

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 12, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, June 12, 2017.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Arthur Campbell, Lisa Peel, James Burk,
Owen Brooks Jr., Douglas Morrow, James Starling 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 7:02 p.m.

INVOCATION & PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion made by Councilman Brooks, seconded by Councilman Burk to approve the minutes of the May 8, 2017, May 22, 2017 and May 30, 2017 Council and Committee meeting minutes.

RECOGNITION

Proclamation 2017-13 Relay for Life Day

Mayor Shupe read into record, and presented Event Co-Chair Connie Pusey and associated representatives with the following proclamation:

RELAY FOR LIFE DAYS-20TH ANNIVERSARY

WHEREAS, cancer is a group of diseases characterized by uncontrolled growth and spread of abnormal cells which, if not controlled, can result in premature death; and

WHEREAS, since 1913, the American Cancer Society, our nation's largest and most respected voluntary health organization, has funded research contributing to every known method for detecting cancer and techniques for treating cancer which have increased cancer survival rates from 10% to over 65%; and

WHEREAS, the signature activity of the American Cancer Society, Relay for Life, is a community-affirming event, during which time participants remember those lost to cancer, comfort and console one another and dedicate the night to celebrating those who have survived; and

WHEREAS, more than just a fundraiser, Relay for Life is truly a life-changing experience in which every member of the community has a chance to join countless others around the globe as part of this worldwide movement to end cancer, and

WHEREAS, the success of Relay For Life in Milford is in direct correlation to the efforts of its volunteers and participants, whose involvement is, and always has been, characterized by an impressive commitment, an unbridled enthusiasm and an uncompromising standard of excellence in all endeavors on behalf of the organization and the community it serves.

NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, am justly proud to commemorate the 20th Anniversary of the American Cancer Society's Relay For Life of Milford, Delaware beginning this date, and do hereby proclaim June 16, 2017 and June 17, 2017 as Relay for Life Days in the City of Milford and encourage our citizens to join in the Relay for Life Events and the celebration of twenty years of steadfast allegiance to the fight against cancer.

Co-Chair Pusey thanked the City for the recognition and assistance with the event.

Proclamation 2017-15 MHS Lady Buccaneers 2017 State Softball Championship

Mayor Shupe read into record, then presented the following proclamation to Coach Brennan, Assistant Coach Barkley and members of the State Championship team:

*Congratulating the DIAA State Champions
MHS Softball Team*

WHEREAS, The Milford High School Softball Team won the DIAA State Championship on May 30, 2017, capping a storybook season and bringing home the third state softball trophy; and

WHEREAS, During the State Championship matchup at Lower Sussex Little League in Roxana, Milford defeated No. 9-seeded Delmar 17-9 with the help of five home runs; and Milford, ranked eleventh in the 16-team field, averaged 13.8 runs and outscored opponents 55 to 27 in their four tournament games; and

WHEREAS, Members of the Milford High School Softball Team, of which there are only four seniors, exhibited determination and perseverance that contributed to the State Championship victory; and

WHEREAS, Head Coach Sean Brennan and his Assistants instilled confidence in their players and implored the team to keep digging deep throughout the tournament; and

WHEREAS, The Milford Buccaneer's 18-4 season was one for the ages: the team finished third in the Henlopen South regular-season standings but still ended up winning the top prize thus distinguishing themselves as talented and disciplined athletes who consistently demonstrate excellence in their endeavors; and

WHEREAS, The City of Milford recognizes the hard work of the team and congratulates Players Nia Bowe, Julia Reed, Rajene Bowe, Genesis Chamberlayne, Darby Brennan, Megan Fry, Macey Myers, Courtney Kohel, Morgan Abbott, Kalaysia Reynolds, Emily Sickles, Morgan Petty, Khya Reynolds, Head Coach Sean Brennan, Assistants Kevin Barkley, Rick Andrews, Rob Masten, Brittany O'Neil, Brian Rogers, Softball Operations Director Trevell Palmer and Trainer Staci Trice for a thrilling and outstanding season.

NOW, THEREFORE, BE IT PROCLAIMED, that I, Bryan W. Shupe, Mayor of the City of Milford, hereby congratulate and commend the 2017 Milford High School Softball Team on a much deserved State Championship. Their success has brought wonderful exposure to Milford High School and pride and enthusiasm throughout our Community.

Head Coach Brennan then addressed Council, providing an overview of the entire season, emphasizing that this year's team made history as the lowest seeded softball team to ever win a state championship, peaking at just the right time. In the state championship team, the girls batted .463 with five doubles, five home runs and scoring 17 runs on 19 hits. Milford struck out only one time during the entire game.

The Coach proudly provided season statistics as well as individual accomplishments and concluded by announcing the various records the Milford team shattered as well.

He then thanked the City of Milford, Mayor and Council for the humbling experience this evening.

Carlisle Fire Company/Financial Report

–Includes coats, pants, helmets, boots, gloves, nomex hoods

Treasurer Mriss, Mr. Sharp and Mr. Ellingsworth were also in attendance.

Due to the information submitted, there were no further questions from City Council.

MONTHLY POLICE REPORT

Police Committee Chairman presented the monthly report on behalf of Chief Brown, noting that complaints remain about the same though fines are slightly higher. He commended him for the amount of training being provided to his officers.

Councilman Morrow moved to accept the May 2017 report, seconded by Councilman Campbell. Motion carried.

CITY MANAGER REPORT

Mr. Norenberg reported that two new additions to the report include regular data from the Customer Service Department and technical information from the IT staff. He noted that the IT Department supports all City departments including the Police Department.

He announced the Planning Coordinator/Economic Development Director continues to work with the US Post office to modify the zip code area needed as a result of various annexations.

In addition, the water line flushing project has been completed and three subdivisions, that have been dormant over the past few years, are now moving forward with utility work.

A brief discussion followed regarding some alternative sites for the basketball court currently located on the river in the area of the Salvation Army.

Mr. Mergner moved to accept the City Manager Report, seconded by Mr. Brooks. Motion carried.

MONTHLY FINANCE REPORT

Finance Committee Chairman Morrow reported that through the tenth month of Fiscal Year 2016-2017 with 83% of the fiscal year having passed, 75% of revenues have been received and 85% of the operating budget expended.

Councilman Campbell moved to accept the April 2017 Finance Report, seconded by Councilwoman Wilson. Motion carried.

COMMITTEE & WARD REPORTS

Annexation Committee Reports/Gorman & Samuels Requests

Annexation Committee Chair Wilson reported that her committee met on May 8, 2017 to review the applications and are making the following recommendations:

Property Owner: Patrick & Jacquelyn Gorman
Location: 7255 Cedar Creek Road:

1. Annexation is consistent with the "Comprehensive Land Use Plan" and "SE Master Plan".
2. Property is contiguous to existing City Limits.
3. Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.
4. Property will be served by City Electric (future development), Sewer, and Water. At present, these utilities are not available, but the property owner shall be responsible for any expenses associated with extension to the property.
5. The annexation will benefit the City through additional revenues, including property taxes.
6. An executed Annexation Agreement is required prior to final City Council approval.

7. Upon approval of the annexation committee report, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.
8. The property should be annexed with the following zoning classification: C-3 (Highway Commercial).

Property Owner: Walter & Barbara Samuels

Location: 7237 Cedar Creek Road:

1. Annexation is consistent with the "Comprehensive Land Use Plan" and the "SE Master Plan".
2. Property is contiguous to existing City Limits.
3. Any changes to the property are subject to review by the City of Milford Planning Commission and/or City Council.
4. Property will be served by City Electric (future development), Sewer, and Water. At present, these utilities are not available, but the property owner shall be responsible for any expenses associated with extension to the property.
5. The annexation will benefit the City through additional revenues, including property taxes.
6. An executed Annexation Agreement is required prior to final City Council approval.
7. Upon approval of the annexation committee report, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.
8. The property should be annexed with the following zoning classification: C-3 (Highway Commercial).

Councilman Morrow moved to accept the committee recommendations for the Gorman and Samuels' requests and proceed with the annexation process, seconded by Councilman Burk. Motion carried.

COMMUNICATIONS & CORRESPONDENCE

None to report.

UNFINISHED BUSINESS

City of Milford Charter Amendment Update

Last week, the Delaware State Senate considered the Charter request amendment. During the review process, two amendments were discussed and Solicitor Rutt conferred with the State Trial Lawyers' Association and agreed to the following amendments:

NOTIFICATION REQUIREMENT OF ONE YEAR ADDED BACK TO SECTION 3.04. LANGUAGE EXISTS IN CURRENT CHARTER.

359 3.04 - Notice of Action.

360 No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City
361 Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the
362 negligence of the City of Milford or any of its departments, offices, agents or employees thereof, **unless the person by
or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify
the City Manager in writing of the time, place, cause and character of the injuries sustained.**

"IMPROVEMENTS" changed to "INFRASTRUCTURE" to clarify intent.

919 ~~7.09~~. 7.08 - Taxes on Utility **Improvements Infrastructure.**

920 The City Council shall also have the right to levy and collect taxes on all underground cable installations, and
921 upon all telephone, telegraph or power poles or other erections of like character erected or any utility **improvements
infrastructure.**

922 installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now
923 assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment.
In

924 case the owner or lessee of such poles, erections, installations or appliances utility **improvements infrastructure** shall
neglect or refuse to

925 pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes,

and

926 upon continued non-payment, the City Council shall have the authority to cause the same to be removed.

Mr. Norenberg reported the first amendment reinstated the one year notice requirement in the Notice of Action section. After a discussion among the attorneys, it was agreed it was not in the City's best interest and the section reverted to its original language.

He then explained the second amendment replaces some language by clarifying the intent is not to tax improvements such as a wire or pole replacement. The purpose is to tax the value of the total infrastructure. The text was changed accordingly.

The amendments have been accepted and incorporated into the Charter amendment currently under consideration.

City Solicitor Rutt anticipates this will be passed by the end of June by the General Assembly and we will be awaiting the Governor's signature, at which point it will become effective.

Councilman Morrow moved to ratify the two amendments to the City Charter as presented, seconded by Councilman Campbell. Motion carried.

Adoption/Resolution 2017-05/City of Milford Fiscal Year 2017-2018 Annual & Capital Budget

City Manager Norenberg advised the budget in the packet has been amended as was discussed by City Council during the budget workshops. That involved the removal of the new sports field, wells and volleyball court, reducing the net capital costs of \$135,000, while adding in the \$25,000 requested by the Parks and Recreation to modify the garage building behind the Armory. In addition, one employee's health insurance decreased by \$7,000 as a result of open enrollment which was moved from payroll and benefits into the electric line item for Parks and Recreation to cover utilities for the newly renovated garage.

Councilman Burk moved to adopt Resolution 2017-05 balancing the Fiscal Year 2017-2018 budget without a tax increase, seconded by Councilman Morrow:

ADOPTING THE CITY OF MILFORD
FISCAL YEAR 2017-2018 BUDGET & CAPITAL PROGRAM

WHEREAS, the operating and capital budgets of the City of Milford for the Fiscal Year 2017-2018 were prepared and submitted to the City Council by the City Manager in accordance with Article VI 'Financial Procedures' of the City Charter; and

WHEREAS, the City Council was presented with the proposed budget following a comprehensive study and review while meeting in public sessions on June 5, 2017 and June 6, 2017; and

WHEREAS, in the opinion of the City Council, the budget accurately, as possible, reflects the City's anticipated revenues and expenditures for the fiscal year beginning July 1, 2017 and ending June 30, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILFORD, that the City of Milford's Operating Budget for Departments shown under General Fund as Administration, Planning and Zoning, Code Enforcement and Inspections, Finance, Information Technology, Police, Streets, Parks and Recreation and Council; and the Water, Sewer, Sanitation and Electric Departments was adopted and approved as the budget of the City of Milford for Fiscal Year 2017-2018 in the following amounts:

Operations and Maintenance - \$38,602,345
Debt Service - \$1,576,410
Capital Program - \$2,623,785
Total Expenditures - \$42,802,540

A copy of said budget, is on file in the Office of the City Clerk, as was adopted by majority vote of Milford City Council on

the 12th day of June 2017.

Motion carried.

Adoption/Ordinance 2017-11/Chapter 168 Amendment/Peddling, Soliciting and Transient Merchants Code

City Manager Norenberg recalled this ordinance was introduced this spring, discussed briefly and then postponed. In June 2016, during a Police Committee and Community Affairs Committee meeting, amendments to Chapter 168 were discussed to address food trucks and the permit process.

In July, it was discussed with the Parks and Recreation Committee. The ordinance was not placed on another agenda until November 21st at which time the Community Affairs Committee discussed several permitting and licensing topics and recommended no fee increases for peddlers, solicitors and transient merchants. It was noted that the existing language, which has been in place since 1997, required food truck operations to be permitted.

The recommended changes were then discussed by the Community Affairs Committee in November, then introduced and adopted by City Council in December.

This spring, it was determined two errors were made:

One required the background provision for all transient merchants, peddlers and solicitors and not just those going door-to-door in the neighborhoods. After conferring with Chief Brown, that was the area of concern. Therefore, it was recommended the language be changed by removing the full requirement and instead having that apply only to those transient merchants and solicitors who are going door-to-door or driving through the neighborhoods soliciting customers. Other food trucks attending festivals and similar events would not be required to have the full background check. They would only be required to submit a statement addressing any criminal arrest information.

The other change involved vendors, food trucks, etc. who were operating at events, approved by the City (Community Parade, Bug and Bud Festival, etc.). They would fall under the umbrella of the event organizers. Most of those organizers prefer to have control over those vendors and many charge a fee for their participation. The intent of the amendment was to ensure any requirement for a City permit was removed and to add an exemption for vendors at those events.

The last change was recommended by Solicitor Rutt who suggested adding language similar to another municipality as indicated below:

§ 168-13. - Exemptions from license requirements.

The following persons/**activities** 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.
- D. Persons attempting to enlist support for or against a particular religion, political party, candidate, cause or issue.**
- E. Solicitations, sales, or distributions made by a charitable organization recognized as tax exempt under the Internal Revenue Code, a religious organization recognized as such under the laws of the State of Delaware, or an organization authorized by any school within the Milford School District.**

This eliminated any potential violation of the First Amendment Rights.

Councilwoman Peel questioned (3c) and confirmed that includes any food vehicles parked at a special event, on private property and/or someone that operates a business at a fixed location.

(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. Vendors at farmers' markets or special events that are approved by the City to use public streets, parks and facilities for

their event.

c. Mobile Food Vehicles (as defined below) that are parked at a Special Event, a Private Party (as defined below), or otherwise permitted to operate at a fixed location in accordance with this Chapter.

Mr. Norenberg explained that (3c) is related to the background check requirement to clarify that anyone operating at a fixed location is exempt though it will apply to those that are mobile and going through neighborhoods or up and down streets soliciting business.

Councilwoman Peel also confirmed that any vendor listed as part of a special event permit falls under their umbrella; City Manager Norenberg stated that is correct adding that they have had good communication with DMI about their Third Thursday event and the food trucks involved. It appears everyone is on the same page and does not have any issues as a result. A few other events are being planned and we are working with those organizers to assist them as well.

The Councilwoman asked what occurs if a vendor shows up at an event who is not registered with the event organizer. Mr. Norenberg explained that City Staff will most likely not know and that is something the organizer will need to handle as they have in the past. They have the ability to contact the police department and inform them an unregistered vendor has shown up without event or city approval.

If the ordinance is approved, he and Chief Brown will discuss how to approach those situations. He is aware the Community Parade Committee has dealt with unregistered vendors in the past. Unfortunately, it is a tough situation for the police to handle considering they are extremely busy that night.

Councilwoman Wilson said she is aware that most of the vendors are checked by an event representative so they are aware ahead of time they need to be registered. If not, the proper authorities are notified and they are asked to move.

Chief Brown agreed that is how it has been handled in the past with the parade.

Councilman Mergner moved to adopt Ordinance 2017-11/Chapter 168 Amendment/Peddling, Soliciting and Transient Merchants Code, seconded by Councilman Morrow. Motion carried.

NEW BUSINESS

Introduction/Ordinance 2017-14

Joseph Petrosky on behalf of KP Realty Holdings, LLC for a Conditional Use

675 N Dupont Boulevard, Milford, Delaware

Tax Map MD-16-183.05-01-04.08-000

Mayor Shupe introduced Ordinance 2017-14.

Planning Coordinator Pierce explained the conditional use is for a Dunkin' Donuts adjacent to US 113 at the former Sonic Drive-thru site. A public hearing is scheduled for June 26, 2017.

Introduction/Ordinance 2017-15

Bayhealth Medical Center, Incorporated for a Conditional Use

800 N Dupont Boulevard, Milford, Delaware

Tax Map MD-16-174.17-01-28.00

Mayor introduced Ordinance 2017-15.

Planning Coordinator Pierce explained the conditional use involves an additional 5,000 square foot medical facility at Bayhealth's Professional Center Campus located at the corner of US 113 and North Street. A public hearing is scheduled on June 26, 2017.

Bid Award/Southeast Regional Pump Station Project

Public Works Director Mark Whitfield recalled that in December 2015, a sewer utility agreement was signed by the City, Bayhealth and two other developers for the construction of the Southeast Regional Pump Station. The project was designed and sealed bids received and opened on May 23, 2017. The low bid came in at \$861,375 from Hopkins Construction, Incorporated from Bridgeville, Delaware.

It was confirmed the Southeast Regional Sewage Pump Station will serve the new Bayhealth Hospital complex as well as future developments on the Wilson property, Hall property, Emory property and Wickersham subdivision. Funds for the project will come from Sewer Impact Fee Fund.

Councilman Mergner moved to award the contract for the Southeast Regional Sewage Pump Station Project to Hopkins Construction, Incorporated in the amount of \$861,375 to be paid from the Sewer Impact Fee Fund, seconded by Councilman Campbell. Motion carried.

Proposed Change Order/Washington Street Altitude Valve and Tank Project

Public Works Director Whitfield explained that work was needed for safety and operational improvements and included the installation of an altitude valve and vault, new/relocated overflow piping, a new tank access hatch and tank access interior ladder.

In relation, there is \$296,605.66 remaining in the approved funding package from the DNREC/Office of Drinking Water Grant/Loan for the project, which will be used to fund the cost of this Change Order.

Councilman Brooks moved to recommend the authorization of Change Order #3 for the Washington Street Water Treatment Facility Project to Kuhn Construction Company in the amount of \$129,836.31, to be paid from the DNREC/Office of Drinking Water Grant/Loan, seconded by Councilman Mergner. Motion carried.

Rental Fee Late Charges

Mayor Shupe reported that two Councilmen called him with concerns regarding the rental fee late fee notices that were mailed out by City Staff. Councilman Brooks explained the landlord was not given adequate notice.

Councilman Brooks explained that Landlord Mark Davis contacted him to inform him he had received a late notice. Mr. Davis owns approximately thirty rentals throughout the City of Milford and received three envelopes during the holidays. At that time, he put one aside and sent the rental fee for the other fifteen rentals. He didn't think about it again because it may have been in the mail.

Councilman Brooks continued by explaining that three months later, he received a bill stating his rental license was overdue. He checked and found that fifteen had not been paid. Instead of owing \$750, he owed \$1,875 with late fees. Mr. Davis feels that after the first month, he should have received a late notice as is done with water or electric bill telling him he hasn't paid the bill versus waiting three months.

Councilman Brooks said he knows this man very well and he pays taxes on all of his rentals, pays the water bills and makes sure the grass is cut and is a very good landlord and that none of his tenants ever have complaints.

He explained that he has paid the rental fee owed for each house did not pay the late charge and wants Council to reconsider it before he pays it. Mr. Davis feels that the City should have sent a late fee at the end of one month instead of waiting three months because he now owes \$1,875. Councilman Brooks agrees with him.

Mr. Norenberg explained that Councilman Brooks came in with Mr. Davis to discuss the late fees and ask for a waiver. At that time, Mr. Norenberg checked the City Code and determined it did not give him the authority to waive the late fees outlined in the code. He believes that Mr. Davis has since contacted most of City Council as well as one other landlord. As a result, Mr. Pierce put together a report and presentation that can be found in the Council packet.

Planning and Economic Development Coordinator Pierce then reported the following:

Beginning in late 2016 and extending into the first few months of 2017, the Planning Department performed a complete review and audit of residential rental properties within the City of Milford. This process focused primarily on the quality of existing data and identification of potential unregistered rental properties. As a result, they were able to find a number of rental properties that had not been registered. His staff developed a procedure during that time period by systematically going through each license to accurately depict if each property was a rental and determine if it had obtained a license. Following this lengthy process, they are now confident with the process that will be reproduced annually to assure accurate recordkeeping in a more timely fashion.

This was done at the same time other work and projects were occurring, in addition to other annual licenses and fees being addressed, which is why the letters were not mailed earlier.

Previous registration data, utility information, 911 addressing, GIS software, ownership information and field investigations were all used to compile the list of rental properties. Renewal notices were then mailed late November to early December to 2016 registered rental property owners as a courtesy reminder their licenses will expire December 31, 2016.

He emphasized these were not invoices, but courtesy notices that stated that the owner must renew the license prior to January 31, 2017 to avoid a \$25.00 per month, per unit late fee for nonregistration (as stated in City of Milford Chapter 180). This requirement was part of the ordinance in early 2000 though it was also amended in 2011.

As the registered properties were being received, his staff compared those properties to a list of potential rental properties in an attempt to cross reference and determine those that were unregistered. From that list, 49 letters were mailed in early May 2017 to property owners involving a combined 84 rental units. Most of the property owners who received those notices have since registered their properties and provided payment of the required late fees.

Since February 1, 2017, approximately \$3,200 has been collected in late penalties.

Though it has taken a great deal of time to work on this in an attempt to make sure the information is accurate, the auditing process has identified a number of properties that have not registered their rental units for one or more years. Those property owners have been required to submit payment for the previous annual license fee along with late fees for calendar year 2017. It was handled in this manner because this is the first detailed audit that has been performed and staff is much more confident moving forward with the records they believe are now accurate.

Through additional auditing measures, another 25 letters will be mailed in June addressing another 47 potential rental units requesting verification that the properties are not rented. The reason these letters were not mailed earlier is because Mr. Pierce was aware that Council would be discussing the late fees. These involve structures with multiple addresses or multiple utility billing accounts that had only paid for one unit in the past.

Below is a summary of the number of registered and unregistered rental properties and units (as of the earlier date when document was prepared for the packet):

	# Licenses	# Units	Percentage
Registered Rentals	664	1,470	92%
Unregistered Rentals Receiving May Notices	49	84	5%
Unregistered Rentals Receiving June Notices	25	47	3%
TOTAL	738	1,601	

Mr. Pierce stressed that the point of the detailed audit, started in late 2016, was to proactively begin rental inspections and achieve a more accurate number of rentals as part of the rental program encouraged by Council on many occasions.

He reiterated that the penalty clause in the code states that in the event a license fee is not paid on the due date, then the license shall incur a penalty fee in the amount of \$25 per month per unit until such time the license fee is paid.

More properties may be identified in upcoming months as the department prepares for the FY18 rental inspection program.

Councilman Burk asked Mr. Pierce to confirm that no late fees were collected prior to 2017; Mr. Pierce explained he can only address the new auditing process and referenced a similar process recently done for delinquent tax and code fees.

Councilman Burk recalled there was a forgiveness program for property taxes; Mr. Norenberg explained it was not an amnesty program, but once it was determined the amount of property taxes that were delinquent, an inventory was done of all properties. Mr. Pierce is referencing the number of properties that were coded as tax exempt by the City though there was no backup documentation on file. After a consultation with the City Solicitor, he felt that because many of them were treated as tax exempt for several years, the safest way to handle was to add them to the current tax rolls and get the tax bills paid.

It was questioned why we would not waive Mark Davis' late fees for this year, but staff was willing to waive penalties from previous years on properties that have since been identified as rentals.

Councilman Brooks said Mr. Davis has always registered his rentals and he is sure he paid all his rental fees last year. He keeps everything up to date and he just misplaced them this year on his table. Because he did not receive anything for three months, he feels he should have been notified the first month if he was going to be charged \$25 a month.

Mr. Pierce said he understands and the goal is to get those notices out next year earlier; the reason it took so long this year was because of the time needed for the inventory process and to ensure the data was accurate. He explained that he did not feel comfortable billing property owners last year and the year before because this is a brand-new internal procedure needed for accuracy. He agrees it is in the code and he is unsure of the process in the past. However, he did not research whether or not property owners were fined in the past for late fees.

Councilman Morrow understands that Mr. Pierce needs time to do these things. Until those statistics are gathered, he feels the City should waive the fines. Anyone delinquent on utility bills receives a nice friendly reminder. Instead, the notice went out three months later which resulted in a \$75 bill.

Councilman Morrow also feels we need to make sure the statistical information is correct. The goal is not to fine people who do not pay their rental fees but instead to get their properties registered as Mr. Pierce is trying to do.

He does agree that if we waive the fees for Mr. Davis, we have to forego the other late fees which are approximately \$3,000. They will need to be sent back and once an actual process is in place, the late fees need to be assessed. He also recommends that a friendly reminder needs to be mailed as is done with the utility bills.

Councilman Morrow said he received a call that our customers always receive a reminder and that the City needs to be consistent.

Mr. Norenberg explained that our utility billing system is designed to automatically send bills and notices each month. The friendly reminder is to inform the customer of a potential disconnect and a late fee has already been assessed. The process with rentals is handled manually by our staff downstairs.

Councilman Morrow recommends we look at a system similar to the utility system to prevent our staff from spending hours evaluating these properties.

Councilman Brooks reiterated that Mr. Davis always pays taxes and his water bills. He is personally aware that he maintains each of properties and there have never been any problems. In this case, he simply misplaced an envelope and should not be required to be \$1,875.

Mr. Pierce emphasized that a courtesy notice was mailed to each landlord before the bill was due.

Councilman Morrow said the process is not to create fines and its purpose is for rental inspections. He does not feel this should create financial hardships for landlords like Mr. Davis. Mr. Pierce explained some deterrent needs to be in place to prevent landlords from not registering their properties; otherwise the risk of not registering a property may be worthwhile.

Councilman Morrow recommends waiving the fines for Mark Davis and everyone else and in the meantime, the City needs to get it together. When asked at what point it should stop and how can we waive fines for one thing and assess fines for something else, Councilman Morrow said he is saying to waive all fines.

Mayor Shupe asked if the concern is the length of time it took to get the late notice out versus sending it the first month. In his opinion, there needs to be an incentive to get the rentals registered by a certain deadline as is required with all other fees.

Councilman Burk also feels that we should add to our process that if there is a special situation, we can waive those late fees but not reimburse all the other late fees. He feels that has never been considered because we have never experienced a situation like this.

When asked if there is an appeal process, Councilman Burk said that the City Manager did not feel comfortable with that because the late fee is in the code with no waiver option. Mr. Norenberg reiterated there is no provision in the code to waive the late fee or penalties. That is why he did not feel he had the authority or discretion to waive Mr. Davis' late fee. He agrees there are other places in the code where that is built in but not in this particular chapter. If that were added, then special situations could be considered. But in this case, the gentleman in question admitted he misplaced the envelope and in fact, paid the other fifteen licenses. It appeared it was a mistake on his part and not a mistake by the City.

Councilman Brooks repeated his problem is he did not get a late notice the first month as is done with all other bills. Councilman Mergner pointed out that this is a business and someone paid fifteen fees and forgot the other fifteen bills. He then asked about previous late fees being assessed.

Mr. Pierce explained that if someone did not register in fiscal year 15-16, we collected those fees this year, as a result of the inventory process, but did not enforce the late fee. We only started assessing the late fee beginning in 2017 because he felt the records were correct and he now has the staff to pro-actively enforce the code. However, he cannot speak as to how late fees were handled prior to his overseeing this department. He began strictly enforcing this beginning in January 2017, because last year, he had been here less than six months. He wanted to see the process and then step in and start enforcing the rules to ensure we were following the proper policies. It was agreed to start the rental inspection program this year. In last year's budget, we started to pave that way to create a better registry of properties.

Councilman Morrow feels that Mr. Pierce is saying that someone who has not paid their rental fee for the past five years will not be penalized. Mr. Pierce explained they are being required to pay those previous rental fees and if Council desires, he will have them billed for the late fees.

Councilman Burk said we are willing to waive the late fees before 2017, but are not willing to waive this year's late fees. Councilwoman Wilson explained that Mr. Pierce is now comfortable with the records so we are trying to collect previous rental fees and can now start enforcing the policy. Councilman Burk said the point of the rental code is life/safety issues and not the money.

Solicitor Rutt asked Council to separate the two issues. The rental fee is \$50 per year which is different from the \$25 per month fee. When a Councilmember wants to waive the \$1,875, that also includes the \$750 registration fee. The penalty part is \$1,125 or \$375 per month. Even though there has been a waiver of the penalty for the prior years, that is not waiving the registration fee itself. He said there is a provision in the ordinance that if someone does not pay the rental fee, the license is suspended and there is a reinstatement fee of \$100. If someone in the past did not pay anything, their license was suspended though the penalty was waived up until this point.

Mr. Pierce also pointed out that another reason they did not want to add late fees in previous years, is because a lot of verification is needed to ensure the property was actually rented out and occupied. It can be done, but is going to be a very time consuming process because utilities, utility payments, property ownership, etc. will all need to be investigated. That is another reason he drew a hard line with calendar year 2017 to actually enforce the code.

It was confirmed that nothing has been done on this matter in the past couple weeks, waiting for the outcome of this discussion. He also noted that there is also a provision that if this goes unpaid, it actually gets rolled into the taxes owed on the property.

Councilman Campbell confirmed that if someone does not pay their electric bills, their utilities are disconnected. Councilwoman Wilson stated yes that is correct and other fees are assessed. Councilman Morrow said that has been established for years and Councilman Brooks said they still get a letter saying it hasn't been paid.

Mayor Shupe recommends the process go to a committee to review the ordinance for any changes and establish a way to ensure all rental properties are registered. He appreciates the work done by Mr. Pierce who determined there is a gap of what has been done in the past and what needs to be done in relationship to our code.

Councilman Burk asked if there is any other process like this, similar to delinquent taxes, that Council receive a heads up to prevent getting a phone call or letter not knowing that something has changed. He suggests that be done with everything.

He understands there are policies on the books that have not been enforced and if our employees start enforcing them, Council needs to be informed ahead of time.

Councilman Campbell said when he gets phone calls, including complaints, he prefers to work with the City Manager who typically takes care of them.

Mr. Norenberg pointed out that out of the 738 licenses, they have only received three complaints. City staff did not think that following the code would yield this kind of discussion with City Council nor the number of telephone calls and meetings that Mr. Davis has had. However, they will do their best to keep Council informed of any possible changes or what they feel maybe a surprise to someone.

Councilwoman Wilson made a motion to have the rental license process reviewed and a reliable method put in place and this matter sent to the Community Affairs Committee, seconded by Councilman Burk. Motion carried.

When asked for a motion on the three landlords with outstanding late fees, Councilman Morrow moved to waive the penalties, seconded by Councilman Burk.

Councilwoman Wilson asked for clarification and if Councilman Morrow is recommending waiving the fees on just one or all three; Councilman Morrow said he does not know the particulars of the other two and does not want to pick one or two.

Councilwoman Peel asked if we will open ourselves up if we do not give all the late fees back; Mr. Pierce confirmed that the \$3,000 plus has been collected in just late penalties. Solicitor Rutt said based on Councilman Morrow's motion, that entire amount would need to be returned.

Councilwoman Peel asked if we do that, how does the City move forward and collect back taxes. She pointed out that we are taking a hard line on back taxes and a soft line on rental requirements.

Councilman Mergner said Council has been talking for months about cleaning up the whole rental process and making sure we get the applications and registrations. Now he feels like one person who forgot to pay is changing the process though he understands we all make mistakes.

Councilman Brooks said if Mr. Davis had gotten his notice in a month, he would have paid it; Councilman Mergner understands the issue and does not want to penalize anyone. He is just worried about setting a precedence about late fees Citywide. Councilman Brooks said he is there for all the citizens of the City of Milford.

Mr. Pierce reiterated that he is enforcing the code as it is currently written and is similar to the tax process and other licenses.

When asked for a clarification on the motion, Councilman Morrow restated his motion to move to waive the late penalties for everyone and for this gentleman and the other ones, then have this assigned to the committee and work out the kinks so

that everything is consistent and all citizens understand their responsibilities. Councilman Burk seconded the motion.

Motion failed by the following 3-4 vote:

Councilman Mergner abstained because he does not feel that he fully understands this and does not feel it is fair to those involved. He prefers to abstain and wait for the committee to discuss the matter more in-depth before he makes a decision.

Councilman Campbell votes no and that because of his corporate background, he feels a reliable businessperson should be aware that they only paid half of their licenses.

Councilwoman Peel votes no.

Councilman Burk votes yes and feels that additions need to be made to the process.

Councilman Brooks votes yes and stated that those three rentals are broken into three different businesses and that is the reason the one envelope got misplaced.

Councilman Morrow votes yes knowing that we need to do more work on this and that we should not financially burden the citizens of Milford with late fees until it is clear and some of Council cannot even figure this out. Mr. Davis paid his bills on time and it might have gotten stuck under a Christmas present but we have 75 others that didn't and we will not go back and pay it because we didn't know. That's not Mr. Pierce's fault but it is history. It is not going to break the City and is .001% of the budget and he votes yes. He wants the code to be clear.

Councilman Starling said if we do or if we don't, the City could end up in trouble. There are two different situations here. There are rules and some seem questionable in some people's opinion. He votes no.

Councilwoman Wilson has questions too and hates to see the City go backwards and refund money that has already been collected. That is a whole lot of work. She understands paying things late and percentages. She also understands being a businessperson and having to be a good steward of money and pay things on time. There are many people that do, many that don't and a lot of people that can't. She votes no.

Solicitor Rutt confirmed the motion fails due to only having three affirmative votes.

Councilman Brooks said he will tell Mr. Davis to come in and pay his late fees.

Authorization/Time Line Extension/Touch of Italy Restaurant/Economic Development Agreement

Mr. Pierce recalled that in June 2016, the City of Milford and Touch of Italy entered into an Economic Incentive Agreement involving the purchase and renovation of the former M&T Bank property. The agreement stated the City would purchase the parking lot and Touch of Italy (TOI) would purchase the M&T Bank building and the land immediately surrounding the structure. Included in the agreement were a list of fee waivers and tax abatements, contingent upon the restaurant opening within twelve months of acquiring the property. TOI purchased the property from M&T Bank on June 28, 2016, portions of the agreement are set to expire on June 28, 2017.

TOI is in the process of obtaining the necessary State approvals for the conversion of the bank building into a restaurant. They have received review comments from the public health department for the food establishment permit and have received review comments from the State Fire Marshal's Office, both of which are required prior to the submission of the City building permit application.

TOI has requested a time extension on the incentive agreement of six (6) months from the time of building permit issuance, which would result in a completion date sometime early next year.

Mr. Pierce is seeking approval from Council to amend the agreement and authorize the Mayor to sign the appropriate documents.

He further explained that when the incentive agreement was put in place, the City was in the process of applying for the Downtown Development District (DDD) Program. A month or so later, it was approved including the full fee waivers for any investment in the downtown area greater than \$15,000, along with full utility impact fees, excluding the Kent County wastewater fee. The only revision would be that the three-year tax abatement, based on the appraisal at the end of the conversion, could qualify for a full-tax abatement or partial tax abatement. He feels they will end up with a partial tax abatement which is the key consideration outside the DDD incentives as were approved by City Council.

It was confirmed that is part of the DDD incentives already in place.

Councilman Mergner moved for authorization of the extension of the Touch of Italy (IL Nostro Locale, LLC) Economic Development Agreement, seconded by Councilwoman Wilson. Motion carried.

Service Club Sign Display/Location Options

City Manager Norenberg recalled that last summer the sign at the entrance at the Route 113/Route 1 split was removed due to its condition. The new sign was installed to meet DelDOT guidelines. One of the things tacked onto the original entrance sign were service club signs which do not meet DelDOT regulations. As a result, they could not be reinstalled at that location.

There have been requests for the City to consider alternative locations to place a collection of the various service clubs and institution signs. Photos of various locations were included in the packet for Council consideration.

Two were in the area of the Parks and Recreation (P&R) Office and one was at the northeast corner of Front and Walnut Street near the parking lot across from Touch of Italy. The current fence is deteriorating and P&R Director Brad Dennehy is recommending it be replaced with a higher structure to accommodate the service club signs which would provide the most visibility. He anticipates the cost of the project to be approximately \$2,500.

Mayor Shupe agrees that is the highest traffic area and most appropriate spot, as has been agreed with the various service organizations.

Mr. Brooks is concerned with the amount and speed of traffic that goes down Front Street. If drivers are looking at the signs, he is confident someone is going to be hit.

Councilwoman Peel feels that the North Front Street location is much more appropriate in addition to being more visible to drivers. Councilman Morrow feels the organizations should pay for their own signs.

It was agreed that the City Manager and P&R Director determine where to post them, obtain the associated costs and ask the service organizations to help pay for the project.

Mr. Norenberg will report back with the additional informational at a future Council meeting.

Rivertown Rebirth Update

Planning Coordinator Pierce recalled that the Rivertown Rebirth 2025 master plan contains a series of recommendations for Milford to build upon the momentum that already exists, further enhance the downtown area and address some of the opportunities and concerns identified by stakeholders during the planning process. The Plan includes an implementation strategy board outlining tasks and responsibilities that would serve as a guide for commercial and residential redevelopment. Responsibilities are split amongst different community groups including the City of Milford Planning, Parks and Recreation and Police Departments, Chamber of Commerce for Greater Milford, Downtown Milford, Incorporated, various private sector partners and a proposed downtown development corporation.

On behalf of the City Manager, Mr. Pierce is requesting council support the authorization of a Rivertown Rebirth 2025 Steering Committee comprised of the following representatives:

City Manager

City Planning Director
Downtown Milford, Inc. President or designee
Downtown Milford, Inc. Economic Vitality Chairperson or designee
Chamber of Commerce Executive Director or designee
Downtown Merchant
Downtown Property Owner

Economic Development Chairman Mergner reported these members were endorsed by his committee at their last meeting.

Councilman Burk recommends we also include a representative from the newly formed Downtown Merchants Group or Association and possibly one additional merchant. There were discussions about two other groups, one involving the Downtown Merchants as well as an Entrepreneurial Group.

Councilwoman Peel feels that restricting this to one merchant will most likely not capture the voice of the others.

Mr. Pierce said the intent was to keep it concise to find a unified direction. However, adding a second merchant should not be a problem.

Councilman Mergner moved to create Rivertown Rebirth 2025 Steering Committee as discussed, seconded by Councilman Burk. Motion carried.

EXECUTIVE SESSION

Councilwoman Peel moved to go into Executive Session reference below reasons, seconded by Councilman Campbell:

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

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 8:52 p.m. for the purpose of an Executive Session as permitted by Delaware's Freedom of Information Act.

RETURN TO OPEN SESSION

Councilman Mergner moved to return to Open Session, seconded by Councilwoman Peel. Motion carried.

City Council returned to Open Session at 9:12 p.m.

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

ADJOURN

With no further business, Councilwoman Wilson moved to adjourn the Council Meeting, seconded by Councilman Campbell. Motion carried.

The Council Meeting was adjourned by Mayor Shupe at 9:13 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder