eliminated some of the units. The City then suggested making the entire area open space and they agreed to that even though they would lose some units.

The purpose of trying to refigure the layout and agreeing to purchase the land the City sold them was to get as many units as were originally planned. They are making up for the loss by having apartment units compared to townhouses though apartment units are not as valuable.

He wanted City Council to understand this is a request of the City of Milford because of the need for the sewer line. The City also asked to have the streets widened and they agreed to that as well.

Mr. Ramunno emphasized they are both trying to make the project better and believes this will make that happen.

City Solicitor Rutt advised that City Council is addressing the change of zone at this time. The developer will still have to come back with the site plans and design. He would assume this is a preliminary sketch plan though other approvals will be needed on many of the items being discussed.

City Planning Coordinator Pierce explained that this process gives the developer their marching orders to provide a final design. Any other items Council wants should be included as a conditional in the motion. When they come back for the finals, all agency approvals will be required and any Planning Commission and City Council concerns will be addressed.

Mayor Shupe then opened the floor to anyone who wished to speak in favor of the application.

Attorney John Paradee from the firm of Baird, Mandalas and Brockstedt then spoke on behalf of his client, Joseph Wiley of Milford Mini Storage Incorporated and Milford Rental Incorporated. He commented that both properties are to the north adjacent to the area being modified.

He explained that his client was initially in opposition of the plan; however, they met prior to the hearing and based on the changes and that discussion, Mr. Paradee's client is now in favor of the project and believes it is a better plan provided

a couple issues of concern are addressed.

Mr. Paradee stated there is a settlement agreement in place for the litigation previously mentioned and the City of Milford has signed it along with Mr. Wiley. Mr. Ramunno has indicated he will sign it when and if the plan is approved. The settlement agreement will require Mr. Ramunno to convey some excess lands to his client as part of the settlement, which will not be defined until this plan is approved. If the plan is approved, the litigation will be resolved and all parties satisfied.

He noted there were three technical comments that have been incorporated in the Planning Commission's recommendation of approval as stated below:

1. Change Note 11 on the title page of the plan to read "Lot 218 to be conveyed to Milford Rent All Inc..." The change is from Milford Mini Storage Incorporated (Planning Commission Page 10 of 11 11.15.16)
2. Note 12 on the title page of the plan, second sentence under Conditions reads "Parcel shall only be used for access to Industrial Blvd and not for access to Watergate Blvd North". Mr. Paradee's client would like to have that sentence be revised in some fashion to reflect that the parcel (lot 34) would be able to have access to Industrial Blvd and just a portion of Watergate Blvd North. He is agreeable with one direction access only from Watergate subdivision to Mr. Wiley's property in order to prevent traffic from entering into the subdivision and enable residents of Watergate subdivision to gain access to the mini storage site.
3. On parcels currently identified as -030.00 and -031.00, 85' from the right of way to the rear of the parcel, the landscaping have a height limitation of 3' tall in order to prevent blocking visibility to Mr. Wiley's businesses.

No one else wished to speak in favor of the application.

Mayor Shupe then asked if anyone wished to speak in opposition of the plan.

Dirk Gleysteen of 426 South Walnut Street, Milford, then stated that he owns the business at 640 Marshall Street, directly across from the parcels being rezoned. He wanted to go on record being against the application. In looking at the plan, what is being discussed is only what is occurring on the east side of the street and nothing on the west side. The west side is all commercial and his business makes a lot of noise. His employees will be entering an OSHA Mandated Hearing Conservation Program in the next couple of weeks. There is no heat in the building. As a result, in the summer, the doors are wide open and there is a lot of noise coming out of the plant. They are growing and have acquired a lot more equipment.

Mr. Gleysteen noted that in particular, they have acquired a new grinder that grinds up big chunks of raw plastic and makes a tremendous amount of noise. He thinks the zoning changes in Ordinance 2016-21 and 22 from industrial to residential is a big mistake because some type of buffer is needed for the quality of living that people will expect in this development and they will not like this type of noise.

Likewise, he does not think it is a good idea to replace the live-work structures with multi-family structures for the same reasons. He thinks that a substantial buffer is needed between the commercial/industrial use which will create noise and his company is a good example.

Paul Warnell, owner of Mill Pond Properties, noted that Mr. Gleysteen is one of their tenants. He reiterates Mr. Gleysteen's concern noting that this has been an industrial neighborhood for thirty plus years. They have had noise complaints from other neighbors and this is a case where a residential area is being built up against them which will generate noise complaints if this is approved. That will result in some unhappy tenants and potentially result in having to restrict their ability to do business.

There being no additional persons who wished to speak, Mayor Shupe closed the public comment portion of the hearing.

Council had no additional comments.

Solicitor Rutt noted there are three separate applications; a vote is needed on each application and a reason provided for the vote.

Councilwoman Wilson moved to adopt Ordinance 2016-21, seconded by Councilman Morrow. Motion carried by the following unanimous vote:

Councilman Mergner votes in favor of the application based on recommendation of the Planning Commission.

Councilman Campbell stated he also agrees with the recommendation of the Planning Commission and votes yes.

Councilwoman Peel stated she is in favor of the application and agrees with the recommendation of the Planning Commission.

Councilman Burk said he votes yes for the reasons already stated.

Councilman Brooks votes yes for Planning and Zoning.

Councilman Morrow also votes yes and agrees with the Planning Commission in addition to this being an improvement to the previously approved plan already in place.

Councilman Starling votes yes and agrees with the recommendation of the Planning Commission.

Councilwoman Wilson votes yes based on the recommendation of the Planning Commission considering this has been an approved plan since 2006 when it was originally initiated.

Councilwoman Wilson then moved to adopt Ordinance 2016-22, seconded by Councilman Morrow. Motion carried by the following unanimous roll vote:

Councilman Mergner states he is in favor of the change of zone based on the Planning Commission's comments and recommendation.

Councilman Campbell stated that he agrees with Councilman Mergner's reasons and votes yes.

Councilwoman Peel votes yes and is in agreement the Planning Commission.

Councilman Burk votes yes based on the recommendation of the Planning Commission.

Councilman Brooks votes yes based on Planning and Zoning.

Councilman Morrow votes yes and agrees with the recommendation of the Planning Commission.

Councilman Starling votes yes based on the Planning Commission recommendation.

Councilwoman Wilson votes yes based on the Planning Commission recommendation and the original plans approved in 2006.

Solicitor Rutt then pointed out that any motion made on Ordinance 2016-23 should take into consideration the conditions that were recommended by the Planning Commission should council agree to adopt the ordinance and also reference the conditions presented by Mr. Paradee.

Councilwoman Wilson moved to adopt Ordinance 2016-23 based on the recommendations as stated by the legal counsel, seconded by Councilwoman Peel. Motion carried by the following unanimous roll call vote:

Councilman Mergner votes yes based on the recommendations and conditions set by the Planning Commission.

Councilman Campbell votes yes based on the resolution of the litigation.

Councilwoman Peel stated she is in favor of the ordinance based on the facts she has heard tonight.

Councilman Burk votes yes based on the recommendation of the Planning Commission and the conditions.

Councilman Brooks votes yes based on the Planning Commission.

Councilman Morrow votes yes based on the recommendations of the Planning Commission and believes this is a better overall plan than what was approved in 2006.

Councilman Starling votes yes based on the Planning Commission's recommendations.

Councilwoman Wilson votes yes based on the Planning Commissions' recommendation and conditions as were stated.

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

The Public Hearing adjourned at 7:39 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
December 12, 2016

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, December 12, 2016.

PRESIDING: Mayor Bryan Shupe

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

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

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:39 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance, led by 2016 Milford High School Football Quarterback William Kimmel, followed the invocation given by Councilmember Starling.

APPROVAL OF PREVIOUS MINUTES

Motion to approve the October 24, 2016 Public Hearing, November 7, November 14, November 21 and November 28, 2016 Committee and Council Meeting minutes made by Councilmember Burk, seconded by Councilmember Mergner. Motion carried.

RECOGNITION

Milford Community Parade Committee/Charles Gray/Report & Request

Parade Committee Member Charles Gray addressed Council, recognizing Board Chairman Jim Gray who was also in attendance. He thanked City Council, Mayor Shupe, City Manager and his staff and the City departments for their assistance over the years.

He reported there were more than 100 entries this year with 106 scheduled to appear which calculates to approximately 1,000 participants. Mr. Gray advised that some street lights went out the last minute but with the aid of city staff, the lights were restored very quickly.

He reported that their theme "America the Beautiful" seemed to have lent a lot of enthusiasm for the national election adding that their participants were a class act with no problems.

Mr. Gray did advise there was an issue with vendors and explained that with mobile vending becoming more popular, one of the challenges they face is ensuring all vendors adhere to the management policy of the Committee. He would like to speak to either a Committee or specific departments about these mobile vendors. He pointed out the parade is different from festivals because of its long route and use of the roadway. There can be a problem when a vendor has not go thru their approval process and parks close to the intersection of Walnut and Front Streets to do business. As a result, the Committee has no way to manage that, nor are there any repercussions from this situation because they did not receive prior approval as the other vendors did.

Mr. Gray is anxious to have that discussion with whoever is needed to resolve the issue.

Mr. Gray concluded by stating they look forward to Wednesday, October 18, 2017 for the next Community Parade.

Mayor Shupe suggested Mr. Gray speak with Planning Director Pierce who is in charge of the ordinances involving licensing. If another step is needed, it can be taken to the Community Affairs Committee.

City Manager Norenberg referenced two later agenda items that will update the code in relation to Peddling, Soliciting and Transient Merchants. Some of the proposed changes address food trucks, mobile food vendors and how they will be monitored and regulated by the City as well as managed during special events.

He thinks some of Mr. Gray's concerns will be addressed with those updates. If not, Mr. Gray can follow up with Mr. Pierce or the City Manager.

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

The proclamation was on a prior Council agenda but added to this agenda due to some confusion as to the presentation date.

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

This proclamation was also on the November 28th agenda but added to this agenda due to the same issue. Additional information had since been received since the initial proclamation was created by the City Clerk. Several members of the football team were in attendance to accept the revised proclamation which states as follows:

*PROCLAMATION 2016-18
Honoring MHS Varsity Football Team*

WHEREAS:

The Milford High School Varsity Football Team came into the season with high expectations despite having to replace 20 seniors from their 2015 season; and

The Mayor and City Council are especially proud of this team's hard work and impressive effort and commends the newcomers and underclassmen who were needed to step up to the plate; and

The team had a breakout season on offense, averaging 40 points a game, rushing for over 2,000 yards and passing for just under 2,000 yards; and

Quarterback William Kimmel combined for a total of 1,700 yards and 20 touchdowns; Brion Murray and Marcus Correa were respectively the number one and number two top receivers in the Henlopen Conference Southern Division; DJ Bowman obtained more than 1,000 yards in only 6 games (816 rushing and 184 receiving); and

Guided by Milford's top two tacklers Ryan Jones and Domyinc Hovington, Milford's defense came together to create one of the toughest units in all of Division II football recording three shutouts during the regular season; and

Team Captains Brion Murray, Greg Clark, Ryan Jones, and David Bowman led their team to victory along with the teammates Rashawn Price, Marcus Correa, Thomas Eisenbrey, Domyinc Hovington, Nick Carlino, William Kimmel, Tyreke Benson, Josh Snowden, Ethan Hurd, Garon Little, Kaje Reynolds, Zach Johnson, Caden Oplinger, Don Scott, Tyrone Mifflin, Bryan Wynes, Chris Sampson, Joe Gaglione, Juwan Savage, Eric Bennett, Zayiere Toledo, Daulton Nordberg, Brandon Foster, Augi Joseph, Jerry Williams, Kaden Bates, Mardis Powell, Tayone Matthews, Rodney Robinson, Ritchy Corvil, Jacob Bryant, Anthony Diaz, Shawn Jester, Tyreke Stevens, Dorian Perone, Mike Edwards and Jeffrey Burchem; and

Thirteen of the teammates were selected to the All-Conference Team for outstanding athletic ability:

1st Team All Conference: Brion Murray (Offensive and Defense), DJ Bowman, Ryan Jones, Domyinc Hovington, Greg Clark, Thomas Eisenbrey and Garon Little

*2nd Team All Conference: William Kimmel, Marcus Correa, Greg Clark, Nick Carlino and
Chris Sampson*
All Conference Honorable Mention: Tyreke Benson

The Buccaneers entered the State Tournament for the first time in eight years as the fourth seed out of eight teams in Division II; and

Through outstanding leadership and inspiration of Second Year Head Coach Shaun Strickland, the Buccaneers took on every obstacle that came their way with high energy and a great attitude, concluding the season with an impressive 9-2 overall record.

NOW, THEREFORE BE IT RESOLVED that I, Bryan W. Shupe, Mayor of the City of Milford, do hereby commend and congratulate the Milford High School Varsity Football Team for their successful season on the gridiron and congratulate them for bringing home "The Bell" and also earning a State Tournament birth.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed hereto this 12th day of December 2016.

Mayor and Council congratulated the team prior to photographs being taken.

Proclamation 2016-19/Recognizing D. Eugene Helmick for his 34 Years and 9 Months of Dedicated Service on his Retirement

Mayor Shupe presented the following proclamation to Mr. Helmick for his years of service to the City of Milford and in recognition of his upcoming retirement effective January 7, 2017:

*PROCLAMATION 2016-19
Honoring D. Eugene Helmick on his Retirement from the City of Milford*

WHEREAS, Eugene Helmick is retiring from the City of Milford after a distinguished career that spanned over 34 years and 9 months, that began in April 1982 when he was hired as a Laborer in the Street and Solid Waste Department; and

WHEREAS, in October of 1982, Eugene Helmick was offered the position of Construction Worker and Technician and was transferred to the Waste/Wastewater Department; thereafter, he was subsequently promoted to various positions within that department including Supervisor (1992), Foreman (1994) and Meter and Well Supervisor (2003), before being promoted to Supervisor of the City of Milford Water/Wastewater Department in July 2008, where he oversees the daily operations and maintenance activities of the City's Water and Wastewater Facilities; and

WHEREAS, during the early 1990's, Eugene Helmick devotedly served as the Superintendent of the Water/Wastewater Department until such time a full-time Public Works Director was hired; and

WHEREAS, During the course of his career, Eugene Helmick has been a part of the response of numerous sewer backups, water main breaks and every extreme weather event the City of Milford has faced, including, but not limited to the Blizzard of 1983, Hurricane Andrew in 1992, Blizzard of 1993, Ice Storm of 1994, Blizzard of 1996, Blizzard of 2003 and Hurricane Irene in 2011, and has been recognized by the citizens, fellow employees and Local and State Officials, and has received a special acknowledgment from Delaware Governor Jack Markell for his untiring efforts before, during and after Hurricane Sandy in 2012; and

WHEREAS, Eugene Helmick was nominated for Delaware's 2014 Water Operator of the Year at the Water and Wastewater Professionals Annual Awards Ceremony at Delaware Technical Community College's Owens Campus for demonstrating outstanding technical excellence and an exemplary work ethic while contributing to the high level of water quality in Delaware; and

WHEREAS, Eugene Helmick was appointed to the Delaware Water/Wastewater Agency Response Network (WARN) in 2013 and the Delaware Rural Water Association Board in 2015; and

WHEREAS, Eugene Helmick has given back to this community as a leader for the Boy Scouts of America, as was affirmed in a letter the City of Milford received in 2000 from Scout Reservation Richard A. Henson recognizing the efforts he made in Scouting the Future of America's Youth.

NOW, THEREFORE, BE IT PROCLAIMED that I, Bryan W. Shupe, Mayor of the City of Milford, on behalf of the Members of City Council, extend heartfelt thanks to D. Eugene Helmick for 34 Years and 9 Months of extraordinary public service to the citizens and businesses of the City of Milford, and congratulate him on his retirement effective January 7, 2017 and wish him many long, healthy and rewarding years to come.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed hereto this 12th day of December 2016.

Mayor and Council congratulated Mr. Helmick prior to photos being taken.

Proclamation 2016-20/Recognizing Norman Brady for his 23 Years and 3 Months of Dedicated Service on his Retirement

Mayor Shupe presented the following proclamation to Mr. Brady in honor of his years of service and retirement on December 31, 2016:

*PROCLAMATION 2016-20
Honoring Norman Brady on his Retirement from the City of Milford*

WHEREAS, Norman Brady began his many years of public service in September 1993 with the City of Milford and during that time has distinguished himself through his integrity, leadership and skills; and

WHEREAS, Norman Brady has served as Assistant Supervisor of Streets and Solid Waste for the past seventeen years, overseeing the daily operations and improvements needed for the safe, clean conditions of City streets, the repair to streets and storm sewers, and the safe collection and transportation of refuse, yard waste and recyclable materials; and

WHEREAS, Norman Brady has served in various capacities within the Streets and Solid Waste Department starting as a Crew Chief in the Street Division, as Acting Supervisor of the Streets and Solid Waste Department beginning in 1997 and was promoted to Assistant Supervisor of the Streets and Solid Waste Department in 1999, a position in which he has excelled and devotedly served and will continue to serve until his retirement on December 31, 2016; and

WHEREAS, during the untimely illness and death of Streets and Solid Waste Superintendent Ronnie Vickers, Norman Brady faithfully fulfilled the duties of Superintendent when the City and its workforce needed him most; and

WHEREAS, neither icy rain, blowing snow, freezing sleet, nor bitterly cold temperatures could stop Norman Brady and his "street crews" from making their appointed rounds, even in the harshest winter weather; and

WHEREAS, though keeping the City moving during blizzard-like conditions was never easy, Norman Brady was always up to the task, responding to every storm the City of Milford faced since 1993, working with his crews around the clock to make sure snow and ice-covered streets were salted and passable; and

WHEREAS, with unmatched commitment and dedication to the City, Norman Brady has received appreciation from citizens, fellow employees and management throughout his career, and a special commendation from Delaware Governor Jack Markell for his preparedness, response and aid before, during and after Hurricane Sandy in 2012, thereby creating minimal inconvenience to our public; and

WHEREAS, with Norman Brady announcing his retirement, the City of Milford acknowledges this time is a suitable moment at which to acknowledge such extraordinary service.

NOW, THEREFORE, BE IT PROCLAIMED that I, Bryan W. Shupe, Mayor of the City of Milford, on behalf of the Members of City Council, hereby extend to Norman Brady heartfelt thanks for 23 years and 3 months of dedicated service to the citizens and businesses in the City of Milford, congratulate him on his retirement effective December 31, 2016 and wish him many long, healthy and rewarding years to come.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed hereto this 12th day of December 2016.

Mayor and Council congratulated Mr. Brady prior to photos being taken.

Proclamation 2016-21/Recognizing Donald D. MacMillan for his 11 Years 10 Months of Dedicated Service on his Retirement

Mayor Shupe read the following proclamation, honoring Donald MacMillan, for his service to the City and Milford and his retirement on December 31, 2016:

PROCLAMATION 2016-21

WHEREAS, The residents of the City of Milford are afforded wonderful and spacious parkland in the City; and

WHEREAS, Maintenance of these spaces by City staff requires a passion for the outdoors and dedication to City residents; and

WHEREAS, Don MacMillan began his career with the City in February 2005 as a construction worker in the Streets and Solid Waste Division; and

WHEREAS, In 2006, Don became a Streets Crew Leader and was later recognized by the Governor for his response during Hurricane Sandy in 2012; and

WHEREAS, Don transferred to the Parks and Recreation and was made the Parks Superintendent in 2013 during which time he worked closely with the then Parks & Recreation Director Gary Emory; and

WHEREAS, During his time with the Parks and Recreation Department, Don has overseen the maintenance of the many acres of parks and open space, right of ways, riverbanks, sports fields and the Community Cemetery; and

WHEREAS, Don has also been actively involved in the Milford community over the years by coaching Milford Little League.

NOW, THEREFORE BE IT RESOLVED that I, Bryan W. Shupe, Mayor of the City of Milford hereby thank Don MacMillan for his 11 years and 10 months of service to the City and its residents and wish him much prosperity on his retirement on December 31, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City to be affixed hereto this 12th day of December 2016.

Mr. MacMillan was not in attendance though arrangements will be made to present the proclamation at a later date.

MONTHLY POLICE REPORT

Police Committee Chairman Burk presented the monthly report on behalf of Chief Brown noting the officers were again very busy during the month of November. He acknowledged the various educational opportunities available for Milford's Officers and the importance of continuing to provide updated training for them.

Councilmember Burk moved to accept the November Police Report, seconded by Councilmember Morrow. Motion carried.

CITY MANAGER REPORT

Mr. Norenberg referenced his report in the packet.

There being no questions, Councilmember Morrow moved to accept the November City Manager Report, seconded by Councilmember Mergner. Motion carried.

MONTHLY FINANCE REPORT

Finance Committee Chairman Morrow reported that through the fourth month of Fiscal Year 2016-2017 with 33% of the fiscal year having passed, 42% of revenues have been received and 30% of the operating budget expended. He noted that revenues are up and expenses are down as the Finance Director and City Manager continue to keep an eye on the overall financial picture of the City.

Chairman Morrow moved to accept the October 2016 Finance Report, seconded by Councilman Burk. Motion carried.

COMMITTEE & WARD REPORTS

Circle of Light Task Force

Councilmember Wilson recalled the Circle of Light Program that was in existence for almost ten years. She reported there has been a decision to dissolve the program due to lack of funds and because many of the members, who were seniors, are no longer involved.

An active member of the Task Force, she recalled the nonprofit corporation worked to address the needs of homeless in Milford by raising community awareness, identifying local homeless populations and providing assistance to groups who were addressing the homeless problem in this area.

Because there are a number of organizations working with the homeless today, she recommends that assistance continue through the Multi-Cultural Church Shelter for their women's shelter and the Avenue United Methodist Church who sponsor a men's shelter. Both are accepting donations to support the local programs.

Haiti Donations/Hurricane Relief

Councilmember Wilson also thanked those that assisted the victims of the most recent hurricane in Haiti, adding that a large number of donations were received.

Authorization/RiverPlace/Washington Street Downtown Development RFP

City Manager Norenberg advised that he added this item to the agenda for the Economic Development Committee to make a recommendation. He then deferred to Planning/Economic Development Coordinator Rob Pierce for a presentation.

Mr. Pierce referenced the memo indicating City Staff recommends soliciting an RFP to seek a highly qualified and creative real estate development firm to lease or purchase and transform City-owned land in Downtown Milford into a vibrant, mixed use development. The intent is to receive proposals that would lead to economic development in the downtown core, while maintaining and enhancing safety and livability.

Exhibits show the parcels that are situated on the southern banks of the Mispillion River in Sussex County. The immediate area is improved with a mixture of commercial and residential uses and includes portions of the City's riverwalk and park land. The site is the former location of the City's water treatment plant which was recently decommissioned and demolished.

The properties are zoned C-1 Neighborhood Commercial, with a portion under consideration for a change of zone to the newly created C-2A Riverfront Development District, as shown on the attached exhibit and further described below:

Name: Parcel #1 - Washington Street

Tax ID: 3-30-6.20-006.00

Ownership: City of Milford

Location: On the east side of S. Washington Street between the Mispillion River and SE Front Street.

Current Use: Open Space/Recreation/Municipal Parking

Zoning: C-1 (Community Commercial), under consideration for C-2A (Riverfront Development)

Gross Acreage: 1.78 +/- acres

Name: Parcel #2 - Washington Street

Tax ID: 3-30-6.20-009.00

Ownership: City of Milford

Location: On the southern banks of the Mispillion River east of parcel 006.00

Current Use: Open Space

Zoning: C-1 (Community Commercial)

Gross Acreage: 0.24 +/- acres

Special Considerations: Property is undeveloped and contains a portion of the Mispillion Riverwalk. The land surrounding the Riverwalk shall remain under the ownership of the City. Portions of the site are within the 100-year floodplain as shown on Exhibit E illustrating the most recent FEMA FIRM conditions.

Name: Parcel #3 - Washington Street

Tax ID: 3-30-6.20-010.00

Ownership: City of Milford

Location: On the north side of SE Front Street.

Current Use: Open Space/Municipal Parking

Zoning: C-1 (Community Commercial), portion under consideration for C-2A (Riverfront Development)

Gross Acreage: 0.44 +/- acres

Special Considerations: Property is the location of a municipal parking lot accessed from SE Front Street and unimproved land. The Parking lot shall remain under the ownership of the City. The property does not appear to be located within the 100-year floodplain.

Considerations for the development include:

- * A highly aesthetic, quality mixed use project which is harmonious with the objectives of the Rivertown Rebirth Plan 2025 and the Downtown Development District Plan goals for housing, jobs, business, eateries, etc.;
- * Increasing property tax base and development of a lasting revenue stream;
- * Compactness – creating a critical mass of activities within walking distance;
- * Foster intensity of development – efficient use of land, good density and promoting vibrancy along existing and new streets;
- * Ensuring a balance of activities – day, evening and weekend vitality;
- * Building a positive identity – organize, build and sustain the image of the downtown areas as attractive, interesting and vibrant;
- * Restoring and maintaining environmental quality – reduce the amount of runoff pollution, incorporate green space, plant trees, utilization of sustainable materials and incorporation of water and energy efficient site design/construction.

The proposals would be reviewed based on the responsibility and responsiveness of the proposer and proposal, in addition to price, based on the following:

- * Ability, capacity, and skill of the Proposer to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities;
- * A proposer's character, integrity, reputation, experience and efficiency;
- * Proposers' quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability;
- * Proposer's previous and existing compliance with laws and ordinances relating to contracts with the City and to the proposer's employment practices;

- * Evidence of adequate insurance to comply with contract terms and conditions;
- * Statement of Proposer's current work load and capacity;
- * Explanation of methods to be used in fulfilling the contract.
- * Submission of Proposal Documents that clearly meet or exceed the program objectives as defined in the City of Milford Comprehensive Plan and the Downtown Development District Plan.

Mr. Pierce also provided a proposed outline of key dates and associated tasks that will be needed over the next six months.

He questioned whether City Council would want to see the detailed RFP document before it is issued though it could be prepared for the January 9th meeting.

Consideration for the change of zone would not be finalized until the end of January or beginning of February, at which time the RFP would be issued.

The proposal would be received by mid March followed by a review by staff after which reports would be presented to City Council for consideration and selection in March-April. In May, the City would finalize negotiations with the selected firm.

Economic Development Committee Chair Mergner reported that the Committee unanimously recommended the City proceed with the RFP and determine the interest in developing this area which would benefit Downtown Milford. His opinion is that Council does not need to see the RFP before it is issued.

Mr. Pierce stated that the proposal can be tailored to retain the area around the riverwalk as land or an easement if the basketball court or parking area is a concern. Otherwise, they can leave it open to creative ideas in reworking the uses on the property.

Chairman Mergner is anxious to see the type of ideas that will be considered by the developers though we still have the ability to make a decision on whether to say no or proceed.

Councilman Campbell confirmed that Downtown Milford continues to sponsor the Third Thursday event each month and asked if it has been successful. Mayor Shupe reported that City Manager Norenberg and he meet with the Downtown Milford Entrepreneur Network on a monthly basis who have indicated that foot traffic has increased as a result of the event.

The Mayor continued by stating that part of the Downtown Master proposal was to create some commercial viability on that side of the downtown. They would include some residential uses above the businesses with the intent of increasing the diversity of housing options in the area. This could potentially provide walkability for thirty to forty families, not only on that end of the river at Arena's, but also in the library and Walnut Street areas.

Mr. Pierce explained he is soliciting something consistent with the RiverPlace concept which involves retail/restaurant on the first floor with living units above.

Mayor Shupe emphasized the intent of the RFP is to obtain some great ideas from developers though residential consideration is vital to protect the river, riverwalk and surrounding park areas.

Councilmember Wilson asked if there has been any other interest expressed in the downtown area; Mayor Shupe reported there is a lot of business movement with the newest being Life Cycle which opened in the old Milford Florist location across from Milford Library. It is a bicycle company that repairs old bikes and sells them.

Mayor Shupe added that Touch of Italy plans to open at the old M&T building by March 1st and he is confident it will create a lot more foot traffic in the downtown area.

The old Lou's Bootery has also been purchased by Dan Bond and is being rehabbed with approximately 1,300 square feet of commercial space on the first floor and nice, high-end two-bedroom apartments on the second and third floors. The project should be completed by the spring of 2018 though it could take until 2019 due to a tremendous amount of work that is needed according to Mayor Shupe.

The Mayor also informed Council that Davis, Bowen and Friedel (DBF) will be moving their offices into the former Milford Skating Center building. The building will be restored with facade and other improvements. That will leave space on Walnut Street for additional retail and businesses.

He also reported there are some new businesses locating near Abbotts Grill in the Riverwalk Shopping Center, including a shoe repair shop that recently opened.

Mayor Shupe is confident the Downtown Master Plan helped secure the foundation for the many new retail businesses locating downtown, in addition to the recent Downtown Development District (DDD) designation by the State of Delaware. He concluded by stating the three major projects--Touch of Italy, Lou's Bootery and DBF, are applying for the DDD funding in the first round.

He is also familiar with additional individuals who have expressed interest in next year's application process.

Mayor Shupe believes the corner of Walnut and Front Street will be a major cornerstone for the downtown and getting some ideas for the project on the other end of the river will also help.

Mr. Norenberg explained the full RFP is under review by the City Solicitor though if Council prefers, there is sufficient time for it to be placed on the next Council agenda. However, if Council is comfortable with the material presented by Mr. Pierce, they will proceed accordingly.

Councilmember Wilson stated she is comfortable with it though she prefers receiving feedback before we actually dive into any big project. Mayor Shupe agreed with Councilwoman Wilson stating she is correct.

Councilmember Mergner pointed out the City is not committing to anything other than getting a feel for the interest. The City Manager clarified that the purpose of the RFP is to determine what is needed to develop the properties. However, in the meantime, we will move ahead with the change of zone. The City will also start conversations with Delaware State Parks to discuss what is needed to relocate the basketball court. The land currently designated for parks and recreation will need to be replaced and replicated acre for acre should private development occur there.

Mr. Norenberg said they will keep Council apprized as they move ahead with those parts that will enable a potential developer to apply for the DDD funding at some point in 2017.

It was determined that no motion was necessary and that Mr. Pierce was only seeking approval, according to Mr. Rutt.

Police Department/Growmark FS Land Purchase

Police Committee Chairman Burk asked the status of the contract to purchase the Growmark property for the new police facility. He stated that he is very anxious to move forward with the project and begin scheduling workshops in 2017.

City Solicitor Rutt said he spoke with Growmark's attorney two weeks ago after he was finally able to track him down. They reviewed the contract at that time and a couple items still needed to be tweaked.

COMMUNICATIONS & CORRESPONDENCE

Home of the Brave Benefit

Councilmember Burke reported that he and his wife started a benefit three Christmas' ago for the homeless veterans who reside at the Home of the Brave. The event is scheduled tomorrow at Arena's from 6:00 to 9:00 p.m. Items such as food, toiletries, clothes, blankets, pillows and bus passes, to fill holiday baskets, can be dropped off in several locations or tomorrow at Arena's.

Council Interest/University of Delaware and DNREC Issues

Mr. Pierce then informed Council that as part of the Comprehensive Plan update, the University of Delaware was hired to assist with the process. In doing so, the University of Delaware is assisting with climate adaptation and its integration into the comp plan process. Milford was selected by the State of Delaware to be a pilot program as a result.

An informational session, related to sea level rise, climate change and community resiliency has been scheduled by the University of Delaware and DNREC on Tuesday, January 10, 2017 at 5:30 p.m. The Planning Commission is invited and Mr. Pierce is asking any Councilmember who wishes to attend to contact him.

A community mapping workshop, related to some of these items, is scheduled on Wednesday.

Mr. Brooks indicated his interest in attending.

UNFINISHED BUSINESS

Adoption/Ordinance 2016-25/Chapter 107/Contractors Code Amendment

Mr. Pierce reminded Council that the ordinance involves revisions to the Contractor Code and removes the fee within the chapter and into the Planning and Zoning Departments' fee schedule. It also changes the contractor proration fee from quarterly to semi-annually.

Councilmember Peel moved to adopt Ordinance 2016-25 as presented, seconded by Councilmember Brooks:

ORDINANCE 2016-25 Chapter 107-Contractors Code

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 1st 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

Effective Date: January 1, 2017

Motion carried.

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

Mr. Pierce explained the modification to this chapter adds language related to mobile food vehicles, clarifies the permitted locations, moves the fee from within Chapter 168 into the Planning and Zoning Department’s fee schedule and allows the fee to be prorated semi-annually.

Councilmember Peel moved to adopt Ordinance 2016-26, as presented, seconded by Councilmember Campbell:

ORDINANCE 2016-26

Chapter 168-Peddling, Soliciting & Transient Merchant Code

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.

§ 168-1617. 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~~ **City** may also maintain an action or proceeding in the name of the city ~~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.

Council Introduction: November 28, 2016

Council Adoption: December 12, 2016

Effective Date: January 1, 2017

Motion carried.

*Community Development Block Grant Program - Sussex County - Fiscal Year 2017
Adoption/Resolutions 2016-18, 2016-19, 2016-20*

*Community Development Block Grant Program - Kent County - Fiscal Year 2017
Adoption/Resolutions 2016-21, 2016-22*

City Manager Norenberg recalled the Public Hearing at the last meeting and presentations by representatives from Kent and Sussex Counties on the program. The resolutions are being presented for Council action this evening.

Councilmember Peel moved to adopt Resolution 2016-18, seconded by Councilmember Burk:

*RESOLUTION 2016-18
Sussex County*

Councilmember Peel submitted to the Council the following Proposed Resolution:

ENDORISING PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING TODD F. LAWSON, SUSSEX COUNTY ADMINISTRATOR TO SUBMIT APPLICATION.

WHEREAS, the City of Milford resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants State of Delaware Program for Block Grants as contained in Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Milford has met the application requirements of (Attachment E Delaware Community Block Grant Program Policies and Procedures) Citizen Participation requirements; and

WHEREAS, Sussex County plans on accomplishing the requested projects with CDBG funds; and

WHEREAS, the City of Milford hereby agrees to allow Sussex County to accomplish the projects in the targeted areas of Milford; and

WHEREAS, the City of Milford and Sussex County are in agreement with this activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Milford and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

Total Infrastructure project cost is \$ _____, total CDBG grant request is \$ _____. Matching funds in the amount of \$ _____ will be provided by the City of Milford general funds.

NOTE: To be used for infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 12th DAY OF DECEMBER 2016.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Councilmembers

<i>Christopher Mergner</i>	<i>Owen Brooks, Jr.</i>	
<i>Arthur Campbell</i>	<i>Douglas Morrow</i>	
<i>Lisa Ingram Peel</i>	<i>James Starling, Sr.</i>	<i>s/Bryan W. Shupe</i>
<i>James Burk</i>	<i>Katrina Wilson</i>	<i>Mayor</i>

Motion carried.

Councilman Burk moved to adopt Resolution 2016-19, seconded by Councilwoman Peel:

*RESOLUTION 2016-19
Citizen Participation
Certificate of Assurance
Sussex County*

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware, has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- 1) made available information concerning the amount of funds that may be applied for;*
- 2) made known the range of activities that may be undertaken with these funds;*
- 3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;*
- 4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies and others in a timely manner; and*
- 5) provided a summary of other important program requirements.*

The City of Milford has held a Public Hearing on November 28, 2016 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution and following a Public Hearing, endorsed this application.

s/Mayor Bryan W. Shupe

Motion carried.

Councilwoman Peel moved to adopt Resolution 2016-20, seconded by Councilman Mergner:

*RESOLUTION 2016-20
Requirement for Fair Housing
Sussex County*

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on December 12, 2016.

s/Mayor Bryan W. Shupe

Motion carried.

Councilman Burk moved to adopt Resolution 2016-21, seconded by Councilman Mergner:

*RESOLUTION 2016-21
Authorizes Levy Court of Kent County to Submit Application*

The City Council of Milford, Delaware, hereby authorizes its Mayor, Bryan W. Shupe, to submit the Fiscal Year 2017 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2017 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford's application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was passed by a majority of the Council of the City of Milford on December 12, 2016.

s/Mayor Bryan W. Shupe

Councilwoman Wilson asked if there was any mention of a process for our Code Officials to oversee projects taken on by Kent County through this program; Councilman Brooks confirmed that was not discussed.

The City Clerk recalled that both representatives assured Council they will work with City Staff throughout the year on these projects. Mr. Pierce agreed they are now required to obtain permits for each project to ensure it is properly inspected and that there is more collaboration between the County and the City.

Motion carried.

Councilman Burk moved to adopt Resolution 2016-22, seconded by Councilwoman Peel:

*RESOLUTION 2016-22
Requirement for Fair Housing
Kent County*

WHEREAS, the City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW, THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to insure that no person shall, on the grounds of race, color, national origin or sex, be discriminated against or denied a fair and equal opportunity for housing; and

BE IT FURTHER RESOLVED, that the Kent County Levy Court, when acting as administrators of a Community Block Grant for the City of Milford, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

This RESOLUTION was passed by a majority of the Council of the City of Milford on December 12, 2016.

s/Mayor Bryan W. Shupe

Motion carried.

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

City Manager Norenberg advised the version of this ordinance, as was considered by the Community Affairs Committee, is only being reintroduced this evening at the request of Councilmember Campbell. The dates will need to be adjusted and based on the timing.

City Planning Coordinator Pierce recommends that Sections 90-3 and 90-7 that presently reference January 1, 2017, be changed to February 1, 2017 (as noted):

ORDINANCE NO. 2016-24

Amending the Code of the City of Milford by Adding a New Chapter 90 Entitled Business License

WHEREAS, the City of Milford desires to adopt an ordinance providing for the requirement and procedures to issue licenses to businesses operating within the corporate limits of the City; and

WHEREAS, the City of Milford will experience direct and indirect costs associated with administering the licensing registrations, making it necessary and reasonable for the City of Milford to impose a fee associated with the issuance of business licenses and the enforcement of those regulations outlined herein.

NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 90, to be titled "BUSINESS LICENSE".

Section 2. The Code of the City of Milford is further amended by adding the following provisions to the new Chapter 90, to hereby read as follows:

§ 90-1 Purpose

The City Council has deemed it to be in the best interest of the residents of the City and in furtherance of their health, safety and welfare to issue business licenses and establish procedures governing the issuance of business licenses in order to identify owners/operators of businesses, track changes in ownership and/or business activity, define the nature of business activities, ensure an understanding of and compliance with City codes governing business operations, and provide necessary approval, enforcement, and compliance procedures.

§ 90-2 Definitions

As used in this Chapter, the following terms shall have the meanings indicated, except where the context clearly indicates a different meaning:

*BUSINESS-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 **physically located within the corporate limits of the City** that requires a business license with the State of Delaware, Division of Revenue.*

PERSON-Any individual, firm, corporation, company, partnership, or joint venture.

§ 90-3 Business License Required

- A. Commencing ~~January~~ **February 1, 2017**, no person shall operate, maintain or otherwise be engaged in any business within the corporate boundaries of the City of Milford without having first received a business license issued by the City for the calendar year in which the business is operating. All businesses in existence prior to January 1, 2017 shall obtain a business license prior to ~~June~~ **July 1, 2017**, which license shall be valid for the year 2017.*
- B. License period; renewals. Business licenses shall be issued for each calendar year and shall expire December 31 of the year for which the business license was issued, regardless of when during the calendar year the license was issued. Licenses shall be renewed on or before January 1 of each year.*

- C. *Display of business license. The business license shall be displayed in a public place within the establishment ~~or, if applicable, worn or carried by the person providing the service~~ in a manner that is visible at all times to the public.*
- D. *Good standing requirements. 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.*
- E. *Multiple business locations. Each separate location or branch of the same business requires a separate business license as though it were a separate business.*
- F. *Transferability. A business license may not be transferred from one party to another or from one location to another location of the same business. If the nature of the licensee's business activities substantially changes after the issuance of a business license, a new business license shall be obtained.*

§ 90-4 Business License Application

- A. *Every application for a business license submitted to the City shall be in writing, verified by oath or affirmation and signed by the applicant(s), and shall include the following information:*
 - (1) *Company/business name;*
 - (2) *Phone number and street address of business (physical location, not post office box);*
 - (3) *The name, title, phone number(s) (home and cellphone), and address(es) of the owner(s);*
 - (4) *Name, cell phone number, and email address of the authorized manager or representative;*
 - (5) *Federal Employer Identification Number or owner's Social Security Number (last four digits only);*
 - (6) *The trade, business or occupation for which the license is being requested;*
 - (7) *Number of regular full time and part time or seasonal employees;*
 - (8) *A copy of any business licenses issued by the State of Delaware and/or any other approvals issued by the Division of Revenue or another governmental or quasi-governmental agency (i.e. Alcoholic Beverage Control Commission, Administrative Services, Banking Commissioner, Insurance Commissioner, Public Service Commission, Department of Natural Resources, Environmental Protection Agency, Internal Revenue Service, etc.). Possession of any such license or approval shall not exempt a person from obtaining a City of Milford business license; and*
 - (9) *A statement that the business has complied with and will continue to comply with all codes and ordinances of the City.*
- B. *After reviewing the business license application, the City Manager may request such other information as is necessary to answer any questions raised by the application regarding the operation of the business. The City Manager shall prescribe the form of the license certificate and shall keep full and complete records of all licenses issued, the expiration dates, and the license fees collected.*

§ 90-5 Business License Application Review

The City Manager or his/her representative shall investigate and review all applications for a license to do business within the City to determine whether the applicant is aware of and demonstrates a willingness to comply with all codes and ordinances of the City that relate to the business's operation, and agrees to avoid all forbidden, improper or other practices or conditions which do or could adversely affect the public health, safety or welfare.

§ 90-6 Business License Fees; Delinquencies

- A. *The fee for a business license shall be set by the City Council each year as part of the City Fee Schedule.*
- B. *The business license fee for any new business applying for a business license after July 1 shall be prorated semi-annually. No refund shall be given for any business that ceases to operate during the licensing period. In the event that an existing business has not applied for and paid the business license fee on or before the first day of January, a penalty of ten percent (10%) shall be assessed for each month or portion thereof that the license fee remains unpaid. Once penalties have begun to be assessed under section 190-10, however, no additional penalties shall continue to be assessed under this section.*

§ 90-7 Code Compliance; Zoning Certificate

A business operating in the City shall at all times be in compliance with all City codes and ordinances. Any business not in existence in the City as of January February 1, 2017 shall not be issued its initial business license and shall not initiate its business activities until it has obtained a certificate of zoning compliance ascertaining the permissibility of the proposed business use in the location where such activity is to take place.

90-8. Exemptions.

Anything in this chapter to the contrary notwithstanding, the following activities are exempt from the business licensing requirement outlined herein:

- ~~(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.~~
- (1) 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.*
- (2) 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.*
- (3) Yard or garage sales, book sales, and auctions where not part of a regularly recurring or continuous business activity.*
- (4) Sale of agricultural or nursery items grown on the premises of the property owner and sold seasonally.*
- (5) 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").*
- (6) Construction activities for which a license is required and has been secured in accordance with Chapter 107 ("Contractors").*
- (7) Business activities of insurance agents and companies specifically exempted from municipal business license fees under 18 Del. C. § 712.*
- (8) Rental activities for which a rental license has been obtained pursuant to Chapter 180 ("Residential Rental Operating Licenses").*

§ 90-9 Inspection by City Officials

The City Manager and/or his designee shall have the authority to make or have made all inspections and investigations reasonably necessary to enforce this chapter and to inspect those portions of the commercial premises that are open and visible to the public in order to ensure that the business is being conducted as specified by the license and is in compliance with all applicable building, safety, zoning, and other City codes. All persons authorized by this chapter to inspect businesses shall have the authority to enter the premises to inspect at all reasonable times.

§ 90-10 Suspension of Business License; Penalties

- A. Suspension of business license. The City Manager may order a business to cease operations in the City and suspend its business license (if a business license has been obtained) for any of the following reasons:*
 - (1) The business is found to be operating in violation of the terms of this chapter.*
 - (2) The business is more than 60 days late in renewing its business license.*
 - (3) The business is in violation of any regulations of the Milford City Code or the laws of Delaware.*
 - (4) The Fire Marshall or any public safety authority having jurisdiction has requested that the business activities cease until certain conditions have been remedied.*
- B. The City shall provide the business with written notice of the violation(s), which notice shall state that the business shall be ordered to cease operations and its business license (if applicable) shall be suspended without further notice if within 10 business days of the date of the notice the business fails to remedy the violations or file an appeal with the City Clerk's office. The written notice shall be either personally delivered or sent via certified mail, return receipt requested, to the business. If the business does not remedy the violations or appeal the determination of the City*

Manager within the prescribed time period, the business shall not be permitted to operate in the City until such violations have been remedied. Notwithstanding the foregoing, notice shall not be required to order a business to cease operations in any emergency situation that causes an immediate threat to the health, safety, or general welfare of the public.

- C. *Penalties. Any business that does not remedy the violations within the prescribed time period shall be assessed a penalty of \$100.00 as of the date the notice of violation was delivered to the business. Each day thereafter that the violation is not remedied shall be considered a new violation subject to a new penalty, provided that no additional notices of violation shall be required. Notwithstanding the foregoing, no penalties shall be assessed if:*
- (1) The business remedies the violation(s) within 10 business days of the date the notice of violation was delivered to the business; or*
 - (2) The business files an appeal with the City Council that is resolved in favor of the business. The amount of any unpaid penalty, including the unpaid business license fee, shall constitute a debt owed to the City, and the City may 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.*

§ 90-11 Appeals Procedures

- A. *The City Council shall provide any business appealing a determination of the City Manager with 15 business days' written notice of the date, time, and place at which the City Council shall sit to hear the business's appeal. Such written notice shall be sent via certified mail, return receipt requested, and the hearing may be held as part of a regularly scheduled City Council meeting. The filing of an appeal shall stay any enforcement action by the City to compel the business to cease operations, and the business shall be permitted to continue to operate until a final decision is rendered by the City Council.*
- B. *If the City Council finds against the business, the business shall have five (5) business days after the decision of the City Council to remedy the violations before the City takes legal action to compel the business to cease operations. The accrual of daily violations and corresponding penalties shall not be stayed if an appeal is filed, but no penalties shall be assessed if the City Council finds in favor of the business. If the City Council finds against the business, the City Council may waive a portion or all of the accrued penalties if:*
- (1) The violations are remedied within five (5) business days following the decision of the City Council; and*
 - (2) The City Council finds the appeal was filed by the business in good faith.*

§ 90-12 Severability

The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that City Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with City Council's intent.

Section 3. Dates.

Council Introduction: December 12, 2016

Council Adoption: January 9, 2017

Effective Date: February 1, 2017

NEW BUSINESS

Adoption/Resolution 2016-17/Amends Planning, Zoning, Engineering and Licensing Fees

As a result of Ordinance 2016-25 (Contractors) and Ordinance 2016-26 (Vendors), the licensing fees have been added to the previous Planning, Zoning and Engineering Fee Schedule as previously discussed.

The Community Affairs Committee recommended no increase in either fee. As a result, they will remain at \$100 for a contractor permit and \$50 for a vendor permit with no increase as was discussed during the budget hearings.

City Manager Norenberg added that he will be working with the Finance Department to reformat the schedule so it is clear how often the fees are reviewed and amended. This will make it easier to access fees in one place versus having to look in the City Code.

Staff will be working to gather fees in other codes to combine into one document though that will take a few months.

Ms. Peel moved to adopt Resolution 2016-17, seconded by Mr. Mergner:

*RESOLUTION 2016-17
Planning, Zoning, Engineering and License Fees*

- A. *Planning and Zoning Fees:*
1. *Site Plan: \$700*
 - a. *Amendments to a Site Plan: \$100*
 2. *Subdivision:*
 - a. *Minor residential: \$300 plus \$50 per unit*
 - b. *Minor commercial or industrial, less than four acres: \$500 plus \$100 per lot*
 - c. *Major residential: \$1,000 plus \$10 per unit*
 - d. *Major commercial or industrial, in excess of four acres: \$1,000 plus \$100 per lot*
 3. *Conditional Use: \$700*
 - a. *Amendments to a Conditional Use: \$700*
 4. *Variance/Board of Adjustment hearing:*
 - a. *Residential: \$300*
 - b. *Commercial: \$1,000*
 5. *Rezoning: \$1,000, plus \$100*
 6. *Commercial maintenance agreement: \$500*
 7. *Interpretations of Subdivision or Zoning Code: \$300*
 8. *Application resubmission or rescheduling fee (required with each resubmission as a result of a revised design or a request for change in public hearing date): \$200*
 9. *Annexation:*
 - a. *Residential, less than one acre: \$350*
 - b. *Residential, one acre to five acres: \$2,500*
 - c. *Residential, in excess of five acres: \$2,500 plus \$100 per acre*
 - d. *Commercial: \$2,500 plus \$500 per acre*
 10. *Zoning Inspection:*
 - a. *Proposed Use: \$200*
 - b. *Violation of Use: \$200 for first visit; \$500 for each subsequent visit*
- B. *Land Use Planning Review Fees:*
Owner/Applicant shall be responsible for any and all professional service costs associated with their project, if deemed necessary, plus an additional 10% to cover City administration. These costs will be billed as encumbered.
- C. *Engineering Review Fees:*
Owner/Applicant shall be responsible for any and all professional service costs associated with their project, if deemed necessary, plus an additional 10% to cover City administration. These costs will be billed as encumbered.
- D. *Project management and infrastructure inspection fee:*
Owner/Developer shall be responsible for any and all direct costs for construction phase services related to construction of any infrastructure improvements including but not limited to stormwater management, drainage, sanitary sewer and water systems, roads, curb, gutter and sidewalks and other systems that are to be dedicated to the City and/or impact the City's infrastructure.
- E. *Any construction fees (i.e., grading, curbing, gutter, subbase, traveling surface, sidewalks, etc.) incurred by the City relative to the development of any property shall be paid by the owner/developer.*
- F. *Subdivision Agreement: \$2,500 per agreement*

G. *Alley or Street Closing Petition: \$300*

H. *License Fees:*

1. *Contractor License: \$100 annually, prorated 6 months*
2. *Vendor License: \$50 annually, prorated 6 months*

Council Adoption: 12/12/2016

Effective Date: 01/01/2017

Motion carried.

Authorize Purchase/Automatic Refuse Collection Truck/HGACBuy Cooperative Purchasing Alliance

Public Works Director Mark Whitfield informed Council he gave a presentation to the Public Works Committee prior to this meeting with regard to the replacement of a 2000 reloading refuse truck with a one-man hydraulic-operated arm truck.

He explained the truck will allow for more efficient collection of refuse, yard waste and recycling materials by using a single person. They have opted to go with a single axle truck due to the narrow streets and tight radius' within the City of Milford. The collection arm also has a long reach which will allow collection in and around parked cars on the streets.

This type of vehicle has many advantages including the elimination of three employees (driver and two collectors) currently required on a rear-loading truck. The new truck will allow a proficient operator to collect up to 1,000 containers a day. The City has slightly more than 3,500 residential customers. The unit will also provide for safer collection of materials since there is no human contact with the container or the refuse. It eliminates the hazards of lifting containers, exposure to dust, needles and other potential hazards. It also eliminates the exposure to inclement weather and traffic hazards.

It will also eliminate the need to fill two present vacancies within the Department.

The new unit will also allow the Department to make improvements to the present collection schedule. Once the vehicle is delivered and put into service, it is recommended the schedule of refuse, yard waste and recyclable materials be changed. Refuse and recyclable materials will be collected Tuesday through Friday, with the day determined by the ward in which the customer lives. Yard waste and bulk items would be collected Citywide every Monday with no collection on weeks in which a holiday falls on a Monday.

The present unit will replace a 2000 Volvo with a Heil rear load refuse body. The unit has more than 4,700 engine hours, 100,000 travel miles and the body is rusted out. A similar replacement (rear-loader on a tandem axle truck) would cost about \$160,000. The automated replacement unit was budgeted at \$261,000 this year.

It is recommended the City purchase a G S Product CS9133 CollectStar Auto Side Loader body on a single axle Freightliner truck through Houston Freightliner, Incorporated. The cost is \$220,290, which is \$40,710 under budget. The purchase can be made through the Houston Galveston Area Council (HGACBuy) Cooperative Purchasing Alliance which is an approved purchasing cooperative under the Delaware State Contract. Other HGAC members in Delaware include Rehoboth Beach, Dover, Bethany Beach and Sussex County.

Provided the truck will be delivered by April and allowing the vehicle operator six to eight weeks to become proficient, the refuse schedule will be changed by July 1st. The January to June 2017 schedule will only be published at this point due to the anticipated change in July.

When asked if there is anyone on staff capable of making repairs to the arm, Mr. Whitfield explained it is similar to the tipper that is currently used. The unit is made in Southwestern Pennsylvania and if we encounter a problem the City Mechanic is unable to handle, a repairman from Somerset, Pennsylvania will be sent to Milford.

Mr. Mergner asked how we will handle containers that are placed incorrectly for pickup. Mr. Whitfield noted that an education process is required on where and how to place containers and anticipates a two-month learning period. Parked cars, mailboxes, trees, fences, etc. will create obstacles for our drivers. Initially, we will have an employee ahead of the

refuse truck who will tag any container that needs to be addressed. That employee will also align the container so it can be picked up at that time. The tag will provide the customer the information on its proper placement.

Solicitor Rutt advised that Sussex County recently purchased a mobile command unit through the same organization who offered a trade. He believes HGACBuy was going to take it on consignment basis. Mr. Whitfield explained that from past experience, he has had better success selling the vehicle outright through a competitive process.

The City Manager added that earlier this year, the City was very successful selling vehicles through GovDeals.com and that is most likely how we will proceed.

Councilmember Peel moved to approve the recommendation of the Public Works Committee by authorizing the purchase of a GS Product CS9133 CollectStar Auto Side Loader body at a price of \$220,290, through the Houston Galveston Area Council (HGACBuy) Cooperative Purchasing Alliance as discussed, seconded by Councilmember Campbell. Motion carried.

Introduction/Ordinance 2016-09

An Ordinance Amending Chapter 79 Animal Code

City Manager Norenberg introduced Ordinance 2016-09 and explained that he has been working with the Police Department and the Delaware Office of Animal Welfare, who is now handling the duties previously contracted through the SPCA. As a result, a number of updates were needed to the Animal Code.

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

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

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

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

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

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

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

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Chapter 79 - ANIMALS

SECTION 1.

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

SECTION 2.

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

ARTICLE I - Definitions

§ 79-1. Terms defined.

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

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

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

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

CAT COLONY — ~~A social group of cats who avoid human contact,~~ **lacking discernible owner identification, and breed with each other to create a growing population of homeless cats; cats who group together in an alley, corner of a parking lot or a grassy area. works to reduce their numbers by working to spay and neuter the animals. Free-roaming cat caregivers are not owners.**

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

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

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

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

SECTION 3.

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

ARTICLE II - Control of Dogs, Cats and Other Animals

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

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

(1) Exceptions:

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

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

§ 79-3. Dog license required.

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

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

§ 79-4. Leash required; exceptions.

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

(1) Exceptions:

(a) Cats.

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

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

SECTION 4.

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

§ 79-5. Feral cats.

~~A. Individuals who choose to apprehend a feral cat running at large within the City of Milford shall have the feral cat delivered to the Kent County SPCA.~~

~~B. No individual will trap a feral cat off his/her property of record except the Kent County SPCA pursuant to specific authorization from the City of Milford Police Department.~~

~~C. Each feral cat colony will be registered by the caregivers with the City of Milford and Local Animal Control Agency, which will serve as a clearinghouse for information on current caregivers and assistance for persons found in violation of this section. A caregiver who fails to register within the time allowed shall be subject to a fine of not less than \$100 nor more than \$300.~~

~~D. Any person or caregiver determined to be in violation of Subsections E(1) through (4) below shall be in violation and may be allowed a period of time to come into compliance, or provide satisfactory evidence of working to achieve compliance.~~

~~E. Failure to comply in the time given will result in issuing a violation citation. Caregivers of feral cat colonies shall implement proper management and sterilization practices as follows:~~

~~(1) Sterilize (spay/neuter) all adult cats that can be captured.~~

~~(2) Vaccinate against rabies, as required by law, all cats that can be captured.~~

~~(3) Make every attempt to remove kittens from the colony before eight weeks of age for domestication and placement.~~

~~(4) Make every attempt to sterilize all kittens over eight weeks of age and before five months of age.~~

~~(5) Make every attempt to remove sick or injured cats from the colony for immediate veterinarian care or for humane euthanasia.~~

~~(6) Assure responsibility and arrangements for feeding the cat colony regularly throughout the year, including weekends, holidays and vacations.~~

~~(7) Keep feeding areas clean and orderly.~~

~~(8) Maintain secure and safe winter shelter as required in § 79-6C of this article.~~

~~(9) A microchip implant and ear-tipping will be mandatory and used on feral cats in order to be identified as a spayed or neutered and vaccinated member of a managed colony.~~

~~(10) The feral cat caregiver shall be vaccinated for rabies; the expense will be the responsibility of the individual or rescue group.~~

~~(11) Maintain proof of sterilization, vaccination, medical records, and implant identification for all cats. These records must be provided to the animal control or law enforcement agency upon request.~~

~~F. Animal(s) creating a public nuisance. The designated agency/rescue group will be notified within 48 hours of removal of any feral cats.~~

~~G. In the event the feral cat caregiver fails to comply with this section, the designated agency/rescue group will be notified within forty-eight-hour period before removal of any animal. The designated agency/rescue group will attempt to resolve the situation prior to removal of a cat by an enforcement agency.~~

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

~~A. The following categories of cats must not be kept in outdoor facilities, unless the attending veterinarian specifically~~

~~approves that practice:~~

- ~~(1) Cats that are not acclimated to the temperatures prevalent in the area or region where they are maintained;~~
~~(2) Breeds of cats that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-hair breeds in cold climates); and~~
~~(3) Sick, infirm, aged or young cats.~~

~~B. When their acclimation status is unknown, cats must not be kept in outdoor facilities when the ambient temperature is less than 50° F.~~

~~C. Shelter from the elements. Outdoor facilities for cats must include one or more shelter structures that are accessible to each animal in each outdoor facility, and that are large enough to allow each animal in the shelter structure to sit, stand, vertically stretch and lie in a normal manner, and to turn about freely. It must be large enough to contain all the animals at one time. Shelters in outdoor structures for cats must contain a roof, four sides, and a floor; building surfaces in contact with animals must be impervious to moisture. Metal boxes/barrels, cans, refrigerators or freezers, and the like must not be used as shelter structures. Shelter structures must:~~

- ~~(1) Provide the cats with adequate protection and shelter from the cold and heat;~~
~~(2) Provide the cats with protection from the direct rays of the sun and the direct effect of wind, rain, or snow;~~
~~(3) Be provided with a wind break and rain break at the entrance; and~~
~~(4) Contain clean, dry bedding material if the ambient temperature is below 50° F. Additional clean, dry bedding is required when the temperature is 35° F. or lower.~~

§ 79-7. **79-5** - Noisy animals.

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

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

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

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

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

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

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

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

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

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

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

Unless otherwise established herein, the following fines and penalties shall apply to Article II of this chapter: Any person

found guilty of violating the provision of this article shall forfeit to the City of Milford a fine of not less than \$25 but not more than \$300, plus the costs of prosecution.

SECTION 5.

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

ARTICLE III - Prohibited Animals

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

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

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

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

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

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

SECTION 6.

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

ARTICLE IV - Horse-Drawn Vehicles

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

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

A. Each route shall be approved by the City Manager.

B. The horse shall not be kept or maintained within the corporate limits of the City when not being used for the purpose of providing transportation.

C. Horse-drawn vehicles are prohibited from all other streets and areas within the City unless specifically approved by the City Manager for providing point-to-point transportation for special events, including but not limited to weddings, theatrical performances and funerals.

D. Owners/operators of horse-drawn vehicles are responsible for cleanup after the horses.

*~~D. E.~~ **E.** No person shall drive or operate a horse-drawn vehicle on any day or at any time that the ~~Chief of the Milford Police Department or his designee~~ **City Manager** makes a specific determination that it would be inconsistent with other special events or public safety requirements.*

SECTION 7.

Dates:

Council Introduction: December 12, 2016

Council Adoption: January 9, 2017

The ordinance is scheduled for adoption on January 9, 2017.

Introduction/Ordinance 2016-15

Code of the City of Milford Part II-General Legislation

Chapter 230-Zoning

Article II-Designation of Districts & Article III-Use and Area Regulations

Creates New Zoning District/C2-A/Riverfront Development District

Mayor Shupe introduced Ordinance 2016-15:

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

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

WHEREAS, the City creates districts for said purposes; and

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

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning by adding a new zoning category.

Section 2.

Article II-Designation of Districts, 230-5.-Types of Districts is hereby amended as follows (new language will be bold and underlined):

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

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

Section 3.

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

§ 230-13.1 C-2A Riverfront Development District

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

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

- (5) Front yard setback shall be 15 feet minimum
- (6) Side yard setback shall be 14 feet aggregate total with a minimum of 6 feet.
- (7) Rear yard setback shall be 20 feet.
- (8) Height of buildings shall not exceed four stories or 50 feet.
- (9) Minimum separation distance between dwelling structures on the same lot shall not be less than 15 feet.
- (10) Parking shall comply with the requirements provided in Article IV of this chapter.
- (11) Signs shall comply with the requirements for C-2 Central Business District as provided in Article VI of this chapter.
- (12) For mixed use residential and commercial projects, off-street parking, parking beneath buildings, front, side and rear setbacks, landscaping and buffering, lot coverage, number of units per building and building separation shall be as determined by the Planning Commission.

Section 4. Dates.

Planning Commission Review and Public Hearing: December 20, 2016

Council Introduction: December 12, 2016

Council Adoption: January 9, 2017

Planning Coordinator Pierce explained this addresses the new zoning category C2-A, Riverfront Development District. According to the Planning Director, it was drafted and reviewed by the Planning Commission and is scheduled for a Public Hearing on December 20, 2016. Their recommendation will be presented to Council on January 9, 2017.

Introduction/Ordinance 2016-27

An Ordinance Amending Chapter 230 Zoning by Including a Conditional Use to Allow Chickens for Individual Domestic Purposes in a Residential Zone

Mayor Shupe introduced Ordinance 2016-27:

*ORDINANCE 2016-27
Chapter 230*

*AN ORDINANCE AMENDING CHAPTER 230 ZONING OF THE CODE OF THE CITY OF MILFORD
BY INCLUDING A CONDITIONAL USE TO ALLOW CHICKENS FOR
INDIVIDUAL DOMESTIC PURPOSES IN A RESIDENTIAL ZONE*

WHEREAS, The Community Affairs Committee (Committee) recognizes the benefits of locally produced food; and

WHEREAS, The City of Milford currently prohibits the keeping of chickens in its corporate limits; and

WHEREAS, the Committee deems it to be in the best interest of the City of Milford to allow residents to keep a limited number of chickens for providing eggs for personal consumption in its residential districts; and

WHEREAS, The Committee recommends the City Council (Council) of the City of Milford modify the Zoning Chapter by adding a conditional use to allow chickens that are used for individual domestic purposes, subject to certain regulations as set forth, and said Council finds such actions reasonably further the health, safety and general welfare of the residents of the City of Milford.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. Purpose and Authority

The purpose of this Ordinance is to amend Chapter 230 Zoning Code of the City of Milford by modifying Section 230-9 R-1 Single Family Residential District, Subsection C by including Paragraph 13 Keeping of Chickens for Individual Domestic Purposes, as follows:

§230-9. R-1 Single-Family Residential District.

In an R-1 District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

- A. *Purpose. The intent of the R-1 Residential District is to preserve the spacious residential atmosphere and quality of living of existing low-density residential development, to provide for the orderly and appropriate development of new low-density housing and to allow related uses that would not be detrimental to the residential character of the district.*
- B. *Permitted uses.*
- C. *Conditional uses subject to special regulations. The following uses may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with the provisions in Article IX of this chapter:*

(13) Keeping of Chickens for individual domestic purposes subject to the following restrictions:

(a) Keeping of chickens shall be an accessory use and not permitted on lots smaller than one (1) acre in lot area.

(b) No more than four (4) chickens per acre shall be permitted on a residential lot with a maximum of twelve (12) chickens allowed on a single property.

(c) Chickens shall be registered with the Delaware Department of Agriculture.

(d) Chickens shall be penned in a coup that shall be at least four (4) square feet per chicken.

(e) All chicken coups shall be located in a rear yard and shall be a minimum of 20 feet from the side and rear property lines.

(f) Any odor associated with the chickens shall not be discernable from the property lines.

(g) Keeping of roosters shall be prohibited.

(h) Slaughtering of chickens shall be prohibited.

(i) Violations of these restrictions may lead to the revocation of the conditional use approval.

Section 2. Dates.

Planning Commission Review & Recommendation: December 20, 2016

Council Introduction: December 12, 2016

Council Adoption: January 23, 2017

Mr. Pierce reported this was originated by the Community Affairs Committee due to a request from one of their constituents. It provides a conditional use allowance for chickens.

A public hearing is scheduled before the Planning Commission on December 20, 2016 and their recommendation will be presented to City Council at their January 23rd meeting.

EXECUTIVE SESSION

Councilmember Mergner moved to go into Executive Session reference below reasons, seconded by Councilmember Peel:

Pursuant to 29 Del. C. §10004(b)(4)--Collective Bargaining Update.

Motion carried.

Chief Brown left at this time.

Mayor Shupe recessed the Council Meeting at 8:42 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 8:49 p.m.

IBEW Contract Negotiations

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

ADJOURN

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

The meeting adjourned at 8:50 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson", with a long horizontal flourish extending to the right.

Terri K. Hudson, MMC
City Clerk/Recorder

Attachment:
C2-A Zoning District Presentation



PLANNING & ZONING DEPARTMENT
P 302.424.3712 F: 302.424.3558

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

TO: Mayor and City Council

FROM: Rob Pierce, Coordinator of Planning & Economic Development Activities

DATE: December 12, 2016

RE: RFP #17-01 – Washington Street Property

The objective of the RFP process is to seek a highly qualified and creative real estate development firm to lease or purchase and transform city-owned land in Downtown Milford into a vibrant, mixed use development. The intent is to receive proposals that would lead to economic development in the downtown core, while maintaining and enhancing safety and livability. The completed project would provide a welcoming environment and a sense of community for the City of Milford.

The parcels are situated on the southern banks of the Mispillion River, in Sussex County. The immediate area is improved with a mixture of commercial and residential uses and includes portions of the City's Riverwalk and park land. The site is the former location of the City's water treatment plant which was recently decommissioned and demolished. The properties are zoned C-1 Neighborhood Commercial, with a portion under consideration for a change of zone to C-2A Riverfront Development District, as shown on the attached Exhibit B and further described below.

Name: Parcel #1 - Washington Street

Tax ID: 3-30-6.20-006.00

Ownership: City of Milford

Location: On the east side of S. Washington Street between the Mispillion River and SE Front Street.

Current Use: Open Space/Recreation/Municipal Parking

Zoning: C-1 (Community Commercial), under consideration for C-2A (Riverfront Development)

Gross Acreage: 1.78 +/- acres

Special Considerations: Property is the location of the former City water treatment facility and the current location of a municipal parking lot. Portions of the site are within the 100-year floodplain as shown on Exhibit E illustrating the most recent FEMA FIRM conditions. The property is impacted by a well-head protection area, as shown on Exhibit F, as one of the City's production wells is located on the west side of the property. Portion of the land surrounding the Riverwalk shall remain under the ownership of the City. If the basketball court area is to be utilized as part of the development plan, the applicant is responsible for relocating the facility within the Downtown area.

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Name: Parcel #2 - Washington Street
Tax ID: 3-30-6.20-009.00
Ownership: City of Milford
Location: On the southern banks of the Mispillion River east of parcel 006.00
Current Use: Open Space
Zoning: C-1 (Community Commercial)
Gross Acreage: 0.24 +/- acres
Special Considerations: Property is undeveloped and contains a portion of the Mispillion Riverwalk. The land surrounding the Riverwalk shall remain under the ownership of the City. Portions of the site are within the 100-year floodplain as shown on Exhibit E illustrating the most recent FEMA FIRM conditions.

Name: Parcel #3 - Washington Street
Tax ID: 3-30-6.20-010.00
Ownership: City of Milford
Location: On the north side of SE Front Street.
Current Use: Open Space/Municipal Parking
Zoning: C-1 (Community Commercial), portion under consideration for C-2A (Riverfront Development)
Gross Acreage: 0.44 +/- acres
Special Considerations: Property is the location of a municipal parking lot accessed from SE Front Street and unimproved land. The Parking lot shall remain under the ownership of the City. The property does not appear to be located within the 100-year floodplain.

The proposal area is located adjacent to the City's Central Business District and the Historic Downtown area and shall strive to create an atmosphere that encourages mixed use residential and commercial development along riverfront properties. The proposal shall preserve the character of the adjacent central business district and historic areas while providing an attractive and convenient combination of shopping and living units.

The properties are located within Milford's Downtown Development District and are eligible for a combination of State and local incentives, including up to 20% cash rebates on "hard costs", impact fee waivers, permit fee waivers and tax abatements.

The City is interested in receiving proposals that would lead to economic development in the downtown core that would benefit the City and act as a catalyst for neighborhood revitalization. Proposals should strive to ensure that the completed use is coordinated and balanced, that the development sustains walkability, and utilizes a combination of civic and environmental design considerations that includes, but is not limited to:

- a. A highly aesthetic, quality mixed use project which is harmonious with the objectives of the Rivertown Rebirth Plan 2025 and the Downtown Development District Plan goals for housing, jobs, business, eateries, etc.;
- b. Increasing property tax base and development of a lasting revenue stream;
- c. Compactness – creating a critical mass of activities within walking distance;
- d. Foster intensity of development – efficient use of land, good density and promoting vibrancy along existing and new streets;
- e. Ensuring a balance of activities – day, evening and weekend vitality;
- f. Building a positive identity – organize, build and sustain the image of the downtown areas as attractive, interesting and vibrant;
- g. Restoring and maintaining environmental quality – reduce the amount of runoff pollution, incorporate green space, plant trees, utilization of sustainable materials and incorporation of water and energy efficient site design/construction.

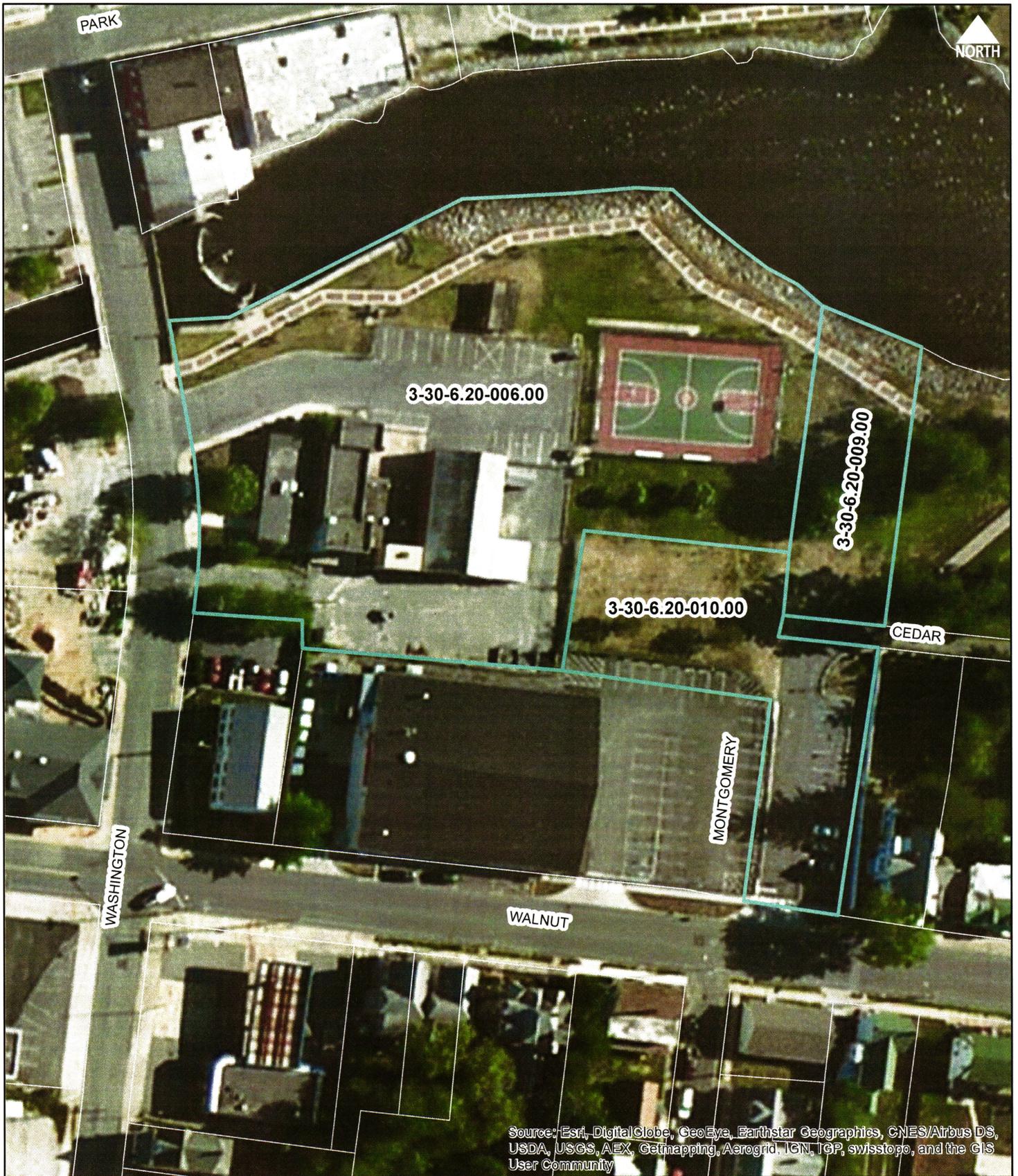
Additional items need to be addressed by the City including amendments to the zoning ordinance and zoning map that would result in a change of zone for a portion of the subject site. In addition, a portion of the land is subject to a land conservation easement imposed by the State and Federal Government as part of previous funding received for the Riverwalk and recreational facilities (See Exhibit G). The City will work with both agencies to relocate the recreation and open space uses to other areas within City limits. This process will need to coincide with the development of the RFP and should be completed prior to signing any of land disposition contract.

The proposals would be reviewed based on the responsibility and responsiveness of the proposer and proposal, in addition to price, based on the following;

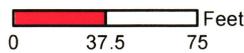
- a. Ability, capacity, and skill of the Proposer to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities;
- b. Proposer's character, integrity, reputation, experience and efficiency;
- c. Proposer's quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability;
- d. Proposer's previous and existing compliance with laws and ordinances relating to contracts with the City and to the proposer's employment practices;
- e. Evidence of adequate insurance to comply with contract terms and conditions;
- f. Statement of Proposer's current work load and capacity;
- g. Explanation of methods to be used in fulfilling the contract.
- h. Submittal of Proposal Documents that clearly meet or exceed the program objectives as defined in the City of Milford Comprehensive Plan and the Downtown Development District Plan.

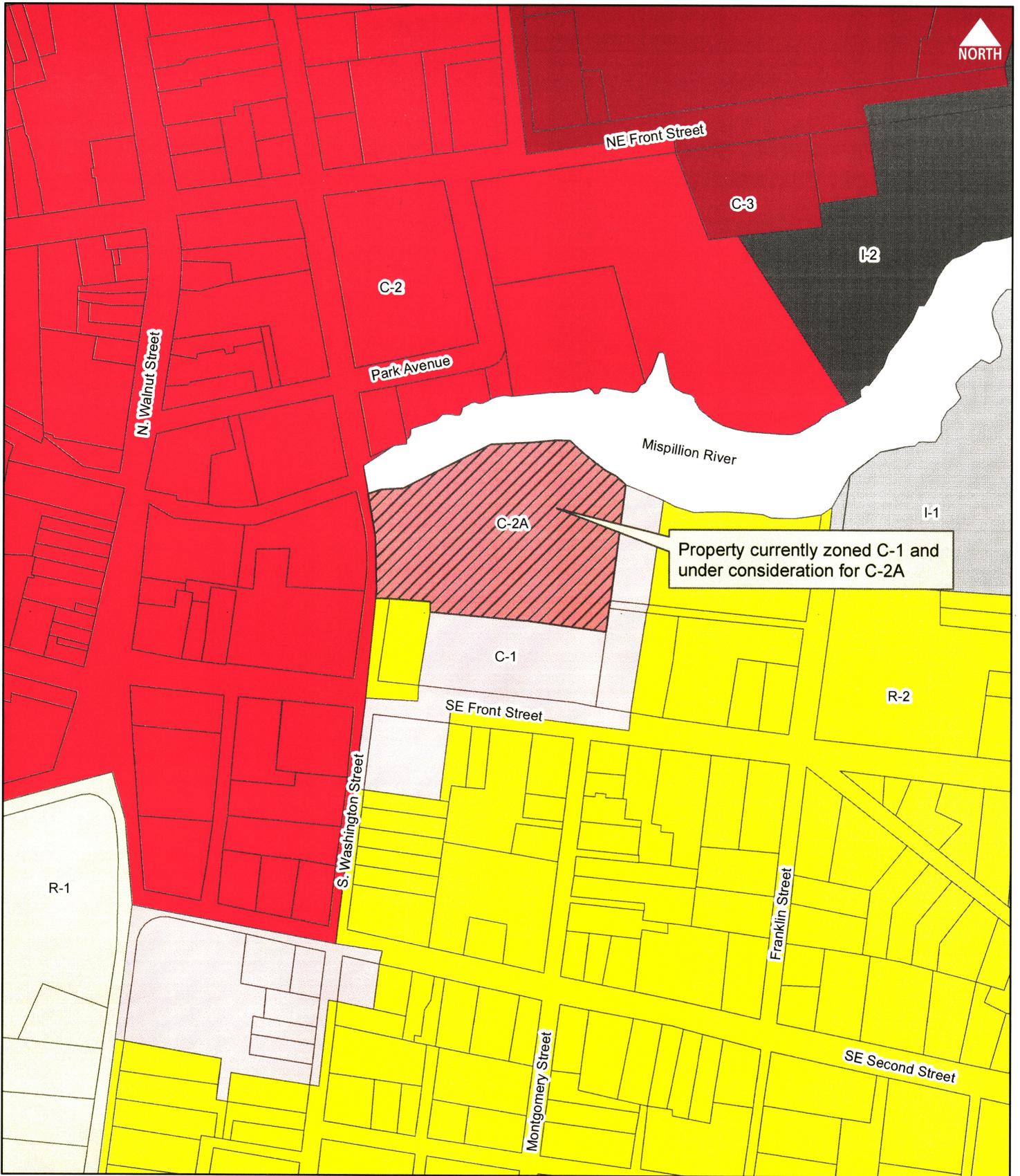
Below is a proposed outline of key dates and associated tasks over the next six (6) months.

December 20, 2016	Planning Commission reviews amendment to Chapter 230 Zoning creating C-2A Riverfront Development zoning district.
January 9, 2017	City Council reviews amendment to Chapter 230 Zoning creating C-2A Riverfront Development zoning district.
January 17, 2017	Planning Commission reviews the change of zone application for City property changing the zoning designation from C-1 Neighborhood Commercial to C-2A Riverfront Development.
January 23, 2017	City Council reviews the change of zone application for City property changing the zoning designation from C-1 Neighborhood Commercial to C-2A Riverfront Development.
January 24, 2017	RFP is officially advertised and released to the public.
February 3, 2017	Non-mandatory pre-proposal meeting with interested firms.
February 28, 2017	Questions regarding the RFP are due to the City ten (10) days prior to the proposal opening.
March 10, 2017	Proposals received shall be opened publically.
March/April 2017	Proposals shall be reviewed by staff and reports presented to City Council for consideration and selection.
May 2017	Negotiations between the City and the selected firm resulting in executed contract documents.



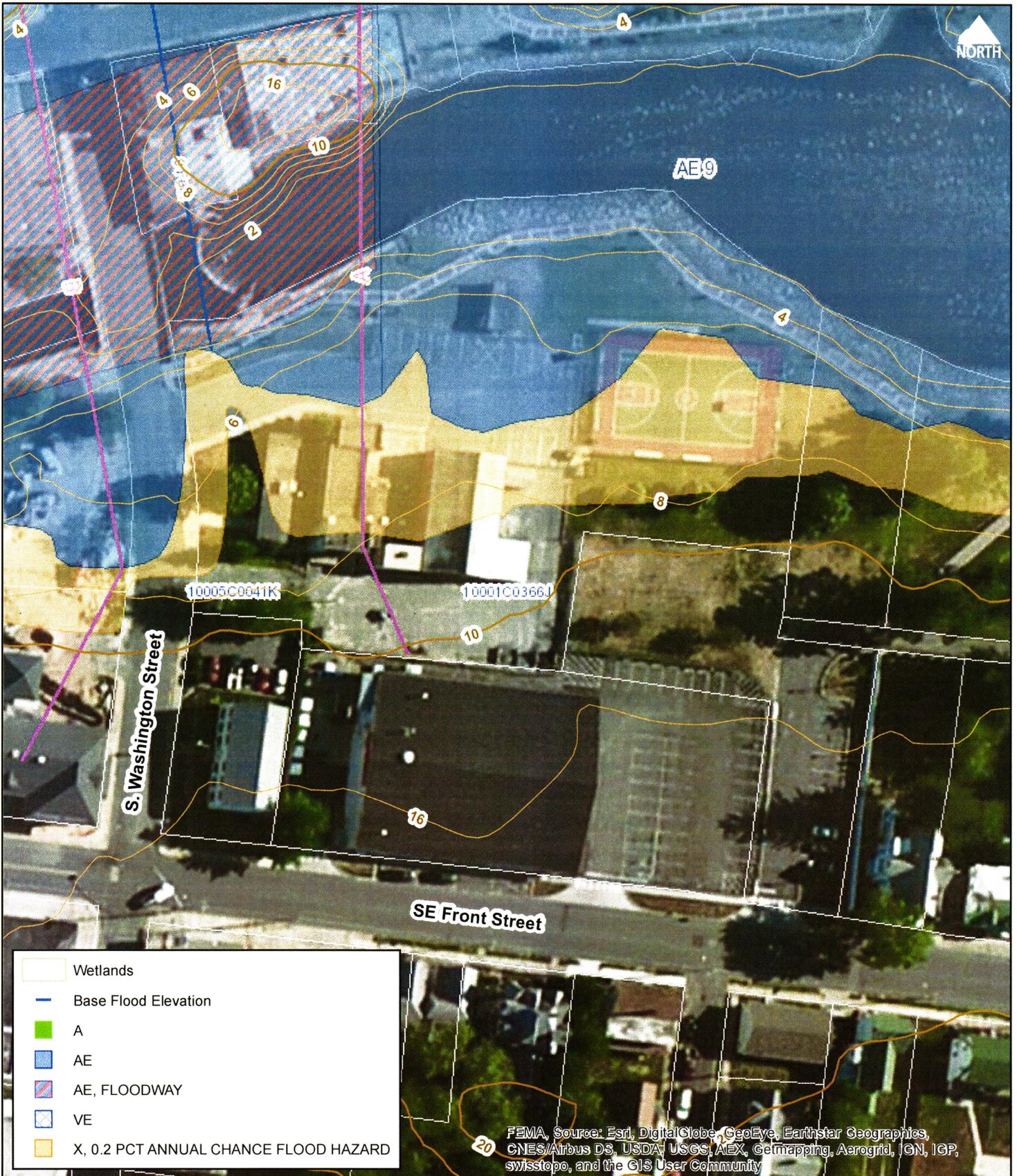
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

	Scale:  Feet 0 37.5 75	Title: <p style="text-align: center;">Exhibit A City of Milford Aerial Photograph</p>
	Drawn by: WRP Date: 11/16/16	
Filepath: RFP_WashingtonStreet_Aerial.mxd		



Property currently zoned C-1 and under consideration for C-2A

	Scale:  Feet 0 100 200	Title: <p style="text-align: center;">Exhibit B City of Milford Location & Zoning Map</p>
	Drawn by: WRP Date: 12/07/16	
Filepath: RFP_WashingtonStreet_Zoning.mxd		





 THE CITY of
Milford
 DELAWARE

Scale: 0 37.5 75 Feet
 Drawn by: WRP Date: 11/16/16
 Filepath: RFP_WashingtonStreet_Environmental.mxd

Title: Exhibit E
 City of Milford
 Wetlands & Floodplain



	Scale:			Title: Exhibit F City of Milford Water & Sanitary Sewer Utilities
	Drawn by: WRP	Date: 11/16/16		
Filepath: RFP_WashingtonStreet_Uilities.mxd				



	Scale:  Feet 0 37.5 75	Title: <h3 style="text-align: center;">Exhibit G</h3> <h3 style="text-align: center;">City of Milford</h3> <h3 style="text-align: center;">LWCF & DTF Protected Lands</h3>
	Drawn by: WRP Date: 12/07/16	
Filepath: RFP_WashingtonStreet_ProtectedLands.mxd		