

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
June 26, 2017

Milford City Council held Public Hearings on Monday, June 26, 2017 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

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

City Manager Eric Norenberg, Police Chief Kenneth Brown and  
Deputy City Clerk/Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

Mayor Shupe called the Public Hearing to order at 7:02 p.m.

Planning Coordinator Rob Pierce was also in attendance.

*Ordinance 2017-14/Conditional Use*

*Joseph Petrosky on behalf of KP Realty Holdings, LLC*

*C3 (Highway Commercial) Zoning District*

*675 N Dupont Boulevard, Milford, Delaware*

*Present Use: Commercial Retail; Proposed Use: Commercial Retail/Dunkin' Donuts*

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

Mr. Pierce reported that a public notice was advertised in the Milford Beacon on April 26, 2017 and notices mailed to all properties within 200 feet of the subject parcel. The subject property contains approximately 1.2 acres of land on the west side of North Dupont Boulevard, approximately 1,500 north of the Route 14 intersection. The property is designated as highway commercial in the Comprehensive Plan and zoned C-3 highway commercial on the City zoning map.

The applicant proposes to convert the existing 1,840 square foot commercial building located at 675 N. Dupont Boulevard into a 5,974 square foot, three-unit commercial building. Dunkin' Donuts would be located in the southernmost commercial suite to allow for the use of a drive-thru. Commercial spaces two and three are proposed retail. This is the former Sonic Restaurant and most recent Loan Business site. The existing structure is located on the northern end with the additional two suites at the southern end of the existing building.

The traffic pattern would be reworked to allow for a circular motion around for a drive-thru area. The additional parking would be reworked as well.

Although several of the proposed uses are permitted uses within the C-3 Highway Commercial zoning designation, the City Code states that in any and all zoning districts, multiple permitted uses or mixed use of a property shall be deemed a conditional use subject to special requirements.

The proposed use should not detract from other uses in the area as adjacent uses are similar in nature.

The site will require DelDOT review involving the right-a-way and entrances along Route 113. The plan meets or exceeds the parking and setback requirements of the City Code. Landscape screening is not necessary based on the adjacent uses. The conditional use application was reviewed by the Planning Commission on May 16, 2017, at which time they recommended approval of the application by unanimous decision.

Joseph Petrosky, Owner of KP Realty Holdings, LLC was in attendance.

When questioned by Solicitor Rutt, Mr. Petrosky confirmed that all statements made by Planning Coordinator Pierce were factual.

Mayor Shupe opened the floor to public comment; no one responded. Mayor Shupe closed the public hearing as a result.

Councilwoman Wilson moved to adopt Ordinance 2017-14 to allow a Conditional Use for Joseph Petrosky on behalf of KP Realty Holdings, LLC at 675 N Dupont Boulevard, Milford, Delaware.

Motion carried by the following unanimous 7-0 vote:

Councilman Mergner votes yes based on tonight's presentation and discussion.

Councilman Campbell votes yes based on the recommendation of the Planning Commission and the review this evening.

Councilman Burk votes yes based on the unanimous recommendation for approval by the Planning Commission.

Councilman Brooks votes yes adding that Spook Jacobs had a donut shop across the road which was a very successful business and a donut shop is needed.

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

Councilman Starling votes yes based on the recommendation of the Planning Commission and the need for this type of business in that area.

Councilwoman Wilson votes yes and reiterates what each Councilmember has stated.

*Ordinance 2017-15/Conditional Use  
Bayhealth Medical Center, Incorporated  
H-1 (Institutional Development) Zoning District  
800 N Dupont Boulevard, Milford, Delaware  
Present Use: Medical Office Complex;  
Proposed Use: Medical Office Complex w/Additional Medical Building  
Tax Map MD-16-174.17-01-28.00*

Planning Coordinator Pierce reviewed the application stating a public notice was advertised in the Milford Beacon on April 26, 2017 and notices mailed to all properties within 200 feet of the subject parcel. The property is approximately ten acres in area at the northeast intersection of North Dupont and North Street where the Milford Professional Center site exists.

The applicant proposes to construct a new 5,000 square foot medical office building. The building would be constructed on a site that already contains three medical office buildings. The new building would employ approximately fifteen people and the hours of operation would be from 8:00 a.m. to 5:00 p.m.

The proposed use is permitted within the H-1 Institutional Development zoning designation. However, City Code states that in any and all zoning districts, multiple permitted uses or mixed use of a property shall be deemed a conditional use subject to special requirements.

The use should not detract from other uses in the area that consist mainly of established medical office complexes. The site has an established vegetative screen along the northern and eastern property boundaries. To the west, the property is bound by US 113, to the south by North Street Extended, to the north by the Milford Community Cemetery and to the east by existing residential properties.

The applicant will be required to obtain DelDOT approval for the additional traffic from the site. The site also exceeds the parking and setback requirements set forth in the City Code.

The conditional use application was reviewed by the Planning Commission on May 16, 2017, at which time they recommended approval of the application by unanimous decision.

Mr. Pierce referred to the site plan showing entrances off Route 113/North Street, the three existing medical buildings and an existing parking lot that extends to the northeast. The proposed building would be constructed at the end of the parking lot with some minor improvements to the curbing and sidewalk, as well as additional handicapped accessible parking. Utilities would be extended from North Street to the building.

Michael Reed from Becker Morgan Group, the architects and engineers representing Bayhealth, was present.

Councilwoman Wilson asked what will happen to the existing main building; Mr. Reed said to the best of his knowledge, that building will be renovated and continue to be used. The goal of the proposal is to provide the community with top doctors for improving the general health of the community.

When questioned by Solicitor Rutt, Mr. Reed concurred with the former facts presented by Planning Coordinator Pierce.

Mayor Shupe opened the floor to public comment; no one responded. The Mayor closed the public hearing to further comments.

Councilwoman Wilson moved to adopt Ordinance 2017-15 to allow a Conditional Use requested by Bayhealth Medical Center, Incorporated at the Milford Professional Center at 800 N Dupont Boulevard, Milford, Delaware, seconded by Councilman Starling. Motion carried by the following unanimous 7-0 vote:

Councilman Mergner votes yes based on the Planning Commission's recommendation.

Councilman Campbell votes yes based on the recommendation and report from the Planning Commission.

Councilman Burk votes yes based on the unanimous recommendation for approval by the Planning Commission.

Councilman Brooks votes yes based on the recommendation of the Planning Commission's recommendation.

Councilman Morrow votes yes based on the unanimous recommendation of the Planning Commission.

Councilman Starling votes yes based on the recommendation of the Planning Commission. He noted this was the site of a drive-in theater years ago.

Councilwoman Wilson votes yes based on the Planning Commission's recommendation adding it is a good land use of that area.

#### *2017 City of Milford Comprehensive Plan*

*The Comprehensive Plan sets forth in graphic and textual form policies to govern the future physical development of the City. Title 22 Municipalities § 702 of the Delaware Code states the City shall review the Plan every five years to determine if its provisions are still relevant and the adopted plan shall be revised, updated and readopted at least every ten years. Such plan shall cover the entire City as well as areas delineated as the Greater Milford Area and all of its functions and services and/or a combination of plans governing specific functions and services of specific geographic areas.*

*This plan shall serve as a municipal development strategy setting forth the City's position on population and housing growth, expansion of boundaries, development of adjacent areas, redevelopment potential, community character, the general uses of land within the community and critical community development and infrastructure issues. The enactment of the comprehensive plan is through final adoption by City Council.*

Mr. Pierce reviewed the plan and asked for authorization from City Council to submit the draft plan to the Office of State

- Community Profile
- Government, Community Services & Infrastructure
- Housing
- Transportation
- Economic Development and Redevelopment
- Natural Resources
- Parks, Recreation and Open Space
- Land Use and Growth Management
- Implementation and Intergovernmental Coordination

Mr. Pierce then presented the following population projections. The bottom two numbers were provided by the Delaware Population Consortium:

Demographics--Milford Population Scenarios  
 Table 2-Recent Growth Boom Continues

Scenario 1-Recent Growth Boom Continues					
2010	2020	2030	2040	2050	
9559	11,662	14,228	17,359	21,179	-
Scenario 2-Historic 30-year Growth Rate					
9559	11,160	13,029	15,211	17,758	
Scenario 3-Growth Follows Kent County Projections					
9559	10,655	11,369	11,940	12,383	
Scenario 4 - Growth Follows Sussex County Projections					
9559	11,127	12,064	12,547	12,867	

The Housing Pipeline is another exercise performed in the plan update. The 2010 Census indicates Milford has slightly more than 4,000 housing units. An estimate based on public records in the Planning Department shows we have had 265 building permits issued since 2010. Based on the land development plans, almost 5,800 have been approved to be built.

In the Transportation Chapter, the existing bicycle and pedestrian master plan prepared by our previous planner was highlighted. Public transportation was discussed along with SR1 and NE Front Street, the proposed overpass, downtown parking, downtown truck traffic studies and a transportation improvement district associated with the SE Master Plan.

Major employers in Milford continue to be as follows:

- Perdue Farms, Inc.
- Bayhealth, Inc. Health Care
- Milford School District
- Dentsply Sirona, Inc.
- Seawatch International, Inc.
- Kent-Sussex Industries, Inc.
- City of Milford
- First State Manufacturing, Inc.

It was noted that the City of Milford has a slightly lower employment rate than Sussex County, Delaware and the nation on average.

The plan focuses on Natural Resources including:

- Sourcewater protection
- Wetlands and Buffers
- Floodplains

Planning for PLUS review. He is not asking Council to adopt the plan or change any zoning within the City. At this point, he is only asking to move onto the next step.

Mr. Pierce then introduced the City's Comprehensive Plan Team that includes the University of Delaware Institute for Public Administration's Assistant Policy Scientists William DeCoursey and Dr. Philip Barnes. He then thanked them for all of their efforts in keeping the plan update on track.

He then summarized the plan schedule. He explained that they began the plan process last April with Solicitor Rutt. In the meantime, Deputy City Clerk Christine Crouch prepared information for the Planning Commission to review that included the 2008 plan goals, objectives and related items.

The review continued in May at which time a community questionnaire was released over the summer to obtain some feedback on particular land development questions.

University of Delaware staff was hired to assist with the update process. They joined our efforts at the September Planning Commission meeting at which time they provided a comprehensive plan training course.

The Commission then held a visioning session with representatives from major employers, the school district, police department, fire company and other civic organizations to discuss the short and long range plans.

From November to March, the Commission met monthly to review an update of each component of the plan.

All meetings were properly advertised and open to the public. Staff held an informational session at Milford Public Library in early May to review the draft plan.

The Commission also held a public hearing in late May to solicit additional comments and discuss any further land use changes that were not included in the initial discussion. In total, the City has held nine public meetings and two community workshops.

The City is hoping to submit 2017 Draft Comprehensive Plan to the Office of State Planning Coordination for Preliminary Land Use Service (PLUS) review in early July and the PLUS hearing scheduled at the end of the month. Comments would be received by the end of August and brought back to the Planning Commission to be discussed at both the September and October meetings.

A response to those comments would be sent to the State of Delaware before it was returned to the Planning Commission and Council for the final adoption hearings. The overall goal is to have this completed by the end of the calendar year though three to four more public meetings are scheduled.

At the vision sessions in October and November 2016, the Planning Commission developed the following statement:

*Milford's Vision for Development – Milford takes great pride in the beauty of its riverfront and its rich historic and cultural heritage, which dates back to the 18<sup>th</sup> Century. The City wishes to build upon these enduring and desirable attributes while enhancing community resiliency and see Milford grow into the "Riverfront Gateway to Southern Delaware."*

*With a commitment to thoughtful economic development, appropriate growth that is resilient to environmental change, and preservation and protection of its most cherished assets, the City envisions itself as a year-round, vibrant, employment and economic center that stays true to its small town roots and feel....a small-town city where residents are able to live, work, go to school, and recreate.*

The plan components are as follows:

- Background
- Community Character

Environmental Resiliency  
Sea Level Rise  
Heat vulnerability assessment

Two of the main focuses were sea level rise and heat vulnerability. DNREC recommends planning for a one-meter sea level rise by the year 2100. Some of the components were goals in the Floodplain Management Ordinance.

Parks and Open Space was addressed with the Mispillion Riverwalk, Recreational Needs, Agricultural Open Space and Community Gardens given a great deal of attention.

It was determined that approximately 46% of the land within the City is either vacant or being used for agricultural purposes. This ties in with the Housing Pipeline and a number of the approved developments that remain vacant.

Mr. Pierce then referred to maps showing the existing land use and existing zoning map.

In coordination with a study prepared by the Office of State Planning of the Route 1 and Route 13 corridor between Smyrna and Milford, there was a breakdown of existing and future commercial development planned along that stretch. As part of that exercise, the City went in-depth with its C3 Highway Commercial zone. The existing C3 category includes about 304 acres of developed land. Approximately 386 acres are vacant or under utilized.

He explained that Delaware Code requires the official zoning map to comply with the comp plan within 18 months of adoption. The future land use and zoning link table illustrates the connection between the land use categories and our underlying zoning districts. During the public hearings, there will be a breakdown of the parcels that will require a change of zone related to this land use and zoning link table.

Simplifying the land use and zoning link table minimizes the need to rezone a lot of properties. They broadened the land use categories to allow for more flexibility in determining what category could be approved by the Planning Commission and City Council for a particular property.

Written requests from property owners were evaluated by the Planning Commission and if appropriate, were incorporated into the draft plan. Some property owners were also notified that their properties could be affected by the potential change of zone.

Mr. Pierce recalled that around 2013, Planning Commission and City Council analyzed an area east of Route 113 for a change to commercial. Based on the Title 22, all of those properties would have to be rezoned.

The Planning Commission developed a concept of a transitional area which would allow the migration from residential to the underlying future land use zoning category over time. This would eliminate the need to forcefully rezone properties within 18 months. Therefore, the City would entertain commercial rezoning applications property by property and allow that area to slowly migrate.

It is recognized that the SE Master Plan will govern all land use developments in that area and no major changes are proposed.

In 2013, the Planning Commission and City Council also discussed a proposed land use change east of Route 1 on New Wharf Road which prompted a discussion to create a potential NE Neighborhood Plan. That isn't going to be carried into this plan and instead they may move forward with a master plan and exercise in this neighborhood though that does not mean the land use will change.

The 2008 plan included a recommendation to develop an Open Space Preservation Plan. That would include the implementation of a transfer of development right's program, conservation easements and potential purchase of land. The Open Space Preservation Plan recommendation has been included in the 2017 update.

At the end of Land Use Chapter, the Planning Commission provided some recommendations on how we should analyze

annexations and our position on expanding our boundaries. They felt we should prioritize growth on the significant developable and vacant areas within the existing municipal boundaries.

Anything outside our municipal boundaries should be systematically considered and evaluated based on projected revenues, utility capacity and capability and the cost of providing services.

Finally, the implementation includes rezoning properties within 18 months of the plan adoption to bring them into compliance with the land use scenario. Within five years of adoption, the plan should be reviewed to determine if its provisions are still relevant. Annual reports shall be submitted to the Office of State Planning and the goals and objectives analyzed that are outlined in the plan.

One of the key items was to develop a procedure for reviewing annual comprehensive plan amendment requests.

Mr. Pierce announced there is an application on the website that illustrates the proposed land use scenario for properties. A property owner can type their address in and be provided with the zoning designation of that area as well as other land data.

He explained that the area east of US 113 contains few commercial properties but there are a number that are residential in nature. The City would entertain a commercial zoning application but will not forcefully rezone any residential property which would put the city in a non-conforming use situation or impact someone's capability of receiving a traditional home loan, for example.

Mayor Shupe asked if there were any recommendations made by the Planning Commission for a change of zone in the various areas. Also, at this point what does that mean in moving forward.

Mr. Pierce explained this document includes a draft plan they would like to submit to the Office of State Planning. At that point, the State will comment on the overall text and exhibits in the plan. Modifications can be made in the fall. If there are public hearings next year, Council can deny a change of zone request though the land use scenario would have to be changed in order to be compliant.

Tonight is an informative presentation only.

Solicitor Rutt explained the comp plan is a vision or a recommendation of what the City would like to see in moving forward. For example, there are properties that were zoned industrial, but are not legally industrial and should be commercial. In that case, it should be changed to commercial. Mr. Pierce has been in contact with those property owners who seem receptive to that change.

During the 18 months, Mr. Rutt explained the rezonings have to either occur or the plan must stay as it is.

Mayor Shupe confirmed that as we move forward, the public needs to understand that this is a vision with how the City wants to move forward, but does not change those zones at the time of the adoption.

Solicitor Rutt said there is no adoption tonight. Council needs to give the City Planner the authority to move forward with the State's PLUS process though it can still be based on tonight's comments. It then comes back to the City and eventually goes to the Governor's office. If the Governor does not sign off on it, it comes back to the City. The ultimate approval is through City Council. There are numerous steps and this is just one.

Councilman Mergner referenced the employment land use category and the highway commercial area in the area near the hospital. He assumes that employment is the parcel the hospital is on and asked if that means there is some flexibility there; Mr. Pierce explained that employment is either I-S (institutional service) or I-M (institutional medical) or H-1 (institutional development). Employment is primarily institutional categories, but when the SE Master Plan was done, those areas were identified as employment. To avoid making a lot of modifications to that SE Master Plan, the employment designation was added.

When asked the process, Solicitor Rutt said recommendations can be made this evening. Mr. Pierce explained that any recommendations from the public and Council this evening, can be combined with the PLUS comments received at the end of August and incorporated in the future discussions with the Planning Commission and Council in the fall.

Solicitor Rutt said this is not the final go-around. However, as Mr. Pierce suggested, any comments can be considered.

Mr. Pierce noted the one thing he wants to do this fall is to make it easier for everyone to see what areas would be affected. He would provide a list of properties with the current zoning designation and proposed zoning designation. It would be a list of possibly two dozen properties so Council can see which will be impacted and coming back in for a change of zone request.

The area the Solicitor was referring to is the memorial business and a couple of businesses near the intersection of Rehoboth Boulevard and Southeast Front. There is a hodgepodge of properties and Mr. Pierce told them their use would be permitted in a commercial zoning district and how it should be made into a local commercial corridor. The same applies to the collision center and auto business by the river. They are non-conforming industrial lots and not large enough to be industrial.

Mr. Pierce understands there are some residents present that would like to comment on the hospital. He is aware there are some smaller parcels with houses that were converted to medical offices. They had H-1 designations and he is making recommendations to change some of those even though it is more of a compliance issue with the zoning ordinance. A lot have minimal impact on neighboring properties and the uses are not going to change like the hospital site where there is some redevelopment discussion that is occurring.

Councilman Burk then read the following letter into record from Councilwoman Peel dated June 26, 2017 who was unable to attend due to being on vacation:

*Dear City Council and Mayor Shupe:*

*I regret that I cannot be in attendance at tonight's meeting. I had hoped to participate in the discussion about updates to the City's comprehensive plan. I understand the need to update this plan to reflect the vision and expected development in Milford, and I would like to share feedback from Ward 2 residents regarding the proposed changes at the Clarke Avenue property recently acquired by Nationwide.*

*In an effort to understand the request for changes in the comprehensive plan, I have been in communication with Nationwide representatives. On June 20, 2017, Nationwide's CEO Meir Gelley and counsel Alan Levin presented the initial plans for the property. Neighbors of the property, residents of Ward 2, Mayor Shupe, Councilman Burk and I attended to learn more about the upcoming project. For many residents this was the first time they had heard the proposal in full and had an opportunity to ask questions about this project. Residents, in general, felt positively about the Nationwide project on the current Clarke Avenue footprint as well as the partnership with DENTSPLY to move its executive offices into the current Bayhealth facility. There were concerns raised, however, regarding the increased density housing on the parcels along Jefferson Avenue and Kings Highway.*

*While the residents of Ward 2 and I are pleased that Nationwide has acquired this property and wholeheartedly support the wellness village endeavor to be completed by this reputable company, we need time to consider the best use for all the portions of the property involved in the acquisition. I am reassured that the dialogue will remain open between the residents of Ward 2, the city planner, City Council, and Nationwide.*

*Although submitting the comprehensive plan to the State for feedback is an initial step, it does outline proposed changes to include moderate residential housing. Based on the feedback from Ward 2 residents, I respectfully request a review of these changes to the comprehensive plan and would like to take steps to reconsider any increase in the housing density of the parcels along Jefferson Avenue and Kings Highway.*

Councilman Burk, Councilwoman Peel and Mayor Shupe met with Alan Levin and Nationwide's CEO to hear some concerns from Ward 2 residents. They are concerned about the R-3 (higher density) request in a traditional R-1 setting.

Mr. Pierce explained the large tract of land is the current Bayhealth/Milford Memorial Hospital who has purchased several of the lots surrounding the hospital site. They were converted into medical offices though some of the land has been

converted into parking.

He referred to the current zoning map showing properties designated H-1 (industrial development) and properties designated OB-1 (office building). One property was zoned I-1 (limited industrial). There is also a parcel that includes the walk-in that is designated C-2 (central business district). Others are low density single family residential zoning parcels. As a result, there is a hodgepodge of zoning categories in that area.

Mr. Pierce then referred to the 2008 comprehensive land use plan that identifies the parcels as institutional. Currently the zoning categories are not in compliance with the state mandate of 18 months.

With the announcement that Nationwide was going to purchase the hospital site, they also approached the City about the ten acres of residual land made up of a dozen or so parcels. They are trying to redevelop an adaptive use of those properties that would compliment the skilled nursing care and other proposed uses of the main hospital site.

Nationwide presented a very general concept with some potential multi-family housing in that area. There have been discussions from the meeting on June 20<sup>th</sup> that Councilwoman Peel, Councilman Burk and Mayor Shupe attended about trying to make the proposal age-restricted. The idea was to provide 55 and over apartment type complex adjacent to the skilled nursing care. There are some benefits from the nursing care side of things though consideration must be given to the public and surrounding property owners.

They presented the land use change request at the May Planning Commission hearing at which time the Planning Commission agreed to move forward in concept knowing that additional meetings and public hearings are scheduled. They recommended Nationwide reach out to the Ward 2 residents to try and get some feedback on what they would like to see.

Mr. Pierce emphasized this is still in the very early preliminary stages and it can go to PLUS this way; if it is changed, he does not feel it will impact the re-certification process with the State. They are willing to have some meetings regarding the proposal in the fall as well. Ultimately, City Council will need to make a proposed land use decision by the end of the calendar year.

It was confirmed that the earlier 5,000 plus housing unit number presented does not include this area. Mr. Pierce explained this is ten acres and in theory, 16 units per acre can be developed, but typically that is governed by the required amount of parking needed on the site.

Councilman Mergner expressed concerned about building more condos and townhomes versus single family homes.

Mr. Pierce said from the planning perspective, a lot of the multi-family concept is tied up as condominiums in a couple of proposals. A lot are located on the outskirts of the City. Traditional planning requires higher density in the downtown where more services are available.

Solicitor Rutt then informed Council that they are unable to impose a 55 and older requirement. It could be considered contract zoning, but more important, it would be in violation of fair housing regulations and statutes.

However, if Nationwide added a deed restriction or made an offer of a condition that it be restricted to 55 and older, Council could adopt that as a condition. But the City cannot require that.

Mr. Rutt said one of the other things to consider are the long plans of Nationwide. He is unsure if Council is familiar with the Westminister Village in Dover. They have assisted living units which are similar to apartment buildings. They then transition into the nursing home and so forth. However, he is unsure if that is something they are considering or not. But that is an example of where it is technically multi-family under the zoning in Dover, even though they are not being used by families so to speak.

Councilman Brooks asked how many stories the buildings were; Mr. Rutt said some are three but most are two. Councilman Brooks said he rode down to this area by the hospital where Downing and the lumber yard used to be. He thinks there are

only two houses on the whole block.

Mr. Pierce asked if the deed restriction would run with the land; Mr. Rutt confirmed it would. Councilman Burk asked if it could be removed; Mr. Rutt said it could be removed by the owner of the property. However, if it was a condition of the approval, the removal would be in violation. Regardless of any transfers, the restriction is still locked in.

Mayor Shupe asked if there are any other properties that need to be discussed; Mr. Morrow asked if there are any properties that need to be rezoned upon the City's request and implied there may be a dozen or so according to Mr. Pierce. Mr. Pierce said the properties need to be rezoned to comply with the comp plan or the land use plan needs to be changed.

Mr. Pierce asked who would bear the cost of those rezonings and would that be the City or would it be the owner. Mr. Pierce said that it is his opinion if it is needed part of the comp plan update, the City would not make the property owner financially responsible.

Mr. Brooks asked if the owners are contacted before the zonings are changed. Mr. Pierce said he does and he has already been in contact with an overwhelming majority of those affected and has received approval to move forward. As we get closer to the fall meetings, he will try to identify which owners have consented to the change of zone. At that point, Council can decide if it is an overall benefit to the community. If it is a nonconforming use and the change will make it conforming, he thinks it is something we should move forward with. If we have a commercial property in an R1 district, that needs to be made commercial.

He will identify that in the outline table this fall. He will also contact the property owners as part of the process.

Mr. Pierce hopes to obtain written consent from each property owner.

Mayor Shupe pointed out there are more than 300 acres that are already developed and 380 commercial acres that have been zoned commercial but have not yet been developed.

When asked for an example of a transition from commercial to residential, Mr. Pierce explained the Route 113 corridor Planning Commission reviewed in 2013 as a possible amendment to the comp plan. There was some interest from a property owner that wanted highway commercial status. He referenced a number of the areas near the SE Front Street and Rehoboth Boulevard area, in addition to the Route 113 corridor area. In the 2008 plan, it was actually shown as commercial but it was another item where the City did not enforce the 18-month provision.

Mr. Pierce referenced the various parcels along Rehoboth Boulevard that is a business route. They will also be given this opportunity. There is one little parcel of land in the middle of the industrial area that would request I-1 or I-2, which would naturally be in the City's best interest to consider.

The Planning Coordinator also referenced the parcels adjacent to the hospital site in the SE Master Plan Land Use that are out of town and being identified as potential commercial. Councilman Mergner likes that specific area for some potential commercial such as a convenience store or something similar. Mr. Pierce pointed out the commercially-zoned areas surrounding the hospital.

Councilman Mergner asked if there is a possibility for a multi-purpose zone. It was noted that a PUD would allow up to 25% of the site to contain small-sized commercial that could serve the local residents and visitors to the hospital.

Councilwoman Wilson recalls doing this in 2008 and emphasized that Council wants to feel good about the plan they will present. It is important to take the entire area into consideration and not be one-sided. Basically whatever decisions are made need to be supported by Council before it is submitted.

Councilman Mergner thanked Mr. Pierce for the work he has put into this.

Mayor Shupe then opened the floor to the 2017 City of Milford Comprehensive Plan and asked for any public comments.

Virginia Boutin lives at 308 South Walnut Street and has lived there almost fifty years. She is concerned about the new hospital zoning. She agrees that most of the people that attended the meeting were well satisfied with Nationwide's decision, but now the 5,600 number has been thrown out and at the meeting they were told housing would be placed on the little 10-acre area that would accommodate 160 individual people. She pointed out that most people live with someone. So doubling 160 is 320 people. Now we are talking an additional 400 people living on a 10-acre lot backing onto Jefferson Avenue.

Ms. Boutin's concern is that today, it sometimes takes three to four minutes to back out of her driveway on Walnut Street. In addition, they have to deal with a train that impacts traffic when it goes through town. As a result, there is congestion on that street and she cannot imagine adding another 300 people. Because it may not be age restricted, it could involve young families which means even more people. She likes the idea of that, but the problem is when you talk about the word density, that does not meet her idea of a small town. She and her neighbors have bought homes to live by themselves and that residential feeling will be gone once these large buildings are constructed. Their idea was that the people who are working for Nationwide would not have far to walk to work. Instead they will be renting the houses. At this point, Nationwide does not know that and neither does she.

Ms. Boutin is not happy there will be any type of housing complex in this area.

She also hears the terms "Council feels" and "Council wants". She feels that her representative is supposed to be representing their people and not themselves. She is aware that some of the people here are only interested in their own little group and are only open to feedback from them. She feels like she is her own voice and does not believe her Councilperson is representing her, or if he is siding with the developer which makes her very nervous.

Ms. Boutin said this bothers her about this town. When they moved her in 1965, young people went to the Tastee Freeze. When her kids were in Middle School, they wanted to go to the skating rink. An all-night skating rink for twelve hours and they loved that. Her grandchildren came along and wanted to do the same thing. It makes her sad that there is no place like the skating rink for them to go anymore. She sees children playing basketball on the courts which is wonderful. But they need a place and having to walk out to the Boys and Girls Club is a distance. She asked how many children are actually going to be allowed to walk out to the Boys and Girls Club. She also remembers people walking by her house to go to the football games.

They would walk from this side of town all the way at to the high school. They could do that then and they loved that. She compared this to watching people at the boardwalk in Rehoboth but instead they would watch people walking to the game and then coming home. It was a wonderful, loving hometown feeling. She does not want Milford to lose that because a developer wants to start constructing buildings and putting lots of people in them. She feels she is connected because she has invested fifty years here and she wants to feel like she still lives in a neighborhood. She wants to end her life with people that are interested in Milford and not just passing through. She thinks it is important to keep in mind Milford is a small town and wants to stay a small town.

Ms. Boutin does want Council to think about kids only being able to play basketball. That can only be done for so long. If there is no room in your backyard, they are going to go somewhere they shouldn't go or somewhere it is dangerous to go. She asked Council to think about that.

Alan Levin then addressed Council stating he is with the law firm of Drinker Biddle and is representing Nationwide Healthcare. He thanks the City for the reception they have given to Nationwide Healthcare. It has proven that Milford wants to see things happen and move forward.

Mr. Levin would like to correct a statement that Councilman Burk said. Nationwide Healthcare has not acquired the property yet. It is conditioned on a number of contingencies and due diligence in moving forward. It will probably not happen until Bayhealth vacates the property and moves to their new location.

Councilman Burk clarified that was a comment made by Councilwoman Peel.

Mr. Levin said they have every intention of moving forward and their vision for the property is to be a wellness village which

relates to the continuum of life. It will have every facet of life from infant daycare, adult daycare to nursing homes and every with every stage between. They have worked with Dentsply so they can rent 30,000 square feet and expand and continue to grow in Milford where LD Caulk started back in the 1800's.

Mr. Levin reported they are also working with Milford School District so they can take their Pathways to Prosperity Program for Culinary Arts and Healthcare to this facility. The intent is that Milford School District and Del Tech take over the culinary program and provide the food service for the facility to prevent bringing a company in from the outside. These kids would then get the experience needed for jobs immediately in the food service are because they have had the proper training and are ready to go.

They are also working with Bayhealth for a daycare. Daycare has been a terrible problem for Bayhealth. They have a daycare facility in Dover but need daycare in Milford. Dentsply needs daycare, Perdue needs daycare and this facility would provide that. They intend to take out the heliport and turn that into a gym area for kids to run around with exercise equipment and a grass area as opposed to asphalt. But they will also have a 10-acre area that is of concern to the residents of Ward 2.

Mr. Levin will say that restricting it to a 55 and older community provides for that continuum of life. There will be less individuals living there. Ms. Boutin is correct because they do not know what the density will be, but they do know that at 55 and older, that restricts it to only 20% that can be under the age of 55. Anything over 80% has to be 55 and older.

He further explained the owners of Nationwide are willing to make that part of the deed restrictions because they feel it is important to the success of that entire project. Mr. Gelley mentioned that these people may be working in the facility. They also may be making the transition from that facility to the nursing home. Mr. Levin pointed out that is a fact of life because we are all getting older.

The last thing he wants to discuss is that they will be contracting with St. Francis Healthcare. St. Francis has the exclusive for doing senior care through a program called a 'Life Center' where they take individuals who are confined to their homes. They pick them up every day and bring them to the facility, where they have activities, are fed two meals a day and are then taken back to their homes so they can live in their homes where they are most comfortable.

St. Francis would take over the care for these individuals and when they needed nursing home care, they would go into the facility at Nationwide. If they needed hospital care, they would not go to St. Francis but would go to Bayhealth. That gives them the opportunity to stay in this community and work within a ten-mile radius of Milford. The only thing he disagrees that the Planning Coordinator said relates to the numbers, which actually came from Kent County. He feels Milford is going to grow a lot more than 1,000 people in the next thirty years. He thinks that Milford is on the verge of amazing things and the Bayhealth Campus will be the epicenter of the State of Delaware in his opinion. He feels that 1,000 people is a great understatement but politicians do what they have to though he is talking about Kent County politicians and not Milford.

Nationwide wants to work this out and they feel it is important that the recommendation as presented moves forward. He reminded Council that they appeared before the Planning Commission who unanimously recommended the plan move forward. However, the door is open and they are happy to further discussion.

Mr. Levin emphasized that both Mayor Shupe and Councilman Burk know Meir Gelley who is the CEO of Nationwide and believe he is very reasonable. He wants to make this work and wants this project to move forward.

Linda Barr of 226 Jefferson Avenue then asked what happens if Nationwide does not get the zoning that is being requested and will they not purchase the hospital; Mr. Levin stated no. Ms. Barr said she hopes that will not be used to influence City Council's decision.

Mr. Levin responded by stating it is not a do all or end all, but is part of the success of the project and an interval part of the 55 and older complex. Something will go into that residential area. They think this is the least onerous of the building construction that can go on there. This will involve 55 and older individuals, or at least 80% of them, who are helping pay the City tax base, but not taxing the schools because they will not have children going to our schools. So the school district benefits from that.

In addition, he pointed out that people 55 and older drive less and have fewer cars. They just think this would make the easiest transition. Mr. Levin said they can put single family homes there but that may involve a lot more kids and a lot more problems though he cannot provide exact answers to that situation.

Ms. Barr personally does not think there will be that many 55 and older that will want to live there. If that plan goes through and it does not go well, she asked what will happen with the empty building. Mr. Levin said there is nothing they can do at that point because of the deed restrictions. They will find people to live there. Ms. Barr said she does not believe 55 and over. He agreed that the rent would need to be lowered or (unintelligible).

Ms. Boutin then asked for clarification about the red strip on the map next to the railroad track. She can see it starting at Lakeview Avenue, coming by the doctors' offices and extending to Walnut Street. She asked if that is the area Mr. Pierce is talking about putting in these housing units.

Mr. Levin said no; Mr. Pierce referred to the area of Kings Highway and Jefferson Street. Ms. Boutin indicated that when they canvassed the area and everyone supported it, she is hoping they did not only talk to the residents on Lakeview Avenue because the rear of most of their properties is on Williams Street. Those neighbors will not be impacted because their houses front Lakeview and the rear is on a street that is only used to access their properties and park their vehicles. Therefore, they will not encounter the problems the other residents in the area will. She emphasized that not everyone was contacted that will be affected by this.

Mr. Pierce said she is correct, he did not canvass the area regarding this particular change. He only contacted the property owners whose zoning would be impacted. In the case of the area surrounding hospital, there are two houses that were converted to office buildings. He has contacted those two doctors and they have agreed to a change of zone to OB-1 (office building) as opposed to the H-1 (industrial).

Stuart Barr of 319 South Walnut Street then asked if Nationwide is stating that they cannot fit or won't construct an apartment building on the strip between Jefferson and the railroad track; Mr. Pierce explained it is less than an acre so an apartment complex is prohibited on that individual piece of property. However, portions of the right-of-way could be eliminated to create a larger parcel of land. But in theory, the R-3 category has some restrictions on the minimum lot size in addition to the setbacks that would make it nearly impossible to develop it as it stands today.

Mr. Barr asked if there will be additional offices built there; he understands they are looking for internal investments and will do whatever they can. Mr. Levin responded by stating that would be zoned residential and not zoned for an office so it could not become an office (inaudible).

Councilman Mergner asked if this apartment complex has to be right there or if it can be considered in another area. He asked if it has to be in proximity of the main facility or can another space make it work.

Mr. Levin explained that the synergies you get from having it in that area help make the project work better. Part of the contract is the purchase of that land. If it is purchased, something has to be done there. This is a use at that site that makes sense for the entire project. He said if Councilman Mergner is talking about the strip, he is unsure what they could do with the strip because it is not big enough to do anything with.

Mr. Barr said that is nice to hear (inaudible); Mr. Levin said he understands but it is being zoned residential. Mr. Barr pointed out that density was not there when he born though it built out quickly when he was ten years old or so.

Mr. Pierce emphasized that property is zoned C-2, which is a Central Business District. There are minimal lot area requirements and pretty much no setback requirements in that category. However, it is primarily downtown commercial type uses that could be medical offices and is probably how they fit those buildings there.

Mr. Barr then stated the other problem is trying to find the volume to fill 160 units with 55 and older persons. When you don't do that and now Mr. Levin says they are willing to lower the rent. He asked if Nationwide intends on selling or renting them. Mr. Levin said they are not there yet so he is unable to answer that.

Mr. Barr noted that Nationwide wants to jam 160 units in and potentially 300 people as has been discussed. Now 30 of those units will have the ability to house people under the age of 55 which could be 120 on top of that. He said this is all being jammed into Ward 2 which is disrupting the voter base and everyone will be located in one concentrated area. He feels that will be very disruptive and asked if that is being considered.

Mr. Barr then continued by stating that single family dwellings were also mentioned and he asked if that is off the table; Mr. Levin said it is not off the table but there is a question of what the area can afford. The cost of land (inaudible) return on investment. He is not sure that a \$275,000 or \$300,000 per home can be sold there. They would also be on small lots, maybe quarter-acre sized lots.

Mr. Barr asked about completely selling off those assets and if that is out of the question as well. Mr. Levin said that nothing is off the table at this point.

Mr. Barr concluded by stating that where they are building appears to be on the ten acres on the south side of Jefferson Avenue. Mr. Levin confirmed it is between Kings Highway and Jefferson. Mr. Barr verified the location of the planned area and asked about the front. Mr. Levin explained the front would be the current hospital.

Solicitor Rutt asked Mr. Pierce to display the slide showing the current use/zoning of the property. It was confirmed it is H-1 (institutional development) and I-1 (limited industrial). In addition, the office buildings are OB-1 (office building).

Mr. Rutt emphasized that if the change of zone does not occur, there could be manufacturing, assembling, finishing, baking, cooking, research, design, printing, publishing, municipal services, truck or large vehicle repairs on the gray area shown on the map. In addition, there are numerous conditional uses that could be approved as well.

Mr. Pierce confirmed that permitted uses would include medical and surgical hospitals, medical and dental centers, medical arts offices and buildings, accessory uses incidental to the permitted uses and all types of municipal services. It also has a list of conditional uses such as nursing homes, sanatoriums, multi-level parking facilities and community residential treatment programs.

The OB-1 is similar, but more low profile, low traffic medical office buildings or professional office buildings, geared for a residential setting.

Mr. Rutt announced there can also be a number of uses allowed that are not residential in nature.

There being no more comments from the public, Mayor Shupe closed the floor to comments regarding the comprehensive plan.

Councilman Burk moved to recommend the Planning Coordinator present the comprehensive plan to State Planning Office with the condition that the R-3 request for the ten acres not be included.

Mr. Pierce asked for clarification on what it should be; Councilman Burk stated that he recommends the current zone remain. Mr. Pierce stated it is currently institutional; Councilman Burk noted that it is residential and institutional. Mr. Pierce stated the 2008 comprehensive land use plan shows institutional. Councilman Burk asked which lot; Mr. Pierce explained that is on the zoning map, but the 2008 land use plan shows it green, which is institutional. Councilman Burk said he cannot support the R-3 zone.

Councilman Mergner then seconded the motion.

When asked if Mr. Pierce understands the motion, he stated that the motion is to keep the zoning institutional. Councilman Burk reiterated the motion is not to change it to R-3 and what it is now is what it will be until a future amendment is made.

Mayor Shupe asked if he is talking about the current zoning maps; Councilman Burk stated land use maps.

When asked for discussion, Councilwoman Wilson confirmed that Councilman Burk wants it stopped as it is and he does not want it to go further. Councilman Burk repeated he is not in favor of moving ahead with the R-3. That is the feedback he has gotten from his constituents and he has had only one person support it. That is what happened in the meeting the other night. He tried to read the Planning Commission minutes though they are not on line and he was unable to get a feel of what happened at that meeting. He noted that Council is not permitted to go to Planning Commission meetings and this is his motion.

Councilwoman Wilson asked if his constituents went to the Planning Commission meeting; Councilman Burk stated he is unsure because he does not go to those meetings. However, he stated that they did have a full board room at the hospital last week, including people in the hallway.

Solicitor Rutt stated that for the record, there was no one present at the Planning Commission meeting to voice any comment about the matter.

Councilwoman Wilson said she is concerned without considering other possibilities and we do not know what we will end up with. Councilman Burk understands. Councilwoman Wilson feels that with the possibilities, we can still voice our concerns and possibly even the density concerns. But to not allow it at all appears as though we are hindering a new business that is coming to our town that is needed and will enhance our town.

Councilman Burk shared that he lives across the street from an abandoned building and he does not want to see another abandoned building like the hospital. But if there was a similar proposal for the area around the old middle school, he would have the same problem. He has to voice the concerns of his constituents. He understands it and it was explained at the meeting that this ten-acres was not going to be a deal breaker. He is making this motion with that in mind.

He also commends Councilwoman Peel for going door-to-door to get people involved and get people to the meeting. He knows she is sorry she is not here but she had some positive feedback and some additional comments to add. As of right now, he cannot see 160 units on that ten-acre parcel. It is not downtown and not in an area where there are other multi-family complexes. In the pipeline, Milford has 2,770 multi-family units approved so there is no shortage of that type of housing.

From Mr. Pierce's definition, it establishes the goals for the future of the City and he does not think that R-3 in this ten-acre parcel is in the best interest of the residential area surrounding this site. He does not like the idea of a vacant building either and that is not where he is coming from.

Councilman Campbell asked if it could be zoned something other than an R-3; Mr. Pierce explained that if we leave the land use as institutional, which will become employment, it remains consistent with the 2008 comp plan. The parcels would have to be rezoned to either H-1 (medical offices), I-S or I-M. He referred to the previous uses permitted for each.

Mr. Pierce clarified that the I-S permits:

Any residential housing owned, maintained and operated by a healthcare organization for the primary benefit of its patients, patient families, students and/or residents and/or healthcare employers and their employees.

The I-M zone permits:

Any residential housing owned, maintained and operated by a healthcare organization for the primary benefit of its patients, patient families, and/or healthcare employers and their employees as well as overnight accommodations for patient families and individuals that are receiving treatment from a hospital or other healthcare facility.

Councilman Burk asked the density for I-S if it were going to be housing; Mr. Pierce stated that the code says all permitted uses within the R-8 so it would allow 8 units per acre.

Councilman Burk confirmed it would be reduced from 16 to 8 units. He is willing to work with them and confirmed we have an R-8 designation. Mr. Pierce stated that is correct and if Council were to make that area moderate density residential,

Council could decide whether it was R-3 or R-8. Those are two of the uses within that zoning designation.

Councilwoman Wilson agrees with what the residents are saying but feels the R-8 zoning would be a compromise. If the wish would be to move forward with Nationwide, they could still construct the multi-dwelling units there. Councilman Burk confirmed that Councilwoman Wilson is proposing that instead of R-3 making it R-8 on the land use plan; Councilwoman Wilson feels they are still getting what they want, just not at the high density they originally requested.

It was confirmed the motion was to not go forward with the R-3.

Mr. Pierce reminded Council this will only allow him to go to PLUS. They can continue these discussions at upcoming Planning Commission and City Council meetings to get a better feel of what both bodies want and what the public would like to see. If there is some additional research that Council would like, it could be brought back at a later date with additional possibilities.

Mr. Pierce reiterated that we have heard the concerns from City Council and the residents this evening in addition to the meeting that was held last Tuesday. He is willing to continue on this property and find the City's vision for the property. It does not have to be determined this evening though it is good to get the dialogue started.

Councilwoman Wilson said she is in agreement with part of Councilman Burk's motion, but in the best scenario, she would prefer for the motion to allow the Planning Coordinator to move forward without the stipulation.

Councilman Mergner thinks he is in agreement with Councilman Burk to leave it as is and not change it. Because it really does not matter in his opinion. He said let it go to PLUS and allow them to have continued dialogue to determine the best fit for the community and the City. There will be a final vote at some point. At that point, he hopes everything can be resolved.

Councilman Morrow confirmed that Councilman Burk's motion is not to allow R-3. Councilman Burk said because of the push back in that area, he prefers to come out of the meeting without the R-3 because that worries him and it worries his constituents. He wasn't even thinking about R-8 because only the R-3 was presented. He is not in agreement with it and he feels the density is too high for that area. He may consider something different down the road, but at this point that is the motion that is on the floor.

Solicitor Rutt asked for clarification purposes, is the orange on the map representing R-3 or residential. Mr. Pierce explained it is moderate density residential and could be R-8 or R-3. Mr. Rutt explained it is moderate residential without a designation of a specific zone. Mr. Pierce stated that is correct adding that there is some flexibility in the land use plan. Councilman Burk said he apologizes but was told in the meeting it was R-3.

Councilman Morrow asked if it is R-3; Councilman Mergner said it is moderate density housing which he was unaware of as well. Councilman Burk said that would have been good to bring up at last week's meeting.

City Manager Norenberg stated that the motion can be amended and if Councilman Mergner agrees, move forward with the plan. The record tonight will establish that the Councilmembers and their constituents could work with the applicant to discuss and explore some alternatives which may provide a more workable solution. This could be done in parallel to the Office of State Planning working on the PLUS review.

Councilman Burk said he is happy with his motion.

Mayor Shupe asked Solicitor Rutt to repeat the motion.

Solicitor Rutt explained the motion is to authorize the Planning Coordinator to present the comp plan to PLUS but to exclude the R-3 in the designated 10-acre multi-family area as has been discussed.

Motion carried by the following 7-0 vote:

Councilman Mergner stated he is voting yes based on the residents' desires in that ward and the feedback. He feels it is too much for such a small piece of property.

Councilman Campbell stated he is voting yes and is concerned with the density.

Councilman Burk votes yes and feels the density allowed in the R-3 is too high. He has heard the constituents and believes it can be worked out but at this point votes yes in favor of the motion.

Councilman Brooks votes yes to support the other Councilmembers.

Councilman Morrow votes yes and feels that the R-3 density is too high. There are a ton of options that can be considered and we can get to home plate a lot faster and votes yes.

Councilman Starling votes yes.

Councilwoman Wilson votes yes now that she has been educated only because she knows there is still a possibility we can get a blend of residential within that area.

Mayor Shupe said let the record show that Council has approved by a 7-0 vote that the comp plan be presented to the State Planning Office for the PLUS process with the exclusion of the R-3 designation of the 10-acre property as discussed and that one Councilmember was absent.

There being no further business, Mayor Shupe adjourned the Public Hearing at 9:05 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC  
City Clerk/Transcriber

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
June 26, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, June 26, 2017.

PRESIDING: Mayor Bryan Shupe

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

City Manager Eric Norenberg, Police Chief Kenneth Brown and  
Deputy City Clerk/Recorder Christine Crouch

COUNSEL: City Solicitor David Rutt, Esquire

#### CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 9:07 p.m.

#### RECOGNITION

##### *Milford Police Department*

Mayor Shupe thanked Chief Brown, his department and city staff for going above and beyond during and after the recent tragedy that occurred with one of Milford's police officers. He noted it was an incredible effort to handle a very tragic situation involving one of their own.

##### *Evan Miller, Local Government Management Fellow*

City Manager Norenberg introduced Evan Miller, who will be shared with the City of Rehoboth Beach over the next twelve months. He explained the Local Government Management Fellowship program is a highly competitive career development opportunity for young people coming out of the Master Degree Program. Since 2004, this program has developed many careers in the city management professional in addition to other local government careers.

Mr. Miller thanked the City Manager for providing him this opportunity. He provided some background stating that he grew up in Landenberg, Pennsylvania, received his undergraduate degree in Business Administration from Wilkes University in Wilkes-Barre, Pennsylvania. He majored in Business Management and minored in Leadership. During his freshman year, he volunteered for the Milford Housing Development Corporation, in which his sister is the Director of Programs and Planning.

After he received his undergraduate degree, he continued studying in management and leadership. Instead of the private sector, he chose to focus more on the public sector. He pursued a Master of Public Administration from the University of Delaware and graduated this past May. He was a research assistant with the Institute for Public Administration who assisted with the City's Comp Plan and was also an intern with the Borough of Media, Pennsylvania.

He is honored to have been selected as the International City County Management Association's Local Government Management Fellow for the City of Rehoboth and looks forward to the rewarding challenges he will face and is pleased to be back in Milford providing public service.

#### COMMUNICATIONS AND CORRESPONDENCE

Councilman Burk referenced a document related to the license plate fees. Those in attendance acknowledged they had also received it.

## UNFINISHED BUSINESS

*Shawnee Acres Pump Station Replacement/NW & NE Front Street Sanitary Sewer Rehab/NW & NE Front Street Waterline Replacement Funding*

Public Works Director Mark Whitfield recalled the contract previously awarded to Davis, Bowen and Friedel for three design projects and though the funding was included in the description, it was not part of the formal motion.

Councilman Mergner then moved to authorize the funding for the previously awarded the Professional Services Contract for the Shawnee Acres Pump Station Replacement for \$188,350 to be paid from the USDA Loan/Grant, the Northeast and Northwest Front Street Sanitary Sewer Rehab in the amount of \$230,100 from the USDA Loan/Grant and the Northeast and Northwest Front Street Waterline Replacement in the amount of \$202,500 from the Water Reserve Fund, seconded by Councilman Campbell. Motion carried.

## NEW BUSINESS

*Authorization/Planning Department/First State Inspection Agency FY18 Building Inspections Contract*

Planning Coordinator Pierce reported that last February, the Planning Department solicited proposals from qualified firms for commercial plan review and inspection services, primarily focusing on the inspection of the new Bayhealth Hospital. In June 2016, City Council awarded the on-call commercial plan review and inspection services contract to First State Inspection Agency (FSIA) of Milford. The existing contract for commercial services is valid through June 30, 2019, correlating with the construction time line for the new hospital facility.

With the resignation of the City's Building Code Official at the end of January 2017, City Council authorized a temporary contract with FSIA for residential building plan review and inspection services. The temporary contract is valid through June 30, 2017.

He is recommending we continue with the residential contract services under the current conditions for fiscal year 2018 with an additional option for a one-year renewal upon mutual agreement of both the City and FSIA. If the option for the second year is approved, the residential plan review and inspection service contract would terminate simultaneously with the original commercial contract for the hospital project.

Later this summer, the City will seek proposals from qualified firms for residential rental inspection services with the goal of acquiring a two-year agreement signed, with all three contracts terminating at the same time.

He noted that the outsourcing of building inspections/plan review and residential rental inspection services are included in the FY18 budget under contract services in the amount of \$72,000. However, based on the current pace, the plan review and inspections is projected to come in slightly below \$40,000. They are hoping to use the difference for the rental inspection program. This will allow some flexibility considering the cost for a new code official is approximately \$98,000. Should the City decide on another option, the agreement can be terminated in one year.

Councilman Mergner moved to authorize the Plan Review/Inspection Agreement with First State Inspection Agency, Incorporated, as presented in the Council packet, seconded by Councilman Campbell. Motion carried.

*Authorization/Planning Department/Proposed Fee Schedule*

Mr. Pierce referred to an amendment outlining the proposed changes to the City's Fee Schedule. It provides a side-by-side comparison of the current fee and proposed fee schedule. Included are tables that provide sample permit valuations.

A Finance Committee meeting was held prior to the budget hearing discussions to review and discuss the proposed changes.

As a result, a restructuring of the Planning and Zoning Fee Schedule is recommended. It also includes a few new fees though the subdivision, site plan and conditional use fees would remain the same. One of the main changes is on the variance side

with the following tiered approach from the current flat fee of \$300:

Variance(s):

1-3 variances \$300.00

4-6 variances \$400.00

7+ variances \$500.00

A similar change was applied to annexations, with the current fee of \$300 for any parcel smaller than one acre:

Annexation:

Residential, less than 1 acre \$700.00

Residential, 1 to 5 acres \$2,500.00

Residential, 5+ acres \$2,500.00 plus \$100.00 per acre

Other than Residential \$2,500.00 plus \$500.00 per acre

Other additions include the following fees:

Zoning Verification Letter \$20.00

Certificate of Use \$75.00

Legal Interpretation of Subdivision or Zoning Code \$300.00

Zoning Map Amendment/Comprehensive Plan Amendment \$1,000.00 plus \$100.00 per acre

These are standard practices in other municipalities and Mr. Pierce believes they are in line with the cost of services required by staff and associated legal reviews.

Mr. Pierce also recommends an increase in the building permit fee for residential interior/exterior renovations, accessory buildings, pools, decks, ramps and solar panels from \$10.00 to \$50.00. The increase is needed to cover the basic expenses of permit processing, plan review and building inspection services. In addition, a flat fee is proposed for demolition permits and an increase in the Certificate of Occupancy fee from \$10.00 to \$25.00. A re-inspection fee and a fee for a Temporary Certificate of Occupancy are also proposed to be added to the fee schedule.

For commercial permits, the minimum permit fee is being recommended to increase in order to cover the basic expenses of processing the permit, reviewing plans and performing the required number of inspections. New Construction, Interior/Exterior Renovations, Footer/Foundation and Commercial Fit-out permits would increase from \$10.00 to \$100.00. Sign, Sales Trailer and Solar Panels would be increased from \$10.00 to \$50.00. Again, the Certificate of Occupancy would be increased from \$10.00 to \$25.00 and Demolitions would increase from \$10.00 to \$100.00.

Following the review of this recommendation with the Finance Committee, the lack of a fence permit was discussed. As a result, adding a permit for the construction of fences is now being considered. There have been numerous occasions when neighbors have asked the City to mediate a situation to ensure the fence is properly placed on the correct property. This can create some issues particularly when a property is later sold/purchased. In addition, if a permit is submitted with a survey, that would eliminate those issues.

Mr. Pierce noted that Building Permit fees have not been reviewed/updated since approximately 2004. The proposed fee schedule does not cover all expenses associated with the plan review, permit processing and inspection services, but provides an interim solution to recoup staff and other associated costs for these services.

He also reported there are no proposed fee changes for Code Enforcement and Licensing.

Mayor Shupe asked if duplicate fees are charged for the same services in Sussex County and if we are able to use their inspection records in lieu of providing that service by the City. Mr. Pierce explained that Kent County does not require permits within municipalities unless they are overseeing the plan review and inspection services. Many small towns utilize Kent County for similar services.

Sussex County does require permits within municipalities though it is a reduced rate permit because they do not perform the actual inspections.

Solicitor Rutt, who is also the attorney for Sussex County, confirmed that most inspections in Sussex County are performed by First State Inspections.

Councilman Burk said he personally does not want to see any more permit fees right now. He spoke to Mr. Pierce beforehand and asked if a fence permit would be required only if it was taller than six feet. He feels it is the property owners' responsibility to get the permit. He feels the City is not responsible for preventing every property owner from being at risk when a fence is installed. He feels that people have their own due diligence and if there is a problem similar to a fence placement issue, that is a civil matter and the City needs to stay out of it. However, placing improvements on City easements is another issue and that should be a concern of the City.

Councilman Mergner noted that in HOA's, the process requires a review by the HOA. Councilman Brooks pointed out the City of Milford's rules supersede HOA regulations.

Mr. Pierce explained that the only restriction on fences is they are prohibited from being taller than six feet in height.

Councilman Burk moved to approve the Fee Schedule as presented, to exclude the addition of a fence permit fee, seconded by Councilman Morrow. Motion carried.

#### *Alcohol Waiver/Park Ordinance/Riverwalk Freedom Festival*

Riverwalk Freedom Festival Chairperson Angela Dorey submitted the following request:

*This year's Riverwalk Freedom Festival hosted by the Chamber of Commerce for Greater Milford is planned for Saturday, September 9, 2017. This year, the event will be held only on Saturday, with fireworks after dark that evening. In an effort to encourage more people to remain in or return to the festival on Saturday evening, we are requesting permission to add a Beer Garden in Bicentennial Park*

*The Red, White & Brew Garden would be a fenced off area in a small section of the park with a view of the stage. We would check identification and hand stamp those above age 21 so that they can purchase beer with cash. We would follow all Delaware Alcoholic Beverage Control regulations regarding alcohol service, including obtaining a Gathering License. The Beer Garden would open at 4:00 p.m. on Saturday, September 9, 2017 and close as soon as the fireworks begin approximately 8:45 p.m. no later than 9:00 p.m.*

*We are requesting approval from Council to waive the restrictions against alcohol in the park from 3:00 p.m. until 10:00 p.m. on this date.*

Councilman Brooks questioned the reason Ms. Dorey felt that more people would attend if there was a beer garden; Councilwoman Wilson expressed concern that this festival promotes our hometown and it is beginning to look as though any big event in Milford now has to include alcoholic beverages. She does not want people getting the opinion that Milford cannot have a public event unless some form of alcohol is served.

She agrees with Councilman Brooks that it appears this is an attempt to lure people back to the event by providing the ability to consume alcohol. She referenced the number of successful events in the City for many years that never involved beer and/or wine. It is a concern and she understands we have a brewery in Milford, but does not feel that there is a need to promote drinking alcohol in our parks though we can still promote our brewery in a positive manner at its present location.

Councilman Brooks also pointed out the number of bars in this area, including Park Place and Arena's that are within a few feet of this event. He stated that he can watch the fireworks without having to drink alcohol.

Mayor Shupe feels that if Council denies this request, we are setting a precedence for future events. Even though this is the first request for alcohol at this festival, he does not believe Council has the right to pick and choose which events would be allowed to provide alcohol. Councilman Brooks feels he is not picking and choosing different events, but he does not like that the reason they are asking this be allowed to encourage people to attend or stay at the event. Councilman Burk agreed the request should have been worded in a different manner.

Councilman Starling expressed concern about selling alcohol in the parks; Councilman Brooks said it used to be prohibited and then all of a sudden, we were adding reasons for exceptions.

Councilwoman Wilson feels it is risky because someone could go over the liquor store, buy a beer to drink and they could then be arrested.

Councilman Starling pointed out that anyone can go to this area and drink beer; but if someone goes in another area with a beer, they are going to get arrested. On the other hand, anyone that pays to be part of this beer garden is allowed to drink as much beer as they want.

Councilman Mergner noted that if beer is going to be served, then additional porta-potties will be needed; he feels they should be required to provide sufficient amenities if this is approved.

City Manager Norenberg explained there is a process for the number of porta-potties that are needed based on the estimated number of people.

Councilman Burk stated that in order to see how this shakes out, he moved to approve the alcohol waiver, seconded by Councilman Mergner, Motion carried by the following 4-3 vote:

Councilman Mergner votes yes based on previously approved events and this is a good event though he hopes hat attendees will be mature and act in a proper manner.

Councilman Campbell votes yes and agrees to give it a shot but noted that unfortunately any problem will actually need to be addressed by the police department.

Councilman Burk votes yes adding that he respects and understands everyone's opinion but if this were to set a precedence and denying it is a potential problem, he will vote yes.

Councilman Brooks does not like the sentence or idea that this will bring more people to the event and votes no.

Councilman Morrow votes yes adding he will support the Chamber and he hopes that someone else writes a better letter for future events.

Councilman Starling votes no as he has voted in the past.

Councilwoman Wilson votes no because she does not want Milford and in particular, our public areas to be associated with alcoholic beverages every time there is an event. She thinks we are sending the wrong message to the majority of people in our community. She also feels it is a form of discrimination against other people who may be in the park with a beer but can be arrested because they are on the other side of the fence. In addition, no one can control how someone behaves after they are under the influence. She feels it is a risky situation and votes no.

#### *Alcohol Waiver/Chapter 77 Alcoholic Beverages/DMI Third Thursdays*

City Manager Norenberg explained this is a different request and believes all of Council is familiar with Third Thursdays which is an event where downtown businesses stay open late. Food trucks have been brought in the park on Walnut Street and entertainment has been added (Milford High School Jazz Band). They have been trying different things to attract people downtown for this event.

There was a proposal, in conjunction with the Second Street Players, Riverfront Theater, to establish a small beer garden in the front of the theater.

The applicable Alcoholic Beverages chapter is in the codified ordinance (Chapter 77). One section states that alcoholic beverages may be sold and consumed at special events or gatherings in public places, upon application to and approval of City Council. This has not been requested by DMI but is in conjunction with their event and would be effective the third

Thursday on July 20<sup>th</sup>, August 17<sup>th</sup> and September 21<sup>st</sup>.

When questioned why DMI did not submit the request, Mr. Norenberg explained that the Riverfront Theater obtained the Gathering Permit and are partnering with some of the downtown hospitality groups. He thinks that Third Thursday is partially under the auspices of DMI but is a collaboration of various downtown businesses that are sometimes active with DMI as well as other organizations.

When questioned, Mr. Norenberg explained they will be confined to an area in front of the theater.

Councilman Mergner asked for more information adding that if Council is going to be consistent with approvals, the application must also be consistent and this has no site plan.

Mayor Shupe asked the location in the code which requires the alcohol to be consumed in a roped off area, ID's checked and some sort of identity provided to persons 21 and over.

Mr. Rutt confirmed this falls under Chapter 77 which states it is unlawful for any person to consume alcoholic beverages on any public street, alley, sidewalk, park or similar public place within the municipal boundaries; it is also unlawful to possess an open container though alcoholic beverages maybe sold and consumed at special events or gatherings in public places upon application to and approval by City Council. He is unsure we have something specific to where this will occur though he thinks it falls under this chapter.

Councilman Burk pointed out this will be on a private parcel. Mr. Rutt stated that is correct they would not be able to buy a beer and walk out on the sidewalk.

It was agreed that more information is needed before this can be approved.

Councilman Mergner asked that this matter be postponed until more detail is provided and a site plan presented, seconded by Councilman Burk. Motion carried.

#### *Authorization/IT Department/Software Purchases*

Mr. Norenberg explained that these two software packages have the potential to save staff time, improve performance and accuracy and better support the data needs of staff, City Council and the public. This memo reviews ExecuTime and Cognos 10 and he recommends purchasing both.

Councilman Burk recommends purchasing the software package, paid by the funds left over in the administrative budget allocated for the police department study as follows, seconded by Councilman Mergner:

Cognos 10 Analytics NOW (with training and professional services, license fees, etc.) \$27,340 and first year maintenance of \$3,280.

ExecuTime Time and Attendance (with training and professional services, license fees, etc.) estimated at \$31,330 and the first year maintenance of \$3,410.

Motion carried.

#### *IBEW Local Union 126 Collective Bargaining Agreement*

City Manager Norenberg explained the bargaining unit ratified the agreement after which the IBEW International President approved it.

Councilman Morrow asked if the Vacation Article mirrors what the other non-union and police union employees receive. Mr. Norenberg advised it is nearly identical and is consistent with what the other City employees receive. However, there are some provisions regarding how vacation time is chosen, when to request it and who has seniority.

For example, if there is conflict, seniority takes precedence. However, the bargaining unit does not get more favorable sick, vacation or other non-economic benefits than other City employees. In terms of health benefits, etc., it is a 'me too' clause as is in the police contract. As a result, there is nothing unique and special should we have to renegotiate an item with the teamsters or any changes in benefits as was discussed by Council during the budget process.

Councilman Campbell moved to ratify the IBEW Collective Bargaining Agreement, seconded by Councilman Starling. Motion carried.

#### EXECUTIVE SESSION

Councilman Burk then moved to go into Executive Session reference below reasons, seconded by Councilman Campbell:

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 9:59 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 Wilson. Motion carried.

City Council returned to Open Session at 10:16 p.m.

Mayor Shupe announced that no action was needed at this time 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 10:19 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder