

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 13, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, February 13, 2017.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Arthur Campbell, James Burk, Owen Brooks Jr,
Douglas Morrow and James Starling Sr.

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

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:02 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion to approve the January 9, January 23 and January 30, 2017 Committee and Council Meetings made by Councilmember Morrow, seconded by Councilmember Brooks. Motion carried.

RECOGNITION

Proclamation 2017-04/Rare Disease Day

Jerry Williams from the Myositis Understanding and Support Organization requested a Rare Disease Day be proclaimed in the City of Milford on February 28, 2017.

Mayor Shupe read the following proclamation into record:

*PROCLAMATION 2017-04
Rare Disease Day*

Whereas, there are nearly 7,000 diseases and conditions considered rare (each affecting fewer than 200,000 Americans) in the United States, according to the National Institutes of Health (NIH);

Whereas, while each of these diseases may affect small numbers of people, rare diseases as a group affect almost 30 million Americans;

Whereas, many rare diseases are serious and debilitating conditions that have a significant impact on the lives of those affected;

Whereas, while more than 450 drugs and biologics have been approved for the treatment of rare diseases according to the Food and Drug Administration (FDA), millions of Americans still have rare diseases for which there is no approved treatment;

Whereas, individuals and families affected by rare diseases often experience problems such as diagnosis delay, difficulty finding a medical expert, and lack of access to treatments or ancillary services;

Whereas, while the public is familiar with some rare diseases such as "Lou Gehrig's disease" and sympathetic to those affected, many patients and families affected by less widely known rare diseases bear a large share of the burden of funding research and raising public awareness to support the search for treatments;

Whereas, hundreds of residents of Milford, Delaware are among those affected by rare diseases since nearly one in ten Americans have rare diseases;

Whereas, the National Organization for Rare Disorders (NORD) is organizing a nationwide observance of Rare Disease Day on February 28, 2017;

Whereas, thousands of patients and caregivers, medical professionals, researchers, companies developing orphan products to treat people with rare diseases, and others in the town of Milford, Delaware will participate in that observance;

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, Delaware, hereby proclaim February 28, 2017, will be observed as Rare Disease Day in the City of Milford.

The signed proclamation will be forwarded to the organization.

Proclamation 2017-06/Honoring Lizzie Howell

Lizzie Howell was not in attendance. She will be contacted and asked to attend a future Council meeting for the presentation.

Proclamation 2017-07/Banneker Student Kylie Moorman/Lifesaving Recognition

Mayor Shupe reported that he is very proud to present this proclamation to an amazing student at Banneker Elementary School. Chief Brown then stated that his department has a special recognition for a 5th Grade Student in the Milford School District.

School Resource Officer Corporal Theresa Bloodsworth was present and asked Kylie Moorman to come forward. Corporal Bloodsworth then described the following incident:

On January 26, 2017, in the hallway of Banneker Elementary School, 5th Grader Kylie Moorman was walking with a group of students when a fellow classmate began to choke on a mint. The student, Sabrina Kadow, felt like she was going to get sick. The students then realized that Sabrina could not breathe. Kylie approached from behind and began performing the Heimlich maneuver which caused Sabrina to cough and finally expel the mint. She was then escorted to the trash can where she spit out the mint. She was then taken to the school nurse and was treated. Full of both fear and relief, she was very emotional and later told Kylie's mother (who works at Banneker Elementary) that her daughter saved her life.

Kylie learned how to perform the Heimlich maneuver following a family conversation at the dinner table. Her mother had been choking while she was pregnant and Kylie's father had performed the Heimlich maneuver on her. Curious how it worked, her sister showed her it was done. Little did she know she was going to end up using it later.

Kylie serves on the school's safety patrol, which is sponsored by Triple AAA. Those students wear their sashes and badges throughout the day as a constant reminder to fellow students to be safe. This particular day, her vigilance paid off for fellow student Sabrina.

Kylie does not think what she did that day was amazing, she only thinks she was helping a friend.

Chief Brown then presented Kylie with a Certificate of Recognition for Saving the Life of a Fellow Student by Performing the Heimlich Maneuver on January 26, 2017.

Mayor Shupe then honored Kylie with the following proclamation on behalf of the City of Milford, himself and City Council:

*PROCLAMATION 2017-07
Recognizing Banneker Student Kylie Moorman*

Whereas, Members of the City Council wish to express great admiration for Kylie Moorman for her exemplary courage in saving the life of a fellow student; and

Whereas, on January 26, 2017, Sabrina Kadow was in the hallway at Benjamin Banneker Elementary School talking and laughing when she began to cough; and

Whereas, fellow students suddenly recognized the fact that Sabrina was suddenly choking and was unable to breathe due a mint that was lodged in her throat; and

Whereas, Safety Patroller Kylie Moorman quickly responded approaching Sabrina from behind and began to perform the Heimlich Maneuver causing her to react and expel the mint; and

Whereas, Sabrina was then taken to the School Nurse and checked for any lingering effects of the mint that had lodged in her throat; and

Whereas, thanks to her quick actions and knowledge of the Heimlich Maneuver, Kylie Moorman was able to save the life of Sabrina Kadow.

Now, Therefore, I, Bryan W. Shupe, Mayor of the City of Milford, Delaware, on behalf of Milford City Council, hereby proclaim Kylie Moorman as a most distinguished Milford Heroine who has earned the appreciation and gratitude of her City.

School District Superintendent Kevin Dickerson was also present and made a few remarks from the audience.

Photos were then taken of Kylie, Sabrina, Chief Brown, Corporal Bloodsworth and Mayor Shupe.

MONTHLY POLICE REPORT

Police Committee Chairman Burk presented the monthly Police Report on behalf of Chief Brown. He reported the Department remains busy and asked Chief Brown to comment on the body camera program. The Chief reported they are fully deployed with the body cameras though they are still working out some minor issues. Both the officers and the public have been very receptive.

Chairman Burk thanked Chief Brown for his hard work in solving a number of robberies that have occurred in Milford. He said there were many constituents in his ward that were impacted and are now looking over their shoulder a lot more as a result.

Chairman Burk moved to accept the January 2017 report, seconded by Councilman Brooks. Motion carried.

MONTHLY CITY MANAGER REPORT

City Manager Norenberg referenced a letter and certificate received in honor of the Water Division of the Public Works Department who received the Water Fluoridation Quality Award by the State of Delaware Division of Public Health.

Councilman Morrow moved to accept the City Manager Report, seconded by Councilman Burk. Motion carried.

MONTHLY FINANCE REPORT

Finance Committee Chairman Morrow reported that through the sixth month of Fiscal Year 2016-2017 with 50% of the year having passed, 55% of revenues have been received and 47% of the operating budget expended.

He noted the City is in a good position though it is going to be a very tough budget with meetings beginning in May and committee hearings in June. He noted the City is fiscally sound thanks to the hard work of Finance Director Jeff Portmann and City Manager Norenberg.

Councilmember Burk moved to accept the December 2016 Finance Report, seconded by Councilmember Campbell. Motion carried.

COMMITTEE & WARD REPORTS

Conditional Approval/Bid Award/Parks & Recreation/Milford Kayak Launch

Parks and Recreation Director Brad Dennehy reported they put out a second bid for an additional floating kayak dock behind Arena's Restaurant. Approval has been received from the Army Corp of Engineers, Coast Guard and DNREC.

Senator Simpson approached the City Manager to offer \$75,000 for a shovel-ready project in the City. Because the plans were in place, it was agreed to use those funds for this project. The project was bid twice because no bids were received during the first round. One contractor responded to the second announcement with a proposal of \$72,842 which is within the proposed budget. It will be used for various river activities and will provide access for a pontoon boat to dock.

Mr. Dennehy emphasized it will not cost the City taxpayers any money and instead will be funded by Senator Simpson's discretionary funds.

This was presented to the Parks and Recreation Committee earlier this evening. At that time, Chairman Campbell expressed some safety concerns which Mr. Dennehy will be checking into.

The Parks and Recreation Director added that the dock will be beneficial to the patrons who sit on the back deck at Arena's. He stated that they will be able to paddle a kayak to that back area, exit and go inside Arena's for some refreshments. This fits into the downtown plan for more river-based activities.

City Manager Norenberg explained there was some urgency to have the bid in hand prior to awarding the project while working through the process with the State due to some time-related issues related to the river between March 1st and May 15th. If the project is not completed prior to that date, it will be delayed until the end of May though the goal is to have it completed by the Bug and Bud Festival the end of April.

Both DelDOT and Senator Simpson's Office recommend the approval be conditional upon the final review and authorization by the Attorney General's Office to assure the project is eligible under the Community Trust Fund monies.

Parks and Recreation Committee Chairman Campbell moved to approve awarding the bid to Drone Marine Construction for the Kayak Launch as recommended, contingent upon the Attorney General authorization that it is an eligible project and contingent upon the funding being set up through a CTF agreement. Motion seconded by Councilman Starling and carried.

Milford Parks & Recreation Logo

According to Parks and Recreation Director Dennehy, the Department was founded in 1976 and the logo has never been changed. His staff went through an extensive design process which resulted in the logo he is presenting this evening. Two designers were involved though he was not pleased with the logos created by the second designer.

He pointed out the logo is similar to both the City of Milford and Milford High School logos with some minor differences including a symbolic design of the bridge along the Riverwalk and a leaf, representing the outdoors. It includes a tag line 'play*grow*connect'.

He also referred to the new flyer he redesigned that was changed from a six-page one-font flyer to a front/back colored brochure containing various photos.

Councilman Brooks moved to approve the logo as was recommended by the Parks and Recreation Department, seconded by Councilman Morrow. Motion carried.

Recommendation/Budget Transfer/Solid Waste Capital/Downtown Dual Waste/Recycling Containers Purchase

City Manager Norenberg advised that earlier this evening, a Public Works Committee meeting was also held. At that time,

Public Works Director Mark Whitfield presented the following request:

On December 14, 2016, the City received partial funding for the Universal Recycling Cycle 7 Grant that which was awarded for the dual containers. The initial request was for \$84,460 to place 80 dual trash/recycle containers in the city's parks and down town areas. However, we only received enough funding to place 40 containers, which amounted to \$42,230.

In order to cover this shortfall, it is recommended to use the savings from the purchase of the automated refuse truck purchase the remaining 40 containers. The original budgeted amount for the truck was \$261,000 and the cost of the new refuse truck is \$220,290. With the savings from the truck of \$40,710, it is recommended these funds be used to purchase the remaining containers. The shortfall of \$1,520 will be taken out of the Solid Waste trash container line item.

The Public Works Committee concluded it is more prudent to initially purchase half of the containers at a cost of \$20,000 to be paid by the savings from the solid waste collection vehicle purchase.

Councilman Morrow moved to approve authorizing the use of approximately \$20,000 that remains after the purchase of the new solid waste collection vehicle that matches the grant funds from the State of Delaware Universal Recycling Grant Program for the purchase of forty dual trash and recycling containers for the downtown and City park areas, as recommended by the Public Works Department and Committee, and to revisit the balance of the grant and matching funds no later than September 2017, seconded by Councilman Brooks. Motion carried.

COMMUNICATIONS & CORRESPONDENCE

Included in packet.

UNFINISHED BUSINESS

*Adoption/Ordinance 2017-07
Chapter 185 Amendment/Sewer Code
Impact Fees*

*Adoption/Ordinance 2017-08
Chapter 222 Amendment/Water Code
Impact Fees*

*Adoption/Ordinance 2017-09
Chapter 19/Economic Development and Redevelopment
Citywide Job Creation and Capital Investment*

City Planning Coordinator Rob Pierce informed Council these three ordinances are interrelated and will be discussed together.

He recalled that over the past few months, the Economic Development Committee met to discuss creating a new citywide job creation and capital investment program that would provide impact fee waivers and other benefits to businesses who create a large number of jobs and retain those jobs within the City. In addition, significant capital investments would be also be eligible. The Bayhealth Medical Campus was referred to as an example.

Ordinance 2017-09, which amends Chapter 19 Economic Development and Redevelopment, creates a new citywide target area to encourage new businesses and the expansion of new businesses.

Mr. Pierce referenced the Economic Incentive Program Tier Incentives that contains two tables. Table A relates to job creation based on a minimum of 25 jobs; Table B provides a Capital Investment Impact Fee Waiver based on a minimum investment of \$1 million. Projects can be a combination of both tables for even more waivers.

Associated with Ordinance 2015-09, Ordinances 2017-07 and 2017-08 are amendments to the Sewer and Water Code whereby the impact fee waiver language is removed. Those incentives would then transfer to Chapter 19.

Also, the current incentives in the Water and Sewer Codes range from 5 to 25 plus jobs and are more geared toward lower job creation. It was agreed to eliminate the lower tiers and create the higher tiered incentives to encourage more investment and job creation.

This does not impact any other Incentive Programs including those related to the Greater Milford Business Park and the Downtown Development District.

Councilman Morrow moved to adopt Ordinance 2017-07 (attached) amending Chapter 185 Sewer Code, seconded by Councilman Starling. Motion carried with no one opposed.

Councilman Morrow moved to adopt Ordinance 2017-08 (attached) amending Chapter 222 Water Code, seconded by Councilman Starling. Motion carried with no one opposed.

Councilman Morrow moved to adopt Ordinance 2017-09 (attached) amending Chapter 19 Economic Development and Redevelopment Code, seconded by Councilman Starling.

Councilman Starling seconded motion. Motion carried with no one opposed.

NEW BUSINESS

Introduction/Ordinance 2017-02

Michael Rivera for a Conditional Use

C2 (Central Business District) Zoning District

S/E Corner of N Walnut Street and NE Second Street Intersection

119 North Walnut Street

Present Use: Single Family Detached Dwelling; Proposed Use: Hotel/Bed & Breakfast & Apartment

Tax Map MD-16-183.10-03-58.00

Mayor Shupe introduced Ordinance 2017-02.

Planning Coordinator Pierce provided a brief synopsis of the ordinance stating the applicant has requested permission to convert the existing single family dwelling into a bed and breakfast operation with an efficiency apartment. The application will be before City Council at a public hearing on February 27, 2017.

Introduction/Ordinance 2017-03

Code of the City of Milford

Part II-General Legislation

Chapter 230-Zoning

Article III-Use and Area Regulations

§230-16 – I-1 Limited Industrial District

Mayor Shupe introduced Ordinance 2017-03.

Planning Coordinator Piece provided a brief synopsis of the ordinance explaining the Zoning Code amendment is to the I-1 limited industrial category and adds the uses that are permitted in the Business Park District. The ordinance will be before City Council at a public hearing on February 27, 2017.

Introduction/Ordinance 2017-05

Mildred Pederson on behalf of Transatlantic Shipping Agency for a Conditional Use

C2 (Central Business District) Zoning District

N/E Corner of the SE Front Street and S Walnut Street Intersection

27 South Walnut Street, Milford, Delaware.

Present Use: Commercial Retail; Proposed Use: Commercial Retail with Apartments

Tax Map 3-30-6.20-002.00

Mayor Shupe introduced Ordinance 2017-05.

Planning Coordinator Pierce explained the applicant is requesting permission to renovate the second floor of a commercial building and create a residential apartment. The application will be before City Council at a public hearing on February 27, 2017.

Introduction/Ordinance 2017-06

Larson Engineering on behalf of Milford Plaza Enterprises for a Conditional Use

C3 (Highway Commercial) Zoning District

N/E Corner of N DuPont Boulevard and NW Front Street Intersection

600 N DuPont Boulevard, Milford, Delaware

Present Use: Commercial Retail; Proposed Use: Commercial Retail w/Repair Shop &/or Service Station

Tax Map MD-16-183.09-01-04.00

Mayor Shupe introduced Ordinance 2017-06.

Planning Coordinator Pierce explained the conditional use would permit a Valvoline Quick Oil Change at the southern end of the Milford Plaza Shopping Center. The application is in conjunction with a site plan review that includes the proposed use with some additional retail.

The conditional use application will be before City Council at a public hearing on February 27, 2017.

Adoption/Resolution 2017-01/Authorizing Advanced Metering Infrastructure Program,

DEMEC Advanced Metering Infrastructure Contract and Funding Source

City Manager Norenberg recalled the presentation provided by American Municipal Power (AMP), Public Power Partner of DEMEC, at the January 23, 2017 Workshop. For several years, the City of Milford has considered moving to a Smart Metering Program and he began working on the project with DEMEC and AMP shortly after he was hired. The hybrid advanced metering program involves an integrated system of smart meters, communication networks and data management systems that will enable two-way communication between our utilities and customers.

He then provided a recap of the project and the progress that has occurred since last March.

Also in attendance, were representative of AMP and DEMEC, as well as Public Works and Electric Staff.

Mr. Norenberg explained the resolution before Council will authorize the execution of the contract that will enable the project to proceed through DEMEC and AMP. He noted the contract is lengthy and very detailed; it was reviewed by City Staff and the City Solicitor over the past month.

The project will start in June and should be completed sometime in the fall. All electric meters will be replaced as well as the majority of water meter modules. However, there is a chance that some water meters will also have to be replaced. Of the \$2,378,252.33 cost, \$1.6 million is requested to come from electric reserves and \$800,000 from water reserves.

Councilman Brooks moved and seconded by Councilman Starling to adopt Resolution 2017-01 authorizing the execution of the DEMEC agreement for the Advanced Metering Infrastructure Program and that \$1.6 million be appropriated from the Electric Reserves and \$800,000 from Water Reserves for the project. Motion carried.

Authorization/State of Delaware Mosquito Spraying Agreement

Councilman Brooks moved to adopt the Delaware Department of Natural Resources and Environmental Control (DNREC) 2017 Mosquito Control Spray Policy for the City of Milford, seconded by Councilman Burk. Motion carried.

Appointment/Board of Adjustment Member

Planning Coordinator Pierce then introduced Chad Carter who applied for the current vacancy on the City's Board of

Adjustment. Mr. Carter resides in Ward One, is a West Virginia University Graduate and a registered landscape architect in Delaware and Maryland. He is currently employed as a land planner for Solutions IPEM in Georgetown.

Mr. Carter met with Mr. Pierce and Mayor Shupe and both feel he is a well versed, qualified candidate and recommend his appointment.

Councilman Burk moved to appoint Chad Carter as a member of the Board of Adjustment, seconded by Councilman Campbell. Motion carried.

Authorization/Plan Review and Inspection Agreement/First State Inspection Agency, Incorporated

Planning Coordinator Pierce informed Council that due to the resignation of the City's Building Inspector on January 31st, an immediate replacement was needed for building inspection and plan review services.

He recalled that the First State Inspection Agency is currently under contract for inspection services related to the Bayhealth Hospital project.

Because of our current needs, Mr. Pierce is requesting that all plan reviews and inspections of permitted construction in the City be handled by that Agency through June 30, 2017. During this time, they will evaluate using a third party for these services and a close check will be kept on the associated fees in relation to the City's expenses, in addition to ensuring we maintain the same level of services that has been provided in the past.

The Planning Coordinator also advised that two First State Inspectors will be handling Milford's services. In that manner, a certified inspector will always be available.

Mr. Pierce requested this approval be retroactive to February 1, 2017.

The City Manager added that a number of cities nationwide are now outsourcing this service though many continue to use in-house staff. This will provide an opportunity to evaluate this possibility with a decision made in approximately two months on whether to begin the recruitment process before the end of the fiscal year.

Councilman Brooks said he noticed that based on the City Manager's report, the problem is getting bigger all the time. He referred to the new 38 cases of which only 8 cases were closed. The new month started with 67 cases and ended with 97. He said he wanted to call attention to that because we still need a code enforcer.

Mr. Pierce explained that the person that resigned did not handle code enforcement or rental inspection work; his duties were inspections and those services that First State Agency will be handling. As he has stated in the past, they are considering new options to handle rental inspections and property maintenance which will be presented during the budget discussions.

The planner confirmed that we had one staff member handling code enforcement prior to the building inspector's resignation and that person continues to handle those duties. Councilman Brooks then stated that Building Inspector Don Williams also handled code enforcement; Mr. Pierce said his main focus was on building inspection and plan review. Mr. Brooks said Mr. Williams often took care of someone's complaint and it sounds to him like the code enforcer is only doing one thing. He commented that we have a City to run and a code enforcer is needed to do this job.

Councilman Brooks does not feel we can wait until June because of the code problems.

Councilman Morrow moved to authorize the First State Inspection Agency agreement, seconded by Councilman Burk. Motion carried.

EXECUTIVE SESSION

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

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

{Pursuant to 29 Del. C. §10004(b)(4)} Collective Bargaining Matters

Motion carried.

Mayor Shupe recessed the Council Meeting at 7:58 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Brooks moved to return to the Regular Session, seconded by Councilmember Morrow. Motion carried. City Council returned to Open Session at 8:37 p.m.

Personnel Matter

Councilmember Morrow moved to approve the Mayor's recommendation as stated in the Executive Session regarding the City Manager, seconded by Councilmember Burk. Motion carried with no one opposed.

IBEW Local Union 126 Matter

Mayor Shupe announced that no action was required on the Union matter.

ADJOURN

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

The Council Meeting adjourned at 8:39 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

Attachments:

Ordinance 2017-07

Ordinance 2017-08

Ordinance 2017-09

City of Milford Ordinance Review

NOTICE IS HEREBY GIVEN that the following Ordinance is under review by Milford City Council:

Ordinance 2017-07 CHAPTER 185-SEWERS

WHEREAS, beginning in 2010, the Council of the City of Milford established a Sewer Impact Fee Waiver for the purpose of encouraging property repairs, rehabilitation and new construction which was determined by the number of new jobs created; and

WHEREAS, amendments were made to the waiver guidelines in 2011, 2012, 2013 and 2014; and

WHEREAS, in 2016, City Council adopted an ordinance entitled Economic Development and Redevelopment (Chapter 19) that provided procedures for the consideration of economic development incentives and the use of economic development tools; and

WHEREAS, it is recommended that the Impact Fee Waivers language be removed from the City of Milford Sewer Code and incorporated into the Economic Development and Redevelopment Code to provide a more effective and efficient means of accessibility.

NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Chapter 185 - SEWERS

Section 1. Article III entitled Sewer Impact Fee is hereby amended as follows:

ARTICLE III – Sewer Impact Fee

Section 2. Section 185-24 Impact Fee Established is hereby amended as by repealing Paragraph D in its entirety.

§ 185-24. - Impact fee established.

- A. Prior to the issuance of a certificate of occupancy by the Code Official or other duly authorized representative, all developers or owners of newly constructed structures requiring sanitary sewer service shall pay the applicable impact fee per EDU to the City of Milford. The City reserves the right to bar occupancy of any such structure and withhold sanitary sewer service until such time as the aforementioned fee is paid in full. The fee per EDU as shown on the following schedule shall represent the impact fee to be used for construction, maintenance and expansion of the City's wastewater system.
- B. Impact fees shall be in accordance with the schedule in 185-24(b).

(1) The schedule shall be reviewed annually by the Mayor and Council and may be adjusted to incorporate revisions as necessary.

(2) If two or more dwellings, apartments, stores, offices or industrial units are connected through a single lateral, the impact fee payable under the schedule below shall be computed as though each such dwelling, apartment, store, office, or industrial unit were a separate property or user with a separate connection to the sewer.

C. Impact fee schedule. Fees will be automatically adjusted on an annual basis as noted in 185-24(c).

~~D. The sewer impact fee described in Subsection C shall be waived for permits issued for commercial repairs, rehabilitation and new construction beginning March 20, 2014. The waiver shall be for a maximum of five EDUs per project. The city will continue to collect the impact fee charged by Kent County.~~

~~(1) To qualify for the impact fee waiver, the commercial construction must be completed and a certificate of occupancy received within a twelve-month period.~~

~~(a) Waiver of Sewer Impact Fees for Commercial Entities: To further encourage new business and the expansion of existing businesses, the business must create a minimum of five jobs to employ five full-time employees in the City of Milford in accordance with the following criteria:~~

~~Creation of 5—9 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (1 EDU).~~

~~Creation of 10—14 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (2 EDUs).~~

~~Creation of 15—19 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (3 EDUs).~~

~~Creation of 20—24 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (4 EDUs).~~

~~Creation of 25+ new jobs to last at least 3 years: Exemption of Impact Fee Waiver (5 EDUs).~~

~~(b) Agreement shall be executed by the commercial customer relative to the creation and retention of jobs.~~

~~(c) Annual certification to assure the commercial customer remains compliant with the written agreement.~~

~~(d) If the criteria is not met, the city may require the incentive to be repaid in full, or in part, as provided in the written agreement.~~

~~(2) Any commercial structure that does not receive a certificate of occupancy in accordance with § 185-24.D.(1) shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.~~

Section 3. Section 185-25 Computation of Impact Fee is hereby rescinded and Paragraphs B, C and D 'reserved for future use' are hereby repealed. Remaining Paragraphs will be incorporated

in Section 185-24 and Paragraph A renamed Paragraph D. Language being stricken is indicated in strikethrough and additional language shown as underlined and bold, to read as follows:

~~§ 185-25. Computation of impact fee.~~

D.A. Specific assessment by usage category:

Usage Category	Total EDUs
Assisted-living facilities	1 plus 1 per 2 living units
Bars and lounges	1 plus number of FUs/6
Bus stations and other public depots	1 plus number of FUs/6
Campgrounds and travel trailer parks	1 plus 1 per 2 spaces
Campgrounds and travel trailer parks with waste-handling facilities	2 plus number of FUs/space
Car washes with water recycling	1 plus 2 per wash bay
Churches and associated facilities	1 plus number of FUs/6
Churches without associated facilities, such as day cares, schools, rectories, etc., and without food service functions for fundraising and/or any other nonparishioner for-profit activities	1 plus number of FUs/12
Convenience store with rest rooms open to the public	1 plus number of FUs/4
Convention halls and public gathering places	1 plus number of FUs/6
Convention halls and other public gathering places used at a frequency of not more than one event per week and without any for-profit activities.	1 plus number of FUs/12
Delicatessen and food take-outs	1 plus number of FUs/6
Dormitories	1 plus 1 per 2.5 beds
Drive-in food service	1 plus number of FUs/6
Fire stations with associated convention halls used at a frequency of more than one event per week and without any for-profit activities	1 plus number of FUs/6
Fraternal and/or civic organizations used at a frequency of not more than once per week (If other commercial activities are operating from these premises, they are treated as separate accounts.)	1 plus number of FUs/9
Hospitals	1 plus 1 per 2 beds
Hotels and motels without restaurants	1 plus 1 per 3 rooms or 1

	plus 1 per 2 suites
Laundromat	1 plus 1 per commercial washer* or 1 plus 1 per 2 standard washers*
Marina without boat waste pumping facilities	1 plus number of FUs/6
Marina with boat waste pumping facilities	1 plus number of FUs/6
Municipal buildings	1 plus number of FUs/6
Nursing homes	1 plus 1 per 3 beds
Office buildings with public access	1 plus number of FUs/6
Office buildings without public access	1 plus number of FUs/9
Prisons	1 plus 1 per 2 beds
Restaurants and eating places, with rest rooms	1 plus number of FUs/6
Retail store	1 plus number of FUs/6
Schools without full-service kitchen	1 plus 1 per 30 certified students**
Schools without shower facilities	1 plus 1 per 30 certified students**
Schools with full-service kitchen or with showers	1 plus 1 per 25 certified students**
Service station with service bays	1 plus number of FUs/6
Service station with wash bays	1 plus number of FUs/4
Warehouse/storage buildings	1 plus number of FUs/9

NOTES:

* A reduction of 15% will be applied to each subcategory, if an equal number of dryers and washers are offered and multiple types of washers (top loaded and front loaded) are made available.

** Number of students (design capacity) as certified by the Delaware Department of Education.

~~B. (Reserved)~~

~~C. (Reserved)~~

~~D. (Reserved)~~

E. EDUs assigned to establishments not covered above shall assure that each establishment, in the opinion of the City Engineer, is given an assignment of EDUs compatible with its use of

the City water system. The applicant shall submit a special EDU request for the planned capacity needed.

- F. No exemptions or abatements from the assessment of sewer impact fees shall be granted without the approval of City Council. Refer to Chapter 19 Economic Development and Redevelopment for Specific Economic Development Incentive Programs.

Section 4. Section 185-26, Additional Evaluations and Charges, is subsequently renumbered to Section 185-25, stricken language indicated in strikethrough and additional language shown as underlined and bold:

§ ~~185-26~~ **185-25**. - Additional evaluations and charges.

- A. Property owner(s) and/or developer(s) proposing to submit for a Major Subdivision or Site Plan approval shall first submit a Utility Feasibility Study request to the City. Cost for the feasibility study shall be paid for by the applicant or applicants. The Utility Feasibility Study will be performed by the City and the results of the study used as the basis for defining the sewer drainage basin(s) and associated core infrastructure improvements necessary to serve the development(s).
- B. If one or more property owners or developers proposes a new development with an average daily flow of 2,500 gpd (10 EDUs) or more, to connect to the City's sanitary sewer infrastructure (i.e., pump/lift stations, collection lines, transmission lines, and/or other related appurtenances), but the infrastructure is not sized to handle both the peak daily flows (average daily flow multiplied by a peaking factor of 2.0 to 3.5, depending on the size of the drainage system) from the existing users of the drainage basin and the proposed new development, the developer shall perform one of the following in addition to the payment of the impact fees and entering into a Development Agreement:
- (1) If a single property owner/developer: Construct the necessary improvements to accommodate the existing users and the new proposed development as defined by the Utility Feasibility Study, prior to connecting to the City's system. All work shall be performed in accordance with the City of Milford Standards and Specifications; or
 - (2) If multiple property owners or developers: Sign a public works agreement with the City as further described in Section ~~185-27~~ **185-26**.

Section 5. Section 185-27, Multiple Property Owners/Developer Public Works Agreement and Aid-In-Construction. is subsequently renumbered to Section 185-26:

§ ~~185-27~~ **185-26**. - Multiple property owners/developer public works agreement and aid-in-construction.

- A. In a case where multiple developers and/or property owners propose to jointly utilize existing or future core infrastructure of an existing or proposed sanitary sewer drainage basin at the same time, the costs of the associated improvements for each developer shall be determined based on the percentage of their contributing flow. The percentage of

contributing flow for each entity shall be calculated on an Equivalent Dwelling Unit (EDU) basis. Drainage basins shall be defined by the City of Milford in its best interest.

The City of Milford at its own discretion may elect to participate financially in the cost of the core infrastructure improvements. Should the City elect to participate in the project then the associated percentages for the core infrastructure between the City and each developer shall be specified in a Public Works Agreement. The City shall design, administer and inspect the project with construction of the improvements performed in a publicly bid process. An estimated cost for the design, administration and construction of the project will be prepared by the City as part of the Public Works Agreement and include a 10% contingency amount. The estimated cost to each developer and the City will be allocated in accordance with the executed Public Works Agreement with the contributions from each developer financially secured prior to execution of the Agreement by the City. Should total project costs exceed the estimated project cost plus 10% contingency then each party shall pay for the additional cost(s) on the determined percentage basis at the time the cost is incurred by the City. Should the total project cost be less than the estimated project cost plus 10% contingency then said funds shall be reimbursed to each party on the determined percentage basis.

Should the City not elect to participate in the core infrastructure improvements then the developers are free to execute the design and construction of the core infrastructure privately. A Public Works Agreement will be prepared by the City to define the required improvements and determine the percentage contribution by each party. All work shall be performed in accordance with City of Milford Standards and Specifications and the developers shall be responsible for all City costs to prepare the Public Works Agreement and perform all plan reviews, project coordination and inspections associated with the project.

- B. In a case where multiple developers and/or property owners propose to jointly utilize existing or future core infrastructure of an existing or proposed sanitary sewer drainage basin at different times, the costs of the associated improvements for each developer shall be determined based on the percentage of their contributing flow. The percentage of contributing flow for each entity shall be calculated on an equivalent dwelling unit (EDU) basis. Drainage basins shall be defined by the City of Milford in its best interest.

The City of Milford at its own discretion may elect to participate in the cost of infrastructure upgrades to accommodate future developers who are not either ready or unwilling to immediately move forward with the development of their property within the sewer basin. The City shall contact each property owner within the City defined sewer basin to determine whether or not they would like to participate financially in the basin core infrastructure improvements. The properties within the basin shall then be defined as immediate participants (those properties interested in contributing immediately in the core infrastructure improvements) and future participants (those properties in the sewer basin not interested in immediately contributing in the core infrastructure). The City shall then decide whether or not they will participate in carrying the cost for said future participants in the form of Aid in Construction.

Should the City not elect to participate in the core infrastructure improvements then the immediate developers are free to execute the design and construction of the core infrastructure privately. The core infrastructure would then be sized to accommodate only the improvements necessary to meet the needs of the immediate participants. A Public Works Agreement will be prepared by the City to define the required improvements and determine the percentage contribution by each party. All work shall be performed in accordance with City of Milford Standards and Specifications. The developers shall be responsible for all City costs to prepare the Public Works Agreement and perform all plan reviews, project coordination and inspections associated with the project.

Should the City decide to participate in the project and construction of the core infrastructure, then the City will prepare a Public Works Agreement to define each immediate and future developer/property participant to be included within the sewer basin. The City shall design, administer and inspect the project with construction of the improvements performed in a publicly bid process. An estimated cost for the design, administration and construction of the project will be prepared by the City as part of the Public Works Agreement and include a 10% contingency amount. The estimated cost to each developer/property owner will be allocated in accordance with the executed Public Works Agreement with the contributions from each immediate developer financially secured prior to execution of the Agreement by the City. Should total project costs exceed the estimated project cost plus 10% contingency then each immediate developer shall pay for the additional cost(s) on the determined percentage basis at the time the cost is incurred by the City. Should the total project cost be less than the estimated project cost plus 10% contingency then said funds shall be reimbursed to each immediate developer on the determined percentage basis.

If not defined by the future participant property owner, flow determinations for each future property included within the sewer basin shall be defined based on the maximum allowable density of the existing zoning at the time of the Agreement, or as determined practical by the City. Should the property be up zoned and/or future development exceeds the number of EDUs allocated to the property then said future participant or developer shall be responsible for all upgrades necessary to accommodate the increase.

The immediate developer(s) and the City shall pay for the improvements on the percentage basis as defined in the Public Works Agreement. The City shall however be reimbursed for capital outlays plus interest by future participants/developer(s) for properties initially carried by the City as Aid in Construction. The Aid in Construction reimbursement to the City shall be based on the percentage of flow that each property defined as future will contribute to the core infrastructure up to the number of EDUs defined for said property in the Public Works Agreement. Aid in Construction costs allocated to future developer(s) shall be reimbursed to the City prior to plot plan recordation or commercial site plan approval, whichever applies.

- C. The City Council has the right to modify, amend or waive any or all of the provisions contained in subsections (A) and (B) above.

D. No public funds will be utilized for any extension outside the City limits. Costs of such extensions shall be borne exclusive

Section 6. Dates.

Council Introduction: January 23, 2017

Council Adoption (Projected): February 13, 2017

City of Milford Ordinance Review

NOTICE IS HEREBY GIVEN that the following Ordinance is under review by Milford City Council:

Ordinance 2017-08

CHAPTER 222-WATER

WHEREAS, beginning in 2010, the Council of the City of Milford established a Water Impact Fee Waiver for the purpose of encouraging property repairs, rehabilitation and new construction which was determined by the number of new jobs created; and

WHEREAS, amendments were made to the waiver guidelines in 2011, 2012, 2013 and 2014; and

WHEREAS, in 2016, City Council adopted an ordinance entitled Economic Development and Redevelopment (Chapter 19) that provided procedures for the consideration of economic development incentives and the use of economic development tools; and

WHEREAS, it is recommended that the Impact Fee Waivers language be removed from the City of Milford Water Code and incorporated into the Economic Development and Redevelopment Code to provide a more effective and efficient means of accessibility.

NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Chapter 222 - WATER

Section 1. Section 222-31 of Chapter 222, entitled Impact Fees, is hereby amended as follows:

§ 222-31. - Impact fees.

The purpose of this section is to establish appropriate methods to assist in the capital financing of construction, improvements and expansion of the City of Milford water system in a manner which ensures that the cost associated with such construction, improvements and expansion is borne by those who generate a greater impact on the existing system.

Section 2. Paragraph F is hereby amended by adding language as indicated in underline and bold.

F. No exemptions or abatements from the assessment of water impact fees shall be granted without the approval of City Council. **Refer to Chapter 19 Economic Development and Redevelopment for Specific Economic Development Incentive Programs.**

G. If a developer proposes a new development with an average daily flow of 2,500 gpd or more, to connect to the City's water infrastructure (i.e., transmission lines, and/or other related appurtenances), but the infrastructure is not sized to handle both the peak daily demand and/or

fire flows from the existing users of the drainage basin and the proposed new development, the developer shall perform one of the following in addition to the payment of the impact fees:

- (1) Construct the necessary improvements to accommodate the existing users and the new proposed development, prior to connecting; or
- (2) Sign a public works agreement stating that the necessary improvements will be constructed in accordance with the terms and conditions outlined in said agreement.

H. Impact fee schedule. Fees will be automatically adjusted on an annual basis as follows:

Effective Date	Impact Fee Per EDU
	\$1,845
August 1, 2008	\$1,919
July 1, 2009	\$1,996
July 1, 2010	\$2,075
July 1, 2011	\$2,158
July 1, 2012	\$2,245
July 1, 2013	\$2,335
July 1, 2014	\$2,428
July 1, 2015	\$2,525
July 1, 2016	\$2,626
July 1, 2017	\$2,731
July 1, 2018	\$2,840
July 1, 2019	\$2,954
July 1, 2020	\$3,072
July 1, 2021	\$3,195
July 1, 2022	\$3,323
July 1, 2023	\$3,456
July 1, 2024	\$3,594
July 1, 2025	\$3,738
July 1, 2026	\$3,887
July 1, 2027	\$4,043

Section 3. Paragraph I is hereby repealed in its entirety.

~~I. The water impact fee described in § 222-31.H. shall be waived for permits issued for commercial repairs, rehabilitation and new construction beginning March 20, 2014. The waiver shall be for a maximum of 5 EDUs per project.~~

~~(1) To qualify for the impact fee waiver, the commercial construction must be completed and a certificate of occupancy received within a twelve-month period.~~

~~(a) Waiver of Water Impact Fees for Commercial Entities: To encourage new business and the expansion of existing businesses, the business must create a minimum of five jobs to employ five full-time employees in the City of Milford in accordance with the following criteria:~~

~~Creation of 5—9 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (1 EDU).~~

~~Creation of 10—14 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (2 EDUs).~~

~~Creation of 15—19 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (3 EDUs).~~

~~Creation of 20—24 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (4 EDUs).~~

~~Creation of 25+ new jobs to last at least 3 years: Exemption of Impact Fee Waiver (5 EDUs).~~

~~(b) Agreement shall be executed by the commercial customer relative to the creation and retention of jobs.~~

~~(c) Annual certification to assure the commercial customer remains compliant with the written agreement.~~

~~(d) If the criteria is not met, the city may require the incentive to be repaid in full, or in part, as provided in the written agreement.~~

~~(2) Any commercial structure that does not receive a certificate of occupancy in accordance with §222-31.I.(1) shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.~~

Section 4. Dates.

Council Introduction: January 23, 2017

Council Adoption (Projected): February 13, 2017

City of Milford Ordinance Review

NOTICE IS HEREBY GIVEN that the following Ordinance is under review by Milford City Council:

CHAPTER 19 ECONOMIC DEVELOPMENT AND REDEVELOPMENT CODE

WHEREAS, in 2016, City Council adopted an ordinance entitled Economic Development and Redevelopment which provided procedures for the consideration of economic development incentives and the use of economic development tools in targeted areas; and

WHEREAS, it is in the best interest of potential developers and the residents of the City of Milford to include a section designated to Job Creation and Capital Investment Program by providing incentives for potential development throughout the city in order to promote and enhance overall economic growth.

NOW THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Chapter 19 – Economic Development and Redevelopment

Section 1. Article III, entitled Specific Economic Development Incentive Programs, is hereby amended as follows:

ARTICLE III – Specific Economic Development Incentive Programs

An applicant for economic incentives under this Chapter must apply for and meet the conditions of one of the SEDIP programs available under this Article III.

Section 2. A new Section entitled Citywide Job Creation and Capital Investment Program numbered §19-10 is hereby added to read as follows:

§19-10. – Citywide Job Creation and Capital Investment Program

A. Eligibility

Eligible Projects shall include any new business or expansion of any existing business within the City. Eligibility shall be based on the creation of full-time equivalent jobs and/or capital investment as outlined Section §19-10 Paragraph D. The Incentive Beneficiary shall enter into an agreement with the City of Milford to ensure the eligibility criteria are met and maintained.

B. Target Area – Citywide

The corporate limits of the City of Milford. A copy of the municipal boundary map shall be on file at City Hall, 201 S. Walnut Street, Milford, Delaware.

C. Development Incentives

(1) Impact Fee Waivers

- a) Job Creation Impact Fee Waivers
 - i. To encourage new businesses and the expansion of existing businesses, an employer creating new full-time equivalent jobs in accordance with Table A is eligible to receive impact fee waivers. Jobs must be new to the community.
- b) Capital Investment Impact Fee Waiver
 - i. An employer expanding a facility and/or a developer constructing an employment facility with significant capital investment is eligible to receive impact fee waivers in accordance with Table B.
- c) An agreement shall be executed by the Incentive Beneficiary and the City Manager to document the terms of the creation of jobs and the terms of impact fee waiver.
 - i. Documentation sufficient to satisfy the City Manager or designee that full-time equivalent jobs are being created in accordance with the incentives described in this SEDIP, and that said full-time equivalent jobs are retained for a minimum of three years shall be provided as requested.
 - ii. Annual reports and certification shall be provided to ensure the commercial customer remains compliant with the written agreement and the terms of the impact fee waiver.
 - iii. If the criteria are not met, the Incentive Beneficiary shall be required to repay the incentives in full, or in part, as provided in the written agreement.
- d) To qualify for impact fee waivers, the commercial construction of projects;
 - i. Costing \$1,000,000 or less must be completed and a certificate of occupancy received within a twelve-month period;
 - ii. Costing between \$1,000,001 and \$5,000,000 must be completed in twenty-four months; and projects
 - iii. Costing more than \$5,000,000 must be completed within thirty-six months.
- e) Upon written request to the City Manager at least 30 days prior to the deadline for completion of the project, as outlined in 19-10.C.(1)(d), the deadline may be extended by the City Manager for delays beyond the control of the Incentive Beneficiary. Such an extension will not be unreasonably withheld. If an extension is denied, the Incentive Beneficiary may appeal the City Manager's decision to the City Council.

D. Economic Incentive Program Tier Incentives

(1) Job Creation Impact Fee Waivers

Table A - Job Creation		
Tier	Full-time Equivalent Jobs Created or Retained	Impact Fee Waivers (EDUs)
1	25-29	5
2	30-34	6
3	35-39	7
4	40-44	8
5	45-49	9
6	50+	10

(2) Capital Investment Impact Fee Waiver

Table B - Capital Investment		
Tier	Capital Investment	Impact Fee Waivers (EDUs)
1	\$1,000,000 to \$4,999,999	10
2	\$5,000,000 to \$9,999,999	20
3	\$10,000,000 to \$49,999,999	30
4	\$50,000,000 to \$99,999,999	40
5	\$100,000,000 or more	50

Section 3. Dates.

Council Introduction: January 23, 2017

Council Adoption (Projected): February 13, 2017