

City of Milford



CITY COUNCIL AGENDA

Monday, August 14, 2017

7:00 P.M.

Joseph Ronnie Rogers Council Chambers
Milford City Hall, 201 South Walnut Street, Milford, Delaware

COUNCIL MEETING

Call to Order - Mayor Bryan Shupe

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition

New Staff Introductions

Tribute to Ruth Ann Beideman

Proclamation 2017-18 / Delaware Hospice 35th Anniversary

Monthly Police Report

Monthly City Manager Report

Delinquent Tax Collection Update

Monthly Finance Report

Committee & Ward Reports

Communication & Correspondence

Unfinished Business

Ethics Policy

New Business

Alcohol Waiver/Chapter 77 Alcoholic Beverages/Greater Milford Boys & Girls Club/Running of the Goat 5k

Community Garden Agreement
Airport Road/No Cost Change Order
Planning Commission/Reappointment
Board of Adjustment/Reappointment
Re-appropriate FY18 Funds/Software for the Solid Waste Division
Carlisle Fire Company Request for Building Enhancement Funds

Adjourn

All items on the agenda are subject to a potential vote.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

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MILFORD CITY COUNCIL
MINUTES OF MEETING
June 5, 2017

A meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, Delaware on Monday, June 5, 2017, to discuss the proposed Fiscal Year 2016-2017 City of Milford Budget.

PRESIDING: Mayor Bryan Shupe

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

STAFF: City Manager Eric Norenberg, Finance Director Jeff Portmann and City Clerk/Recorder Terri Hudson

Review and Discussion of Proposed City of Milford FY 2017-2018 Budget

Mayor Shupe called the Budget Review Meeting to order at 5:35 p.m.

Finance Committee Chairman Morrow announced that Council has a challenge because of the budget. He then deferred back to Mayor Shupe.

Mayor Shupe referenced the Executive Summary that indicated an additional impact possibly in January. He recommends talking about those items and how to move forward before the actual budget is discussed this evening.

City Manager Norenberg then referenced his cover memo noting that the budget, as is being presented tonight, is balanced, due to greater efficiency and the use of more resources including purchases through cooperatives, energy efficiency improvements and several equipment replacements. The City still needs to use a \$500,000 transfer from the Realty Transfer Tax Fund to pay for police officers and a \$95,000 transfer from the Economic Development fund for various projects.

At the time the various City Departments submitted their requests, the budget was approximately \$150,000 out of balance. That was due in large part to the Police Department Teamsters Contract approved this past year. At that time, it was made clear the contract would have a budgetary impact for fiscal year 2017-2018. At that point, there was no decision by Council to cover those costs though they have been working on the gap created by the police salaries and related expenses.

As a result, Mr. Norenberg explained a number of things were trimmed and a few recommended expenses delayed in order to balance the budget that is being presented this evening.

The City Manager explained we have been on a fiscal year cycle for healthcare as long as the City has been part of the State's healthcare system. The State has presently postponed any increases in healthcare costs until January 2018.

The State of Delaware has also reduced the number of healthcare plans an employee may choose from seven to four as a cost containment measure.

City Council also approved a classification compensation study last year that is nearing completion. The recommendations are expected within the next few years with some current and future costs anticipated.

Last year, Council approved an additional year (fourth year) be added to the three-year Police Contract which was nearing its completion. The fourth year begins July 1, 2017 and negotiations will begin no later than October 1, 2017 though the City Manager recommends starting this summer in order to provide a good sense of the financial impact later this year.

The City Solicitor, City Clerk and City Manager have identified some needs for a legal review and update of the City Code. He noted there are a number of items out of date and in fact, when the Charter was submitted, the State's legal counsel pointed out two areas that were incorrect because of some reconciliation issues in the past.

The contract in the amount of \$875,000 to purchase the Growmark Property for the new police station was recently signed. The next step will be the due diligence Phase I soil analysis and planning and those costs will also need to be considered.

Rather than recommend a tax increase this summer and next summer, Mr. Norenberg suggesting postponing any action until midyear and consider a one-time increase to cover the budget for the remainder of this fiscal year and next year.

He noted that the balanced budget already includes a 3% increase for non-union employees which mimics the wage increase approved in the current police contract. It also includes a number of capital equipment and repairs. A number of capital projects are shown in the budget though not prepared to move forward. Parks and Recreation Director Brad Dennehy will talk about the majority of those requests when his budget is reviewed.

Other needs that are not in the budget include Execu-time and Cognos software, renovations for the garage at the Armory as requested by parks and recreation and facility improvements at public works.

Finance Director Portmann summarized the budget stating that the budget does include a 3% increase to the general fund. Last year, the general fund actually went down 3% and this takes us to where we were in the previous year because of the increase in capital requests.

Mr. Portmann reported there are no proposed increases to water, sewer and trash services. Electric has a .44% change though overall there is a negligible impact across the board.

Councilman Brooks asked if a referendum is planned soon for the new Police Station. Police Committee Chairman Burk said a Police Committee Meeting is planned after the June 12th Council Meeting to get the most recent update.

Councilman Brooks said he wants to make sure the people want it and that they understand the impact of an approved referendum before they see that increase in taxes. Councilman Burk said he is on the same page.

Mayor Shupe said he is not convinced the only way to achieve some of the items earmarked for January is through a budget increase. He understands that healthcare is an unknown, but he feels the State will be looking at increasing their employees' premiums and something that Council may want to discuss as well. Councilman Burk agreed and referenced the comparison other municipal and county employees pay.

The Mayor is aware the City's Compensation Study is underway and no one wants to commit to the wage adjustment. However, the City continues to provide 2 to 3% increases each a year and a benefit plan that most people feel is a Cadillac plan. He recommends looking at how we are going to look at that and whether that should increase property taxes.

Councilwoman Peel echoes those sentiments and thinks if we are taxing people who are not getting a wage increase in the current budget climate, we need to consider those residents who will be paying for someone else's increase. Councilman Burk pointed out that it especially involves someone who is paying a much higher premium on their health insurance. He said his employer decided to raise the premiums and his premium is much higher than what Milford's employees pay and approximately \$560 a month for a family and Milford employees pay less than \$200.

Council pointed out that Milford has given wage increases to its employees every year and most employers have given nothing for a number of years. Councilman Morrow agreed stating that includes businesses in the private sector with Seawatch being one. He understands they need to be competitive but feels that is one area that needs to be considered because in his opinion, Milford appears to be on the rich side in comparison.

Councilman Brooks said he represents a lot of people on Social Security and they have not had a pay raise over the last four years; this year they only got 0.25 of 1% increase. Councilman Burk stated that is correct.

Councilman Brooks said with that increase, they end up bringing less home a month because Medicare was raised. He feels the citizens in the City of Milford cannot afford any tax increase considering these other issues.

Mayor Shupe and Councilman Burk both feel our residents will see a tax increase also at the State level on the school district side.

Mayor Shupe then asked if there is another way to pay for the legal review and planning and design of the new station through

cut or money paid out of general reserves to avoid a tax increase.

Councilman Campbell asked the status of the uncollected tax situation; he feels that will be a hot issue when a tax increase is presented to our residents. Mr. Norenberg explained the State Senate has a committee hearing on the City Charter this week. Prior to that, the Solicitor, City Clerk and he will be meeting tomorrow to prepare for that hearing. He believes that will proceed and he plans to keep Council posted.

Councilman Campbell expressed concern that the number of property owners who have not paid their taxes will continue to be delinquent, while others who pay on time will be required to pay any increase to make up for the deficit. Mayor Shupe agreed adding that is the reason the new Charter adoption will provide an easier way to collect taxes.

Councilman Brooks emphasized that we should never have gotten to the point that so many property owners owed the amount of taxes they did without being penalized over those years. Someone should have told Council that there was a problem with delinquent taxes over the past twenty or so years. He said that two people knew about it without either saying word.

Councilwoman Peel said it is her opinion that we frame the conversation as if we weren't going to make a tax increase to see what the options are. She prefers to look at areas that can be cut.

Councilman Burk said he is concerned moving forward especially when we go to referendum for a new police station which is going to require a tax increase. He said good luck with that though he does not believe we will get both.

Mayor Shupe noted that the school is actually having a discussion with the public about what they believe will shake out with the State's decision about putting more costs on the school districts. As a result, Council will have more information about what is going to happen there though they will not know 100%.

Councilman Burk said he was at the last Delaware League Meeting and those present were told to block out June 30th to get as many people at Legislative Hall to consider the late night budget hearings though he is unsure if strength in numbers will fix it this year.

City Manager Norenberg stated that at the League Affairs Committee this afternoon, it was indicated there are a surprising number of bills being considered that local governments needed to keep their eyes on. The June 22nd League Dinner meeting will be solely focused on budget and legislative affairs. There are some major concerns about where the State budget is going with the budget and a concern about Community Transportation Funds.

He is pleased Mayor Shupe asked to have this conversation early and the reason he wanted Council to be made aware of the issues that they will be facing and not do what the State has done in terms of postponing critical decisions.

Mayor Shupe asked if we have a ballpark figure of the five items in question. Mr. Norenberg said he can only speculate on the union matter when he discusses it later with Council during the Executive Session. The legal review is anticipated to be \$25,000 to \$35,000. Now that the contract for the site of the new Police Department is officially signed, the actual design for the site and plan for the Phase I analysis will affect future development costs.

He also provided some recommended engineering consulting firms for Chief Brown to consider.

Councilman Morrow feels we need to look at the budget with the numbers that are already in place. When these items are more urgent, they can be addressed at that time.

Mayor Shupe agrees adding he likes more options than just a tax increase. Councilman Morrow also agreed.

Mr. Norenberg is working with some other municipalities about the possibility of forming a separate consortium that could be an alternative for health care though that will take at least a year or two. He is hoping to get more information this week.

One of the other things that limits changing the premium, is language in the Police Department Collective Bargaining Agreement that says that new hires after July 1, 2012 can have increases in their healthcare costs similar to those of other

employees but only up to 15%.

Councilwoman Peel then asked about the increased cost to the pay adjustments based on the classification study that is being done. She said those are not necessarily promised and are only projected. Mr. Norenberg explained it is a market study though it is still not complete. They have looked at all the job descriptions with comparable organizations. Some of the comparability relates with private sector or non-city positions. However, they have considered all the cities in Delaware that may be comparable as well as some in Maryland and other private utilities.

The City Manager reported it is 60% completed. The job descriptions have been analyzed and benchmark data provided in relation to the electric employees only. Last year a similar study was done for the police department and one had not been done for the balance of the City employees in almost ten years. During last year's budget, there were a number of Department Heads recommending salary adjustments.

Mr. Norenberg recommended not only adjusting a few and instead felt a proper analysis was needed.

Councilmember Peel stressed that her point is that a study can be done and compared it to teachers' salaries and the disparity of what they are paid because there the money is just not available. She emphasized the need to balance that with what is actually available fiscally. She pointed out this is only a projection and recommendation, but there is no requirement to meet it in the budget.

Mr. Norenberg said that will depend on what the Councils' public policy priorities are. If the City is unable to afford it, we cannot afford it; if we want to phase it in over a period of time, that can also be considered. However, they are speculating some employees may be exactly where they need to be and some may be over and some under. The consultant will provide a full presentation within the next couple of months.

Councilman Brooks asked how often a study is needed; Mr. Norenberg said he is unsure of the benchmark but in his opinion ten years is well over the time needed for such a comparison. Councilman Brooks said he thinks a study has been done since that time. Councilman Morrow said he thought it was five years and asked the City Clerk.

Ms. Hudson confirmed the last complete citywide salary and classification study was completed and presented by Hendricks and Associates in 2008 under the direction of City Manager David Baird.

Milford Museum

Executive Director Claudia Furnish Leister submitted the following request:

Ms. Leister informed Council the museum has had more than 1,000 visitors since January and their normal visitation is about 3,000 people per year. Of the 1,000 visitors this year, fourteen have been from different states and another country (England). She feels the museum provides a wonderful opportunity to the public and believes that visitation and tourism is very important for Milford.

She feels the museum shares Milford story with new people moving to the area, with school groups and visitors. The Executive Director also noted that the building is owned by the Department of State and any repairs are paid by the State of Delaware, not the City of Milford.

She also pointed out they are a legal commission of the City. She then referenced the following written request:

During the past thirty years the Milford Museum has grown from a well-meaning amateur operated museum attracting a few hundred visitors a year to a professionally managed and widely respected cultural center for Milford. In 2016 the museum attracted over 3,000 visitors and held numerous educational events for the community.

In 2011 the Board of Directors raised funding to hire a full-time Executive Director with extensive museum background. That was the start of a steady rise in collection management, exhibit quality, community outreach and involvement. Over 11,000 items have been cataloged and preserved. Only a fraction of our historic collection can be displayed.

The current facility, although historic, is too small for the expanding collections and outreach mission of the museum. Due to the layout of the building there is no space for public gatherings or presentations and all available spaces are filled with exhibits. There are also restroom facilities that meet the standards of the Americans with Disabilities Act.

The time has come to add an addition to the current space so the museum can continue to support the community. During this past year, our local Senator and Representatives were able to obtain \$10,000 from the Bond Bill for a Feasibility Study to attach a 22 x 25-foot addition to the current building. It is understood that it may take several years before we can gather enough funds through grants and public support, however we would like to inform our donors that we have the City's support in this project.

The Board of the Milford Museum would like to request that the City increase our funding from \$26,000 to \$30,000 a year. We have been at the current level of funding for the past five years. In order not to lose our momentum we need this small increase to help support the increased costs of utilities, collections care, new exhibits, publicity, advertising, grant writing, etc. Any additional amount will assist us with the ability to move forward ensuring our relevance to a progressive Milford.

She stated that she understands this is a year not to be asking for money from neither the State nor the City. If it stays the same, she is understanding of that.

Ms. Leister invited Council to visit the museum emphasizing its importance to the City. She referenced the need for an addition to the building. Representative Harvey Kenton was able to acquire \$10,000 in funding from the State to do a feasibility study which resulted in an estimated \$400,000 to \$500,000 addition.

It was confirmed that she has not yet approached the civic organizations for funding. They are able to rent a room at Milford Public Library and Dave Kenton is allowing them to use the Century Club for meetings there though it is not the same as having people come into the building to see the exhibits.

Carlisle Fire Company

President Kevin Donovan submitted the following request:

I want to first apologize for the delayed response regarding the budgetary needs of the Carlisle Fire Company; however, I was making an honest attempt to compile the necessary information from our Company's Finance Chairperson and Treasurer to provide an accurate account to you and your constituents. Without making any additional excuses for the delayed communications, for as long as my memory serves me, I can remember the Carlisle Fire Company receiving approximately \$140,000 from the City of Milford each budget year. This funding of \$140,000 has been of great service to the department as it services a wide variety of resources within the department that is utilized internally and externally for the benefit of those we serve.

In addition to salaries and other employment costs (OECs), we utilize these funds to assist in daily operating and maintenance expenses to our current facility, emergency purchases, and to add to our current contingency as financial reserves. As the \$140,000 is an important part of the Carlisle Fire Company's budget, I would like to one day chat with you regarding a future increase to roughly \$150,000 to compensate for the cost of living increases that we have experienced over the last five years.

Again, I thank you for taking the time to reach out to me and my organization at such a time when the State and City are experiencing budgetary constraints but we are confident that we can properly utilize these funds to the benefit of the organization and the Milford community.

Mr. Norenberg offered to invite President Donovan to speak either tomorrow evening or June 12th when Council will be considering the budget.

When asked if the money provided pays for certain items or is it a contribution, Mr. Norenberg explained this is a transfer to the fire company. There are also funds collected through the building process that is equivalent to an impact fee that can be used for capital needs. Last year, approximately \$60,000 was provided to assist with their garage project. This money is used for their day to day expenses.

It was noted that since 2010, they have been given \$140,000 each year; prior to that, specific requests for items were made

that City Council approved.

Councilwoman Peel asked if the City is aware of what the money is being spent on; Mr. Norenberg referred to the email stating that *“with salaries and other employment costs making up about 70 percent of the department's budget and rising each year it is imperative that we secure these funds to provide adequate EMS/Fire coverage to the citizens within the City of Milford on a 24/7 basis around the clock.”*

Councilman Morrow said that he and Councilman Brooks recall when the City didn't charge for electric or paid their electric bill and gave them a small donation. Then it became a dollar amount donation for operations. He said then there were five or so items and recalled the City purchasing a ladder truck.

Councilwoman Peel said she can understand capital because that is tangible and we can see it. But this is vague in her opinion.

Mr. Portmann recalled the City providing a \$40,000 donation annually for a number of years. They then asked for help with some capital needs and assistance with a new truck. He recalled the City committing to \$125,000 for three years toward its cost. Some of that paid for electric and paramedics, in addition to capital items.

Councilwoman Peel asked if they have anyone with full-time positions; Mr. Portmann said paramedics. Councilman Morrow said they have four or so paramedics, a secretary and a couple dispatchers who are all full-time.

Councilwoman Peel prefers to have a salary breakdown of each job and thinks someone needs to come before Council to explain those positions and associated costs.

Councilman Burk asked how much the people that live in Carlisle's fire district who live outside the City contribute; he also asked how much it has increased over the past ten years because the fire company is now asking for an extra \$10,000 though it is for public safety.

Councilman Morrow does not feel it is paying their salaries and instead this is a donation. Councilwoman Peel said that the memo states *“In addition to salaries and other employment costs (OECs), we utilize these funds to assist in daily operating.”*

Councilwoman Peel wants more information and Councilman Morrow asked that they be here at the next meeting. Councilwoman Peel also recommends they provide information on other funding sources.

Councilman Campbell suggested they provide a report that will show where the funds are being used.

Mr. Norenberg stated that he will ask the President to attend the June 12th Council Meeting to answer those questions.

Councilman Morrow reported that they receive their money from three major funding sources—the State of Delaware, City of Milford and private donations. They may also get funding from the federal government.

Because the equipment is expensive, Councilwoman Peels understands that if it is a capital cost, but this email does not share enough information; Councilman Brooks agreed.

Revenues

Finance Director Portmann referenced the general fund capital reserves of \$720,000, which is a \$200,000 increase from previous years for general fund capital coming from the reserve account. The reserve account has about \$1.8 million and this will reduce that to a little more than \$1 million.

The items requested to be paid are:

Streets-	
Warehouse Shelving	\$25,000

Asphalt Spray-Patch Machine	\$60,000
½ Street Sweeper	\$145,000
Curb Replacement-SE 2 nd Street	\$35,000
Paving-North McColley Street	\$95,000
Total Streets-	\$510,000

Parks & Recreation-	
Riverwalk Decking	\$50,000
Irrigation @ Tony Silicato Park	\$100,000
Additional Sports Field at TS Park	\$50,000
Outdoor Volleyball at TS Park	\$10,000
Total Parks & Recreation-	\$210,000

Mr. Portmann noted that Council will see these items in the street and parks and recreation budgets.

He then referred to the \$95,000 for economic development, \$40,000 for Downtown Milford, Incorporated (DMI) which is the fifth year of a five-year contract, \$5,000 for economic development expenses and \$50,000 for the M&T parking lot improvements.

The current property rate is not increasing and remains at 46 cents. There is a slight increase in the amount collected which is mainly attributed to farmlands that were previously not taxed and are now subdivided and receiving tax bills.

The Finance Director provided a handout showing the previous prior year balances and an estimate of the next five years. He feels the funding is in decent shape as long as the State does not reduce our percentage. This year \$886,328 was received.

Police fines have not met the estimated number in recent years and were reduced to \$110,000.

The School Resource Officers' funding increased from \$150,000 to \$177,750. The State of Delaware is still paying \$150,000 and \$27,750 came in during the first year when the school paid for all three officers. The money left over was added to pay the \$177,750 needed for the actual costs of two officers.

Mr. Portmann informed Council there is no change in the tower leases, Chesapeake Gas or the CATV Franchise. Overall there is very little change in revenues.

The interdepartmental revenues were changed by 3% to reflect the overall 3% increase in wages.

In addition there is no change to the electric transfer of \$2.5 million.

Council then continued with a review of the following departments:

Planning Department

*Reduction in Salary & Wages due to utilization of Personnel \$117,490 to \$87,850.

Planner Rob Pierce explained that three-quarters of the job duties of the administrative assistant/permit technician position are related to licensing and building permits. Those costs were transferred into the enforcement/inspections budget and the reason for the decrease in the salary and benefit line items.

*Contract services reduced from \$30,000 to zero

*Legal services increased from \$15,000 to \$20,000

Mr. Pierce explained that his department has transferred money at the end of every budget year to cover the legal expenses from other line items. Because he handles the economic development duties, he does not want money transferred from the economic development fund to pay for the solicitor's review of contracts. The increase in economic development activities

and planning and zoning applications has created that need.

Councilman Morrow pointed out those fees are recovered by the developer. Mr. Pierce explained that the majority of legal and engineering services are reimbursed but not 100%.

Councilman Mergner arrived at this time.

Mr. Portmann confirmed the money goes back into the line items. When the engineering or legal services are billed, that reduces his expenses and ultimately keeps those costs down. He emphasized that 100% of those services are collected and there are a number of items paid from the budget as an expenditure and not a reimbursement.

Councilman Burk asked how much of the budgeted amount was used for training and noted that Council recently approved transferring money from training into the legal fund. Mr. Pierce explained it was transferred from the enforcement and inspection's department. Of the \$5,000 budgeted, a little more than \$3,000 was used and the reason that line item was reduced.

Most of the planning training budget was increased for additional training for the administrative assistant/permit technician and himself.

*Copier line item added-\$3,000

Mr. Pierce explained a new copier was needed for use by the planning and code/inspection departments downstairs. The individual printers/scanners will be phased out and a central unit used by all staff in an attempt to reduce costs.

Councilman Burk asked if a new copier is really needed this year; he feels that amount could be used in another area this year versus spending \$3,500 on a new copier.

City Manager Norenberg informed Council we will be leasing the copier and saving money due to the replacement of the ten-year-old copier being used by the administration. That has an extremely expensive maintenance service contract which can be eliminated. Costs will be reduced in a couple areas as a result of a State contract. The new copies will actually provide more services at the same price. In addition, cheaper paper can be used due to the old copier requiring a heavier grade.

Councilman Burk liked that idea because every time a handout is distributed, he and Councilwoman Peel cringe as a result of the high-quality paper that is used by the City.

*Software Maintenance added-\$4,000

The planning department pays one-quarter (\$3,000) for the Esri (GIS) Software Licensing Agreement and water/sewer/electric share the remaining costs. The first year, a grant covered 100% of the implementation of the Esri hardware and software. In addition, there are miscellaneous costs involving security and protection software. In previous years, the miscellaneous software update fees were paid from various budget items.

When the additional code official costs were backed out of last year's budget, there was a zero net increase in this budget the past two years.

Code Enforcement and Inspections

*Salaries & Wages decreased to \$86,950

*Contract Services added-\$72,000

Mr. Portmann reported that though 75% of the costs of the new position were added to this department, another full-time position (building inspector) was eliminated and associated services, outsourced out through a private inspection agency at an estimated cost of \$40,000. Mr. Pierce explained that instead of adding another position for the rental inspection program, he is also considering outsourcing that work at a cost of \$30,000 which is a substantial savings in comparison.

- *Training reduced from \$5,000 to \$2,000 due to lesser employees
- *Computer reduced from \$2,000 to zero
- *Demolitions reduced from \$16,000 to zero because that line item has not been used the past two years.

The Finance Director recommends that should any demolitions be needed, Mr. Pierce return to Council at that time to prevent adding it to the budget and knocking out another program that may be critical at this point.

Parks and Recreation

- *Salaries & Wages increased as a result of 3% pay increase.
- *Overtime added-\$2,500

Parks and Recreation Director Brad Dennehy explained that the Park Technician was a \$25,000 salaried position. With the restructuring that happened in his department late this past year due to the Obama salary/overtime rule, this position was changed to an hourly position. It remains at \$25,000 a year though overtime must now be paid for festivals and other events. As a result, \$2,500 was added which calculates to \$28,000 though that only applies to one person.

- *Maintenance & Repair of Building increased by \$4,000 to \$25,000

Mr. Dennehy explained the building is approximately 25 years old and when City Manager Hans Medlarz was hired, he approved roof repairs and interior painting. The exterior now needs to be painted and the HVAC unit needs replacing, In addition to several miscellaneous items including double doors. New floors are also planned for the bathrooms.

- *Advertising & Printing increased by \$2,000

The P&R Director recalled hiring a designer/consultant for a new brochure. The brochure was changed from a single black and white document to new shiny brochures that contain photos and a new logo.

- *Boys and Girls Club Rental increased from \$32,000 to \$33,000

Mr. Dennehy explained this is the last year of a five-year contract that covers the cost of using the gymnasium throughout the year. He pointed out Parks and Recreation has had a strong basketball program for many years and pointed out that three Councilmembers have children in that program.

A pool rental was included in the contract though Park and Recreation though they no longer have a swimming program.

He needs to sit down and evaluate exactly how many hours his department uses the gymnasium to determine whether it is money well spent while considering other alternatives.

Councilman Brooks recalled the City contributing \$750,000 to build the new Boys and Girls Club in addition to the land at the business park.

Councilman Burk informed Council that Mr. Dennehy told him he needed one or two new computers this year; Mr. Dennehy explained that two employees need new computers. One is a Park Superintendent who works out of one of their satellite buildings on Mill Street and is still using Carroll Jesters' laptop who retired in 2009. The same situation applies to Recreation Supervisor Keith Short. Though they normally replace one a year, this year he needs two new computers.

- *Employee Benefits increased from \$156,760 to \$176,015
- *Overall total increased from \$873,005 to \$920,135
- *Telephone increased from \$900 to \$1,500

Mr. Portmann then asked the Director to comment on the big items included in his capital request:

\$40,000 Equipment
\$210,000 Parks

Mr. Dennehy explained that the pickup truck used for snow removal, currently has 115,000 miles and needs to be replaced.

The intent is to purchase a cab and a half 3/4 ton pickup with the plow package for an estimated \$40,000.

For the last two years, there has been \$50,000 earmarked for the replacement of the Riverwalk decking. Previous City Manager Hans Medlarz had a theory about removing the boards, using a power planer on them, and reinstalling them upside down. Mr. Dennehy was never in favor of that and feels they need to be removed and replaced with an artificial type composite deck board that will last for the next twenty plus years. The project cost is between \$300,000 and \$400,000.

There was \$100,000 allocated the past two years. Another \$50,000 in FY18 will provide \$150,000. Last week, he submitted a DNREC grant that will require a matching grant of \$150,000 for a total of \$300,000. City Manager Norenberg had suggested applying for some legislative money in the amount of \$100,000 which would provide the \$400,000 needed to complete the project.

In addition to the \$50,000, Mr. Dennehy wants to develop another soccer field. He reported that the Tony Silicato Memorial Park fields are currently under utilized though that would provide an ideal location for a new field. He is requesting another \$50,000 for the new soccer field.

He also suggests a well be installed. Currently they are spending \$10,000 to irrigate the fields at the Tony Silicato Memorial Park. About \$100,000 has been spent using treated water over the past ten years and the reason he is asking to install a six-inch well. The cost of the well is \$100,000 though it would pay for itself over the next ten years.

Mr. Dennehy is also asking for \$10,000 for a middle school volleyball program. They are willing to put together a summer training camp to create a feeder program for Milford School District. A sand volleyball court would be built that would give the kids an area to play.

Councilman Brooks recommended that Mr. Dennehy ask Dennis Silicato to contribute to the projects at the Park.

When asked if additional revenues are anticipated from the additional sports field. Mr. Dennehy explained that their department has an enterprise fund worth \$100,000. Fees paid to participate in all of their programs are put into the enterprise fund that is used for the various programs.

He feels the other field could be rented out because of the number of Hispanic groups looking for a place to play soccer. One group is currently playing in the park behind the Santa Clause house downtown. The City pays \$1,500 for lawn seed which has been destroyed as a result of its constant use. He has met with them and informed them they will need to come back and reseed it. He has also given them permission to play at the old water plant.

Though the City has over 200 acres of parkland, there are not a lot of playing fields where pickup games can be played or footballs and/or frisbees thrown.

Councilman Morrow pointed out that the fields at the old Middle School are being utilized. Mr. Dennehy said that two years or so again, there were discussions that park and recreation would inherit those fields. However, he never participated in those meetings at the time and is unable to speak for the school district. If those fields become available, parks and recreation would be willing to take them over. However, there would be an increase to his budget to maintain and irrigate them. He does agree they can be offset by the fees charged to rent them out.

Councilman Mergner feels that we could partner with the school and agree to maintain them, rent them out and use those fees for maintenance costs.

Mr. Dennehy recalled the controversy surrounding the subdivision of that property and the referendum that caused many of those plans to be revoked.

An additional item he is requesting involves the use of the garage area behind the Milford Armory. Currently they store all their trucks, trailers, lawnmowers and paddle boats in the old Growmark building across the street from the police department. The building has a leaky roof and no water, sewer or electric. In addition, Growmark is planning to rent or sell the building. He is asking to use the building which has water, sewer and electric though it has no bathrooms.

The Growmark building was used by parks and recreation in exchange for maintaining their grass.

Mr. Dennehy is asking for \$25,000 to frame up some bathrooms and add air conditioning and heat. Instead of asking for \$200,000 or \$300,000 for a new storage building, he feels that a minimal investment of \$25,000 will get the Armory operational and up and running.

City Manager Norenberg reminded Council there is a party interested in using the basement of the main building though he has not yet heard back on a draft lease. In exchange of rent, they indicated they would be willing to do a lot of renovations and repairs, in addition to covering the utility costs.

In addition, there is a group interested in launching a community garden on the site north of the parking lot.

The building will need to be secured because presently only the chain-linked fence is locked to prevent entry onto the site.

Public works will also need to relocate all the spare recycling and garbage containers that are currently stored in the building parks and recreation will be inheriting.

Mr. Norenberg noted that the \$25,000 is not currently budgeted, though he had recommended Mr. Dennehy come before Council at the time the equipment needed to be moved from Growmark.

Mr. Portmann added that in addition to the expenses to update the building, there will be an ongoing annual cost of \$7,000 for water, electric, etc.

A summary of the parks and recreation requests are as follows:

\$40,000 Pickup Truck
\$50,000 Riverwalk Decking
\$50,000 Additional Soccer Field at Tony Silicato Memorial Park
\$100,000 Irrigation Well at Tony Silicato Memorial Park
\$10,000 Middle School Sand Volleyball Court
\$25,000 Armory Garage Addition of Bathrooms, Heat and Air Conditioning

Police

*Cell Phone Line item reduced from \$14,500 to \$9,500.

*Special Ops Group Expense reduced from \$7,500 to \$4,000

Mr. Portmann noted that the increase in pay is the result of the approved Teamsters Contract.

Councilman Burk asked the reason for the increase in the overtime line item from FY15-16 to the current fiscal and upcoming fiscal years; Mr. Portmann explained that special duty radar was added to overtime. The \$15,000 shown in FY15-16 was transferred to the overtime line item based on how Chief Brown chose to categorize that pay.

Councilwoman Peel referenced the \$164,000 earmarked for overtime. She said it appears to be a couple officers' salaries and asked if hiring two additional officers should be considered in lieu of paying that amount of overtime.

Chief Brown said it could reduce that number; however, the department will always have overtime. When someone is out sick or on vacation, another officer is called in and paid overtime or court time. Councilwoman Peel pointed out there are separate line items for court and standby. Chief Brown explained that court standby is different than being called in to transport prisoners for court for example.

Councilman Brooks asked what is an officer on call; Chief Brown advised that an officer is paid each day to be on call and that officer receives three hours of straight time to be available.

Councilwoman Peel asked if the officer getting paid for being on standby is also being paid. Councilman Burk asked Chief to expand on that and explain what that involves because his impression is they are unable to leave the area, etc. Chief Brown said they have to be able to respond within a half hour anytime during that 24-hour time frame when extra help is needed.

Councilwoman Peel asked if they get paid even if they are not called in; Chief Brown stated that is correct. Councilman Mergner explained they are restricted and have to stay local and available at any moment.

City Manager Norenberg explained that a lot of the items being questioned are items that have been negotiated and are included in the union contract. If Council wants them changed, that would have to be renegotiated in the next contract.

When asked if the City still pays for school crossing guards, Chief Brown stated yes. Councilwoman Peel pointed out that comparatively, it is not as much as the school resource officers.

When Councilman Mergner asked if we are still splitting the costs for the SRO officers, Chief Brown explained that the City pays for one and the school pays for two. Mr. Portmann noted that we have one more year left the current contract in which the school contributes \$150,000 toward the cost of the two officers.

Mr. Norenberg stated that is one of several contracts including DMI and the Boys and Girls Club that.

*Police Vehicles increased from \$71,600 to \$83,340

Chief Brown reported that last year, they received a good deal on the Chevy Tahoes because the two Dodge Chargers were traded at a value of approximately \$8,000. When they changed to the Chevy Tahoe, the dealer advised that the cost of those vehicles would increase \$5,000 to \$6,000 the following year though that may have occurred last year as well.

This year the dealer was only willing to give them a \$1,000 and \$2,000 trade in so instead, they opted to sell them outright. Chief Brown anticipates receiving \$5,000 to \$6,000 from an online sale.

Councilman Brooks asked if Chief Brown is still purchasing vehicles through the State; Chief Brown confirmed they are. Chief Brown is also using their Sussex County grant money to pay for the \$20,500 Taser Body Camera project annual payment as was indicated at the time of purchase.

Councilwoman Peel then confirmed that most of the salary-related items cannot be considered because they have been negotiated.

It was noted that the Parks and Recreation budget took twice as long as the police because they were asking for more than \$200,000 in additional items.

Finance and IT

*Contract Services-Tax Assessor added-\$16,100

*CAMA Tax Software added-\$7,000

Mr. Portmann noted that the only changes are the above items requested by the City Manager because the finance department is taking a more active role in this area. Prior to that, the previous City Managers were hands on with property taxes.

IT Department

*Salaries & Wages increased from \$107,310 to \$114,995

*Training increased by \$1,400

*Telephone doubled from \$300 to \$600

The salary increase is due to an additional one-day every two-week pay period for the secondary IT person. He presently works three days a week though they are trying to get him more hours which works out to only one additional day every

payroll.

Councilman Burk asked if the reason that was added is because we are worried he will leave; Mr. Portmann said that is a concern though ultimately he will replace the IT Manager when he retires. Councilman Burk feels that is a concern because he was informed of the number of hours he would be working at the time he was hired. He wants to keep our employees happy but does not believe in leaving anything on the table this year.

When asked that cost, Mr. Portmann said the associated increase is \$3,000.

Councilman Burk asked if the part-time IT person is part of the job classification study; Mr. Norenberg said we are only reviewing the full-time position which is being looked at very carefully in lieu of his impending retirement though no date has been announced yet.

Councilman Burk asked what kind of training is being provided to the part-time person; Mr. Portmann noted the increase of \$1,400 for the additional schooling that will occur this month for the first time since he was hired by Milford.

Mr. Norenberg added there is a fair amount of training and user groups our employees participate in. Most have been involved for many years and are experts in their fields. There is at least one session that both IT employees will attend to cover bases and exchange information as is required.

When asked about the increase in phones, Mr. Portmann explained that in the IT department, it is co-shared in city halls' overall building costs. Phones are now being identified by each department as will be seen in the city hall cost allocation. Overall, there are savings in the end.

*Capital Equipment increase from \$55,000 to \$63,000

This increase is due to the request for a \$35,000 AS400 Server (main server) which is replaced every five years. The old server is downgraded as a secondary server to allow them to mirror one another. The ten-year-old server will be removed.

Also included is a \$20,000 male server and an \$8,000 NAS (network-attached) server.

City Administration

*Salaries & Wages increased from \$320,220 to \$341,865

*Contract Services increased to \$25,000

Salaries increased with a personnel move from the planning department to administration though it also includes the pay increase.

The tax assessor and CAMA software line items reflect the move from administration to the finance budget.

The contract services cover the cost of the half-time intern shared with Rehoboth Beach. Mr. Norenberg reports that he will actually be hired by Rehoboth Beach and Milford will pay their share through a contract agreement.

Mr. Burk asked the benefit of the \$25,000 and whether this will save the City money. Mr. Norenberg said there are a number of projects that will be assigned to the intern. He will be helping with the strategic planning process, code updates and we may also be able to avoid contracting out some items as has been done in the past. He expects most projects will be policies and procedures as he works for both cities.

The City Manager will provide a better idea after he meets with the Rehoboth Beach City Manager on Tuesday.

Mr. Burk expressed concern we are asking our citizens to pay a tax increase and perhaps we should be asking our employees

to pay a greater share of their healthcare. On the other hand, we are bringing in an intern at a cost of \$25,000. He wants to make sure we are getting the most bang for our buck. He reiterated that everything is on the table this year. Rehoboth, in his opinion, is a completely different situation than Milford. The average income is higher and property values are higher than Milford. They also have other streams of revenues that Milford does not have. Bottom line is, Milford is not Rehoboth Beach.

Mr. Norenberg explained this is a new concept to Delaware and the first time any city has brought in the Local Government Management Fellow Program. They agreed it was best to share half the potential expenses which is much less than bringing on a full-time fellow. If successful, they can either keep the fellow for another year or bring in a new fellow. If Council does not feel it is a successful program, we thank the intern and not proceed with any additional funding.

Councilwoman Peel confirmed the 3% increase is included in this budget; she then asked if that is only proposed and not guaranteed. Mr. Norenberg reiterated it is budgeted and at the end of tomorrow night, if Council wishes to go in a different direction, that can be discussed.

Mr. Portmann explained that the police have a 3% increase in their union contract which is guaranteed though citywide it is not. Councilwoman Peel asked about incremental increases up to 3% and the cost different if 2 or 2.5% were given instead.

He stated that every 1% of the general fund is \$15,000, not including the police union contract. The total of the 3% is \$45,000 on the general fund, exclusive of the Teamsters.

The overall city administrative budget was reduced from \$721,025 to \$634,470.

Council

*City Hall Building Expense decreased from \$17,950 to \$15,000

Mr. Portmann reported that the liability insurance numbers will not be available until Wednesday because we have not received our re-bid insurance. However, there is a small increase indicated as is expected. Those numbers should be received before the final budget is adopted on June 12th.

*Christmas Decorations decreased from \$15,000 to \$10,000

*Council Expense increased from \$17,000 to \$20,000

Mr. Norenberg explained there are a variety of items paid from the council expense line item. They include Delaware League and SCAT dinner meetings, Police Chiefs' Conferences, Main Street Conferences, recognition, flowers for bereavement, SCAT, Delaware League, National League of Cities and the Kent Economic Committee annual dues. The Delaware League dues alone are \$5,000 due to the increase in our population of more than 10,000.

The Fire Company, Museum and Downtown Milford Incorporated funding was then briefly reviewed.

It was noted that the historical society has questioned why the City does not provide them the same funding as the museum receives; it was noted that the City provides that organization with some in kind benefits through lawn maintenance at Parson Thorne Mansion.

The City Manager reported that the Parks and Recreation and Public Works Directors are presently reviewing the various properties and organizations that receive support such as snow plowing and landscaping though only a couple have an actual maintenance agreement. Some will be discussed as a potential cost saving measure at a later date.

Councilwoman Peel asked when DMI plans to provide a presentation in response to the goals set by the City; Mr. Norenberg explained they are still in the process of filling the director position though he believes their intent is to relaunch the recruitment. She felt they should be here at budget time to respond as the other departments/agencies have done

Councilman Burk then referred to the \$20,000 strategic plan and asked for the City Manager to explain its value. He pointed out there are a number of other cities operating without a strategic plan.

Councilman Mergner commented that from a business standpoint the plan is huge. Councilwoman Peel agreed. Councilman Mergner explained it is the game plan and playbook in moving forward. From a City standpoint, Councilman Mergner believes it will provide a blueprint for the next several years. Councilwoman Peel added that everything will be tied into the strategic plan. Eventually evaluations will be tied in and all goals established. She was shocked the City had never had one which is a little scary in her opinion.

She explained that it had to be budgeted because no one in the City has that expertise or time to dedicate to the data collection required from the stakeholders.

City Manager Norenberg explained the resident survey and comprehensive plan will both feed into the strategic plan, in addition to other plans such as the Rivertown Rebirth. That schedule was presented to City Council in April and the contract is in place. The result will be a five-year view of where the City needs to be and how to get there, with the help of the residents, employees and Council's input.

It will also provide an opportunity for Council to answer to their constituents when asked questions about specific items that are included in the budget.

Councilwoman Peel said that though it is costly, it maintains some consistency regardless of any changes with the elected officials. She feels what is happening is happening quickly and there is a need for the City to guide it properly.

Mayor Shupe agrees there are a lot of moving parts, particularly in economic development, new business and existing businesses. This will allow the City to provide a strategy to prepare for that, infrastructure, development, finance and other essential areas.

Councilman Burk said he understands the need to the \$20,000 cost though he is willing to go through each department and pull some money to fill the gaps. He emphasized there are going to be items that people will not get. As an example, if his child wants an iPad and he does not have the money, he can't simply go to this employer and ask for more money.

Councilman Brooks then referenced the resident survey that was budgeted in this current year and asked its value. Councilman Morrow stated that it is currently underway and we have not yet received the results.

Mr. Norenberg added the postcards went out today and the surveys will be mailed next week to 1,500 random residents with a proportionate number selected from each ward. The results should be received by August or September.

Councilman Brooks asked if each survey cost \$10; the City Manager explained there is a lot of analysis required to properly compare with other Cities. Mayor Shupe explained the cost for the raw materials to be mailed is not \$10. Councilman Brooks wants to know what we are going to get out of it. He said if the one thing works, something else might not. If it doesn't work, he does not think the City should waste \$20,000.

Mr. Norenberg was asked to add the need for Carlisle Fire Company to provide their current financial information and specifically disclose their other funding sources.

It was suggested they should provide a financial report to the City on a quarterly or six-month basis.

Councilwoman Peel prefers they be present to answer the questions Council has. Mr. Norenberg said he did not ask them to be present tonight though he will ask their president to provide a more formal presentation at the June 12th meeting as Council wishes.

City Hall Cost Allocation

*Building Maintenance and Repair reduced from \$15,000 to \$9,000

*Telephone reduced from \$2,500 to zero

*Overall City Hall Allocation expenses reduced from \$51,000 to \$42,600

Mr. Portmann explained the telephone costs were allocated to the various departments as was previously discussed.

*Materials and Supplies increased from \$800 to \$2,000

Councilwoman Peel asked if we can use a more standard or recycled paper. The paper currently used is what is typically purchased for formal documents like resumes.

Mr. Norenberg believes the estimate was based on daily items such as coffee and water though he will double check.

City Council Discussion and Wrap-up

When discussing the new servers being purchased, Councilman Burk asked if even though IT is not present, are there any strategies of how to save money on those line items. Councilwoman Peel suggests not printing everything.

Councilman Burk asked if IT was asked for other alternatives during the budget meetings versus simply purchasing new equipment or how we can make it work for less. He pointed out that IT people talk in a different language.

With regard to email and the possibility of switching to Gmail, Mr. Norenberg explained that many of our systems use emails as a way of communicating and connecting and Gmail does not support that. As a result, there are certain functions like the parks and recreation registration system that sends an email. Councilwoman Peel feels that their system can be updated as well though that cannot be considered this year.

Councilman Burk is having a hard time believing the AS400 is that expensive; he uses a version at his work from 1986 and a DOS-based system and emphasized this is a \$30,000 plus piece of equipment. Mr. Portmann explained they do not want to take a chance on going down because it is the backbone of the City system. The second unit is kept until it is ten years old.

Councilman Burk feels that industry-wide, all municipalities are under the gun for budget cuts. He is sure that someone has at some point come up with a creative solution. Councilman Campbell pointed out that the AS400 is very expensive. Mr. Norenberg added that as the City of Dover upgrades their system (they use the same software), we may be able to learn from them in terms of going to Cloud.

Councilman Burk reported that someone from his department was talking to Sussex County about their new system and what they were promised versus what they got. Their salesperson led them to believe it would result in a lot less man hours though that did not happen.

Mr. Norenberg informed Council that a small bill was recently introduced that could have a huge impact on cities relative to cyber security and liability should we get hacked and personal data is stolen. That is another reason to watch what we are doing on Cloud versus using our local servers.

It was agreed to talk more about the parks and recreation capital request tomorrow night.

EXECUTIVE SESSION

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

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 7:51 p.m. for the purpose as permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Burk moved to return to Open Session, seconded by Councilmember Mergner. Motion carried.

City Council returned to Open Session at 8:12 p.m.

Councilman Burk moved to authorize the City Manager to act in accordance with what was presented in the Executive Session, seconded by Councilman Campbell. Motion carried.

ADJOURN

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

The Council Budget Review Meeting adjourned at 8:14 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 6, 2017

A meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, Delaware on Tuesday, June 6, 2017, to discuss the proposed Fiscal Year 2016-2017 City of Milford Budget.

PRESIDING: Mayor Bryan Shupe

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

STAFF: City Manager Eric Norenberg, Finance Director Jeff Portmann and City Clerk/Recorder Terri Hudson

Review and Discussion of Proposed City of Milford FY 2017-2018 Budget

Mayor Shupe called the Budget Review Meeting to order at 5:33 p.m. to discuss the second night of the budget review.

Finance Director Jeff Portmann continued the overview of the following City departments:

Customer Service

Highlights:

- *No New Requests
- *Uniform for Union Employee \$675
- *Citizen Bank Service Charge Eliminated \$6,000
- *Credit Card Processing Fee Increased (Utility Bills) \$6,000
- *Total Department Budget Unchanged

Councilman Mergner recommended shopping those credit card processing rates and pointed out they change on a regular basis.

Public Works

Finance Director Portmann explained that the Public Works Director oversees the garage, water/wastewater, trash, electric and streets who are housed at the site. There is a cost allocation among the six departments at the public works facility to pay for its operations which results in a zero net cost.

However, the largest share is the reallocation to the public works operations; the transfer to public works increased by \$25,000. The city manager noted that every department at the public works facility pays toward their operation. He confirmed the public works department has two positions--the Public Works Director and the Administrative Assistant who serve the water, sewer, trash, solid waste, recycling and engineering.

Mr. Norenberg recalled the recent reorganization of public works which will be reflected throughout those departments as noted below:

- *Reorganization increased Salary Line item from \$141,390 to \$303,420 (previously discussed)
- *Addition of City Engineer and Interns (previously discussed)
- *Engineering Line Item Reduced from \$12,000 to \$2,500
- *No Vehicles/No Repair or Labor Costs
- *Software Maintenance Costs Added \$4,425
- *Training Costs Reduced by \$2,000
- *Request for Computer (City Engineer) \$2,000
- *Office Equipment Added (Tables for Meeting Room) \$1,100
- *Capital-Equipment \$11,100

Public Works Director Mark Whitfield stated the request is for a server that will replace a five-year-old server as was recommended by City IT staff.

Water

- *Rates Remain Stable
- *Salaries & Wages Decreased Due to Reorganization
- *Wells Increased from \$80,000 to \$100,000

The Public Works Director reported that because routine maintenance and inspection of wells had been curtailed for some time, that is again on track again which created the increase. There will also be an increase in contract services as well.

He stated that Well 13 went down this week though Well 14 was being budgeted next year at a cost of approximately \$20,000. The intent is to have a refurbishment plan in lieu of an emergency situation as is now required at Well 13.

- *SCADA Maintenance & Repair Increased by \$10,000

Public Works Director Whitfield was informed by staff that there has been very little upgrades to the SCADA system. Currently there are a number of gages and hour meters that have failed and several need to be replaced. Consultants Progressive Engineering will need to be utilized more than normal as a result.

- *Pumping Power Purchase Estimated at \$10,000 less or \$240,000; Can Change due to Addition of New Water Tower
- *Debt Service Changes:
 - 2011 Bonds Paid Off (Decrease to Zero)
- *Capital-Infrastructure \$45,000

Public Works Director Whitfield explained that \$20,000 of the request is for new fencing; \$25,000 is for an altitude valve for the Southeast Tower needed to prevent variations of elevations. An altitude valve had not been installed at the Washington Tower and a change order is being prepared to add one. Fortunately there is an altitude valve at the Tenth Street Tower.

- *Transfer to Reserves \$490,320
- *Total Water Budget Unchanged \$2.7 Million

Wastewater

- *Rates Remain Stable
- *Salaries and Wages Decreased due to Reorganization
- *Kent County Wastewater Treatment Unchanged
- *Total Wastewater Budget Unchanged \$4.3 Million
- *I&I Treatment Estimated at \$475,000
- **Debt Service Changes:
 - 2011 Bonds Paid Off (Decrease to Zero)

Mr. Portmann discussed paying off a State Sewer SRF loan earlier. There is five years left though this will save \$82,000 of interest. Refinancing the 2011 Sewer Bonds saved \$210,377 which was placed in reserves. The savings from refinancing the 2011 bonds (FY18) is \$109,585. The early buyout of the 1996 Bonds saved \$76,130 and this year's normal payment would have been \$113,760.

The only additional funds needed are \$71,109 which will pay the \$580,961 due on July 1st.

By doing that, the City has eliminated \$760,000 over the next four years (FY 19, 20, 21, 22) or \$190,000 per year.

Capital-Vehicle \$60,000

Public Works Director Whitfield explained the request for a trailer-mounted sewer flusher. Last year, a truck-mounted sewer flusher was purchased for use on most of the main lines within the City and State Streets. However, there are a lot of locates in right-of-ways which requires a trailer-mounted flusher which can also be used as a backup to the main sewer flusher.

This is a versatile piece of equipment that can also be used by other Departments.

The existing unit is twenty-five years old and its pump is no longer dependable.

Capital-Infrastructure \$65,000

Mr. Whitfield explained that \$45,000 is for a grinder pump at the Silicato Pump Station. There have been a number of problems at that site with various items that were lodged. The grinder pump will resolve those issues and eliminate those emergency calls in the middle of the night.

In addition, \$20,000 is being requested for a fence at the Lighthouse Pump Station. Currently, there is concern because of no security around that station.

*Transfer to Reserves \$259,015

*Total Wastewater Budget Unchanged \$4.3 Million

Solid Waste

*Residential Rate 50-Cent Increase (Year Three)

*Budgeted Fund Balance-New Truck \$227,000 (Funded from Cash Balance)

*Salaries & Wages Reduced due to Reorganization

*Landfill Fees Reduced by \$15,000 due to Increase in Recycling

*Trash & Recycling Containers Increased to \$48,000 (\$55/each)

Public Works Director Whitfield announced that a lot of the current containers are twenty plus years old. Requests for replacement containers have increased substantially as a result of the containers cracking and breaking. The containers typically have a life of ten years. The plan is to start cycling out the older containers.

*Transfer to Public Works Increased to \$91,095 which was offset by the Wage Decrease

Mr. Portmann explained that when comparing the revenues versus expenses, the department is in the hole by \$50,000 which is the cost of the containers. The rates should not need another increase through next year because this will not be a recurring expense.

Mr. Whitfield then reported the new dual trash/recycling containers have been placed in various places throughout town. Council approved purchasing forty containers or half of what was authorized through the recycling grant; \$24,450 has been budgeted to purchase the other forty containers.

It was noted that Parks and Recreation Director Brad Dennehy had identified a number of park and public locations the containers were needed.

Councilman Burk suggesting using the good containers left over to supplement the new dual ones to prevent purchasing these and saving that money.

Mr. Norenberg noted that the plastic the containers are made from is recyclable so the City does receive some trade-in value.

Mr. Whitfield also pointed out that a portion of the \$48,000 for trash and recycling containers is for new customers.

*Capital Equipment-Trash Container Readers \$9,350

*Capital Vehicle-Automated Sideload Vehicle \$227,000 (Single Person Operation)

Mr. Whitfield reported that by July, there will be two vacancies that will not have to be filled with the purchase of this vehicle.

Garage

*No changes.

Streets

*Decrease in Salaries and Wages to \$213,000 due to Reorganization

*Increase to Public Works from \$55,240 to \$91,095

*Decrease in Snow and Ice Removal due to Past Mild Winter

*Decrease in Contract Services from \$30,000 to \$12,000

*Decrease in Engineering from \$10,000 to \$2,500

*Overall Savings

Mr. Portmann explained this department has multiple funding sources. Some items are paid from taxes, some from reserves and some streets can be paid by Municipal Street Aid.

*Capital Building-Storage Facility Shelving \$25,000

*Capital Equipment-Spray Patcher for Use on Small Pot Holes and to Seal Streets \$60,000

*Capital Vehicles-Replacement Pickup Truck & Half of the Street Sweeper whose other half was budgeted in FY17

*Capital Streets-Repaving of North Marshall, North McColley, Mispillion Streets & Shared Work at Riverwalk Plaza

Mr. Whitfield would like an attachment installed on the back of the street sweeper called a weed seeker that can be used to efficiently control weeds. The weed seeker system senses a weed is present and signals a spray nozzle to deliver a precise amount of chemical.

He pointed out that currently this is handled by employees on the back of a truck which is a safety issue.

*Municipal Street Aid-Marshall Street \$150,000

*Southeast Second Street Curb \$150,000

Electric

*New rates reflected in Electric Revenues and consistent with Prior Year.

*Salaries and Wages-no Change as of this date though Union Contract will have an Impact later this year though that will be offset by reduced Legal Services \$100,000.

*Distribution Line-Transformers in Southeast portion of City that Heat is starting to Degrade and need to be Replaced and Repainted \$350,000.

*Contract Services Smart Metering-Unexpected Expenses to Repair Meter Locations \$50,000

*Uniforms-Increased by \$5,000 to \$15,000

Mr. Whitfield explained that the increase in budget is a result of the change to ANSI-3 which contains the reflective piping. In accordance with DeDOT regulations, anyone working on or near the highways must wear clothing that is certified and meets the standard specifications for high visibility personal protective safety apparel in the United States.

*SCADA \$25,000

*No Change in \$2.5 Million Transfer.

*Estimated Cost of Power Reduced by \$300,000

*Debt Service Reduced from \$350,000 to \$192,965 as a result of the Bonds that were Refinanced in 2016.

*\$285,000 Transferred to Reserves as a result of the Bond Refinancing.

*Transfer to Reserves \$215,665

- *Capital Equipment Upgraded Meter Tester that can be Used on Any Meter \$30,000
- *Capital Equipment Small Bucket Truck for Use by City Employee; Van Used by Meter Technician \$238,00
- *Capital Projects \$50,000 Substation Testing; \$100,000 Systemwide Study; \$35,000 Refurbish 28 Lights along Riverwalk; \$53,000 Regular Repairs and Oil Testing on Delivery 1 Pump Station. Total \$238,000.

Reserves, Municipal Street Aid and Real Estate Transfer Tax Accounts

Impact Fees Funds (Future Water Towers, Sewer Pumping Station, Substation Projects)

Projected FY18 Water Balance	\$1.883 Million
Projected FY18 Sewer Balance	\$1.175 Million
Projected FY18 Electric Balance	\$561,915

Water Capital Reserves

BALANCE PRIOR YEAR	\$7,360,021
INTEREST INCOME	
DEPOSIT-FUND BALANCE	
BUDGETED TRANSFER. TO RESERVES	\$490,320
FY 16 BUDGETED CAPITAL	(\$382,656)
FY 16 CAPITAL APPROVED PROJECTS	(\$64,881)
FY 14 CAPITAL BUDGET	
FRONT STREET	
SE 2ND STREET	
SMART METERING	
AIRPORT ROAD	
BOND REDEMPTION	
BALANCE AVAILABLE	\$3,227,804

General Fund Reserves

BALANCE PRIOR YEAR	\$2,224,323
INTEREST	
DEPOSIT-FUND BALANCE	
FY16	
CEMETERY ROAD	
POLICE CAD SYSTEM	
PARKS-GOAT ISL EDUCATION PAVILION	
PARKS-GOAT ISL OVERLOOKS	
PARKS-RIVERWALK DECKING	
GOAT ISLAND CAUSEWAY REMOVAL	
POLICE UNION CONTRACT	
STREETS-DUMP TRUCK	
COUNCIL EXP. & EMPLOYEE RECOGNITION	
FY17	
STREETS-BRIDGEHAM AND LINSTONE LANE:	
STREET SWEEPER 1/2-FY17 + 1/2-FY18	
POLICE STUDY-OPERATIONS & FACILITY	
PARKS-RIVERWALK DECKING	
PARKS-FLOATING KAYAK DOCK	
PAINT CITY HALL	
BOND REDEMPTION	
FY18	
FY 18 BUDGETED CAPITAL	(\$585,000)
BALANCE	\$1,093,421

Municipal Street Aid

BALANCE OF STREET FUNDS	\$1,227,157
BALANCE OF BRIDGE FUNDS	\$78,673
INTEREST	
MUNICIPAL STREET AID GRANT	
BALANCE AVAILABLE	\$1,534,780
STREET EXPENDITURES	
NORTH MARSHALL STREET	
2016 TRUITT AVENUE	
AIRPORT ROAD	
TOTAL STREET EXPENDITURES	(\$1,450,000)
RESTRICTED FUNDS	
RESERVED FOR BRIDGE WORK	(78,673)
BALANCE	\$6,107

General Improvement Fund

BALANCE PRIOR YEAR	\$268,226
INTEREST	
STATE FUNDS-RECEIVABLE	
STATE CTF FUNDS-RECEIVED	
: BALANCE AVAILABLE	\$772,350
STREET EXPENDITURES	
NE FRONT ST-UTILITY RELOCATION	
USDA GRANT	
DNREC-CAUSEWAY	
DTF-GOAT ISLAND	
CTF-CEMETARY ROAD	
CTF-KAYAK DOCK	
CTF-AIRPORT ROAD	
DNREC-WATER & SEWER GRANTS	
TOTAL STREET EXPENDITURES	(\$324,046)
BALANCE	\$448,304
SIDEWALK FUNDS	
BALANCE AVAILABLE	\$11,998

Sewer Capital Reserves

BALANCE PRIOR YEAR	\$4,161,445
INTEREST-CD PROGRAM FEE	
DEPOSIT-FUND BALANCE	
BUDGETED TRANSFER TO RESERVES	
BOND REFINANCING SAVINGS	
TOTAL FUNDS AVAILABLE	\$4,444,460
: EXPENDITURES	
CAPITAL BUDGET FY14	
CAPITAL BUDGET FY15	
CAPITAL BUDGET FY16	
FISHER AVENUE (USDA PROJECT)	
SHAWNEE ACRES PUMP STATION	
AIRPORT ROAD	
BOND REDEMPTION	
SRF LOAN REDEMPTION	
SE 2ND STREET	
TOTAL EXPENDITURES	(\$2,394,141)
BALANCE AVAILABLE	\$2,050,319

Electric Reserves

ELECTRIC CAPITAL RESERVES	\$8,233,163
BALANCE PRIOR YEAR	
INTEREST-CD PROGRAM FEE	
DEPOSIT-FUND BALANCE	
BUDGETED TRANSFER TO RESERVES	
BOND REDEMPTION SAVINGS	
FUNDS AVAILABLE	\$8,493,828
EXPENDITURES	
BUDGETED FY 16 CAPITAL	
mc crone ENGINEERING	
AIRPORT ROAD	
SMART METERING	
TOTAL EXPENDITURES	(\$2,439,740)
BALANCE AVAILABLE	\$6,054,088

Real Estate Transfer Tax

BALANCE PRIOR YEAR	\$2,042,642
INTEREST	\$8,750
R/E TRANSFER TAX REVENUE	\$600,000
TRANSFER TO POLICE DEPT. BUDGET	\$(500,000)
BALANCE	\$2,151,392

Economic Development Fund

BALANCE PRIOR YEAR	\$350,953
SALE OF BUSINESS PARK LAND	\$100,000
DMI	
PLANNER/ECONOMIC DEVELOPER-FY17	
M & T PARKING LOT IMPROVEMENTS	
USDA RURAL ECONOMIC DEV. PLAN	
COMPREHENSIVE PLAN ASSISTANCE	
ECONOMIC DEVELOPMENT EXPENSES	
PURCHASE BUSINESS PARK LOT	
USDA RURAL TOURISM STUDY	
TOTAL EXPENDITURES	(\$206,800)
BALANCE	\$244,153

City Council Discussion and wrap-up

City Manager Norenberg recalled last night's conversation that employees' health care benefit costs may be increased as of January 1st. As of this time, the State will not make any increases during the upcoming fiscal year. Therefore, there will be no impact on the FY18 budget.

When asked if Council wished to discuss any specific items, Mayor Shupe said he would like to talk about the additional January items.

He understands there is a wage compensation study going on right now. He agrees with the intent to determine if Milford is in the market or is competitive, but does not see a need to immediately implement on January 1st, at which time the study will be presented. Instead, he feels the wage adjustments noted in the City Managers' memo should be removed from the next fiscal year.

Instead, he prefers that matter be discussed during the next budget cycle after the information is received.

Councilman Burk asked about the need for a legal review and updated City Code. He said we were talking about some

disgruntled parties and asked how imperative this is and if we are at risk of being sued over the matter.

Councilman Burk pointed out we have spent a good amount of time going through the charter and this popped up when the Charter was being reviewed at Legislative Hall; Mr. Norenberg explained that the City Clerk first discussed approximately one year ago though it was not included in the current budget. The legal counsel at the General Assembly did find a couple items that did not coincide with what was posted on line. However, that is only one example of what this review would accomplish.

Ms. Hudson explained this is would involve a legal review and thorough analysis of our code and policies. It would be conducted by one of our Code Companys' professional Codification Attorneys. The attorneys work closely to ensure the code is legally accurate, up-to-date and that it conforms to the laws in Delaware and to Federal laws and regulations. Several towns have done this and have found it very beneficial

Milford has not had a recodification since before Ms. Hudson became City Clerk in 1997.

She feels there is a need and believes this would put us ahead of the eight ball to remedy any conflicts or inconsistencies within our code that could land us in court. Presently we are unaware of specific law suits though that does not mean we may encounter something tomorrow.

Mayor Shupe asked for a ballpark figure; Ms. Hudson estimates between \$25,000 and \$35,000 based on the costs of City of Newark's review that is currently underway and was probably started a year or so ago.

Mayor Shupe asked if that is something that can be added into this year's budget and paid out of reserves. Councilman Burk said he was not familiar with the process and the reason he asked for justification. Councilman Brooks pointed out that we update the book all the time.

Mr. Portmann pointed out there are funds available in reserves if Council wishes to proceed.

When asked, Mr. Norenberg then explained the results of the classification compensation study should be presented to City Council within the next couple months based on the survey data gathered within the past six weeks.

Mayor Shupe feels that from a taxpayer's standpoint, it will be difficult to swallow a 3% raise and a wage adjustment on top of that. Councilman Burk agreed adding that is in addition to the employee's contribution percentage to health care being as low as it is.

Councilman Mergner asked if we should really review and consider some of the capital improvements; he asked if that would help. City Manager Norenberg pointed out they are paid from different funds for the most part. He personally has a hard time building a volleyball court and believes those are the type issues the public will have issues with if taxes need to be increased.

Councilman Burk agreed and Councilwoman Peel stated she is concerned with all of those things.

Mayor Shupe only wants to talk about the big budget issues that Council will be facing in January and get some consensus on where we are going.

Councilman Morrow feels that when we talk about budgets it is for a year and not a six-month budget. Some of these items do not have a price tag, but they can be considered when they come up and then added to next years' budget.

Councilwoman Peel questioned a blanket 3% employee raise and then raising taxes. Mr. Norenberg explained that the 3% raise is already built in except for the union contracts that have separate wage adjustments. They have historically been provided to the general fund and other non union employees at the same percentage as the police union negotiated. The classification and compensation study will be based on current figures and not necessarily an adjustment on top of the 3%. Instead, they would net that out and if an employee was recommended for a 4% adjustment, the 3% would be deducted to get them to the market. He is not proposing doubling up because the study was based on the numbers in May.

That will be factored in when the results are presented to City Council.

Mayor Shupe is not ready to tell the public that employees are receiving 3% and getting wage adjustments on top of that; Councilman Burk agreed.

The Mayor pointed out our residents are also going to be impacted by State and school tax increases.

City Manager Norenberg informed Council this is not a decision that needs to be made today. There is no number at this point so he recommends waiting on any decisions at the time they are presented. Councilman Morrow said that is the reason Council needs to focus on the FY18 budget tonight. He said we are not committed on any of the items including the wage study. Council voted to have it done though there was no promise to implement it nor was there a deadline.

Councilman Burk said that he agrees and Council needs time to digest it first.

Councilwoman Peel added that just because we have a wage that may be recommended does not mean it was guaranteed, particularly in a climate when most employees are not getting these things.

Councilman Burk stated the same applies to the cost of the planning and designing of the police station. He has to look hard at the reality of passing a referendum before anything is designed. Councilman Brooks agreed stating that the referendum needs to be passed before anything is done and especially before we start taking money from our residents.

Mayor Shupe said the only reason he is bringing this up is because the City will need to increase property taxes to take care of a number of these things. He wants to make it clear that these things could potentially impact the budget.

Councilman Mergner said that is the reason he is confused. He asked why are we saying this is going to create a tax increase when we don't even know some of the numbers.

Mr. Norenberg said there were a number of things identified during the budget process. When Mr. Portmann and he were working on the budget process, they were \$150,000 out of balance. A number of adjustments were made. In that category and on the next page he discussed some of the things that were removed from the budget to balance it. They felt it was best not to have a recommendation for a small tax increase this summer and then another tax adjustment next year. Two back-to-back increases would be difficult and one concern was the number of unknowns particularly with healthcare later this year. The recommendation on the wage adjustment is still unknown and between now and next summer, there should be a new police contract negotiated. That will have an impact as the most recent contract did that was recently ratified.

As a result, there will be a number of items that will impact the budget and this fiscal year. However, many of those decisions will need to be made down the road.

The City Manager explained the legal review is something that has been recommended and is a one-time cost. That can come out of reserves if Council feels it is needed. The Police Committee will meet Monday night about developing a game plan for the planning and design of the new station though there are some costs that will have to be handled this year related to Phase I and Phase II analysis that are needed during the due diligence period.

When the public becomes involved, a game plan is needed about what is being proposed.

The increase in capital requests was then discussed. Council reviewed the capital items presented by the Parks and Recreation Director in terms of wells, the volleyball court and the additional sports field. Mr. Norenberg said those items have not been fully vetted and will come back to Council for prior approval. When asked if they should be left out of the budget at this point, it was agreed to remove them.

If those items are paid from reserves, Mayor Shupe pointed out there may be other things needed this year that money could pay for, including the planning and designing of the police station or the City code review.

It was confirmed the irrigation, sports field and outdoor volleyball court would be stricken until such time a different game

plan can be considered.

The parks and recreation department also has a number of grant options that should be considered when comparing to capital requests from other departments. Finance Director Portmann confirmed this is the third year the Riverwalk item was budgeted and now stands at \$150,000.

Councilman Mergner would prefer to prioritize these items versus just throwing the items out there for a yes or no answer.

Councilman Burk recommends that Mr. Dennehy look into a partnership with the school district. There is no need to build a field if it is already there. For example, the field may have a youth soccer group on Saturday morning and an adult league at the middle school. He also prefers to use parks in the downtown area versus requiring kids to cross a highway.

Council agreed to delete the three items as was discussed.

Councilwoman Peel asked where the \$25,000 will come from to pay for the renovation of the building behind the Armory. Mr. Norenberg explained that is not included at this point though that can be pulled from reserves later.

Councilman Burk feels the priority is for some use of the Armory because the residents always ask him what is going on in that building. The building near the river where parks and recreation is currently storing their equipment is appalling in his opinion. He recommends Council go out there and look at the site where Gary Emory used to sell barbeque chicken and flowers.

Mr. Norenberg explained the \$25,000 cost will basically outfit the one end of the building that had a restroom though it was capped off and fixtures removed when they exited the facility. It only needs to be secured and plumbing and HVAC added.

As he gets closer to occupying the building, he can get a firmer quote.

Councilman Burk is not completely sold on the dual containers though he feels recycling is important. He noted the ones that are being replaced though the old ones are still capable of holding trash.

Mr. Norenberg recalled that Councilwoman Peel earlier asked that Council be provided with the list of the potential sites.

Councilman Burk agreed that they look good and a lot of residents have made positive comments about them.

Mayor Shupe said that even though we are sending the recordings to the press, he recommends we send the press release outlining the capital items that have been approved, along with the pay increase and most important, that there will be no increase in taxes. In that manner, everyone will be on the same page.

Mr. Norenberg said he really appreciates the feedback and it is very helpful when Councilmembers are involved in the budget process. He encouraged them to continue to provide feedback throughout the year.

Councilman Mergner and Councilman Burk thanked the Finance Director and City Manager for their hard work. Councilman Burk said it has been a tough year so he understands what went into this.

There being no further business, Councilman Brooks moved to adjourn the Council Meeting, seconded by Councilman Morrow. Motion carried.

The Council Budget Review Meeting was adjourned by Mayor Shupe at 7:15 p.m.

Respectfully submitted,

Terri K. Hudson, MMC

City Clerk/Recorder

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

As was requested during the budget hearings by City Council, President Donovan submitted the following information:

We would like to start by saying thank you for allowing us this opportunity to be in attendance this evening to discuss and

provide answers to any questions you may have regarding the Carlisle Fire Company request for \$140,000 in support of our operational budget for our upcoming fiscal year. We understand the on-going challenges you face providing quality services to the citizens of the community and planning for future needs while still maintaining a balanced budget.

We hope the included documents provide a clearer understanding of how the City's financial support is utilized in our budget to help offset costs for equipment purchases as well as the emergency services we provide. We want to express our appreciation for your support throughout the years and look forward to continuing an open dialogue and relationship with our city leadership.

*In partnership,
Kevin Donovan, President
Joseph Mriss, Treasurer
Marvin Sharp, Past President
Steve Ellingsworth, Past Vice President*

INCOME SOURCES TO SUPPORT OPERATIONAL BUDGET:

*City of Milford
County appropriations
State appropriations
Ambulance billing for service
Ambulance Club
Fire fund drive
Fire hall/classroom rental
Public donations*

Total Operational budget for Budget Year 2016-2017 -- \$1,252,500

AMBULANCE EXPENSES TO DATE:

*- Salaries, \$332,690
- Payroll taxes/unemployment, \$27,298
- Employee Insurance, \$17,525
- Ambulance maintenance, \$13,794
- EMS supplies, \$8,156
- Ambulance billing, \$35,900
- Fuel, \$5,000
- Savings for new ambulance, \$40,000*

TOTAL AMBULANCE EXPENSES TO DATE: \$480,363

CARLISLE FIRE COMPANY BUDGET July 1, 2016-June 30, 2017:

\$140K from the City of Milford budgeted for the following:

<i>- City utilities \$20K</i>	<i>To date: \$28,766</i>
<i>- Ambulance maintenance \$15K</i>	<i>To date: \$13,794</i>
<i>- EMS supplies \$10K</i>	<i>To date: \$8,156</i>
<i>- New ambulance purchase \$40K</i>	
<i>- Salaries, \$25K</i>	
<i>- New PPE, \$30K</i>	
<i>-Includes coats, pants, helmets, boots, gloves, nomex hoods</i>	

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

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 12, 2017

A Meeting of the City of Milford Police Committee was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, June 12, 2017.

PRESIDING: Chairman James Burk

IN ATTENDANCE: Committee Members:
Councilmembers Owen Brooks Jr. and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

Chairman Burk called the Police Committee Meeting to order at 9:13 p.m.

Update/Growmark Property Acquisition

Solicitor Rutt advised the Growmark Property Purchase Agreement has finally been signed and sealed. At this point, the City should be engaging in its due diligence.

During the 180-day due diligence period, the City can decide to terminate the agreement for any reason. Settlement is subject to the City obtaining financing and improvements by referendum approval pursuant to the Charter within eighteen months of the date of this agreement. If the eighteen-month period expires without the approval of the referendum, the satisfaction of the conditions shall no longer be a pre-requisite for the closing.

Responsibilities & Duties New Police Station /Planning and Designing

When asked about the design of the new police facility, Mayor Shupe recommended looking at the original plan designed by Redstone Architects. Chief Brown and his staff would need to determine if the plan still meets their current needs and whether changes need to be made.

Chairman Burk said they met with Dan Redstone when he was at the Police Chief's Conference in San Diego. At that time, Chief Brown made some changes to initial plans based on his current needs. Chief Brown explained there was an attempt to eliminate some of the costs. However, the costs increased so much it really made no difference.

Solicitor Rutt recommends that the Phase I Environmental Assessment be started. City Manager Norenberg stated that he has acquired the name of three potential vendors to obtain quotes from.

Chairman Burk recommends forming the proposal for the recommendation with the recent pro-police support in mind. The goal is to keep crime down and to rely heavily on that. It is also important to point out the building is way beyond its prime.

Mayor Shupe also pointed out there is correlation between public safety and economic development.

Councilwoman Wilson also suggests we reach to Bayhealth and ask for their support and feels that public safety will be instrumental to them as well. Chairman Burk noted the importance of having our facts straight to prevent the problems experienced from previous referendums and instead having one concise branding message. He recommends we partner with Ben Muldrow and have him create some flyers and other materials. Due to the amount of money involved in the project, he prefers we do this right the first time.

City Manager Norenberg noted that the resident survey contains some custom questions to elicit some feedback on the willingness to pay for facilities, etc. This will provide some objective data, in addition to safety and related issues within the community. That information can be used to shape the community engagement.

Mr. Norenberg also reminded the committee that we have a Local Government Fellow who will be working with us over the next year. He will have some fresh ideas coming right out of school and suggests that he work to help develop a community engagement strategy with Chief Brown.

Community Workshops

Chairman Burk also recommends hosting some workshops with the community similar to what was done with the Downtown River Rebirth. He would like to have Consultant Dan Redstone involved due to his wealth of knowledge.

Chief Brown feels we need to focus on a number of problems but safety issues being a priority. He referenced the number of incidents in which police officers are being attacked while at their police stations. Much more security is needed, just not for his officers and staff, but for the public in general. Right now, no one is safe in that department.

Councilman Brooks pointed out that at three o'clock in the morning, there are only four or five officers working and they are all just sitting ducks.

Chief Brown said another concern is Goat Island. He described it as a very isolated area that would make an easy handgun shot to the current parking lot.

Chairman Burk pointed out that when the new Smyrna Police Department was built, City Council eliminated the bullet proof windows in the back. Unfortunately, there is a development right behind the building adjacent to an entire hallway with windows. There was a need to later make those windows bulletproof for an additional cost of \$5,000 over the original bid.

Mayor Shupe agreed adding that we need to make sure Chief Brown has everything he needs. Chairman Burk said it is very easy for civilians to pick and choose what is needed, but his staff and the consultant are the experts and should have the final say in what is needed.

Solicitor Rutt recommended Chief Brown ask the State Police to share some of their documents considering they just built a new Troop 3 and are building a new troop on State Route 24.

Councilwoman Wilson feels that when we have these workshops, we need to take it to the people. We need to make a special effort to get this information to our residents.

Mayor Shupe also feels like we need a family who has experienced a real life situation and can tell a positive story about what Milford Police Department is capable of doing.

There being no further business, Chairman Burk adjourned the Police Committee meeting at 9:26 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

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 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 18th 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
- 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
- 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 20th 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,

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 20th, August 17th and September 21st.

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

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 6, 2017

A Meeting of the Community Affairs Committee was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, July 6, 2017.

PRESIDING: Chairperson Lisa Peel

IN ATTENDANCE: Committee Members:
Councilmembers James Burk and James Starling, Sr.

Mayor Bryan Shupe

City Manager Eric Norenberg & Deputy City Clerk Christine Crouch

Chairperson Peel called the Community Affairs Committee Meeting to order at 5:32 p.m.

Chapter 180/ Residential Rental Operating Licenses

Planning Coordinator Rob Pierce then reviewed the following memo:

AUDITING AND NOTIFICATION PROCEDURES

Staff has identified two main types of non-registration violations associated with the residential rental licensing program. These issues deal strictly with registration of properties and not code compliance concerns. Staff has developed the following procedures for identifying non-registered properties, notifying landlords of the violations and ultimately enforcing compliance with Chapter 180.

The Department has compiled a list of potential rental properties based on previous rental registrations, utility billing records, 911 addressing, billing/ mailing addresses, and field investigations that serve as a master list for the auditing measures. Registered properties would be removed from the master list and the remaining properties would be investigated and split into one of two of the following categories.

The first type includes properties that were registered the previous year and did not renew their license for the current calendar year. Under these circumstances, the following procedure would be followed;

STEP 1 – *Renewal Notices are mailed to registered properties in November or December of each year. Notices indicate that landlords must renew their license prior to January 31st to avoid penalties. See Council packet for sample Renewal Notice. This will be considered the landlord's First Notice.*

STEP 2 – *Landlords that do not register their properties by January 31st will be assessed late penalties. Violation notices will be mailed in March of each year outlining the fees due. See Council packet for sample Second Notice Letter.*

STEP 3 – *Landlords that receive the Second Notice Letter and do not register will receive a Third and Final Notice in May, requesting immediate registration of the rental property.*

STEP 4 - *If registration does not occur within 30 days of receipt of the Final Notice, license fee and accrued penalties will be transferred to City property taxes. Penalties will continue to accrue until the property is registered.*

The second type of violation includes properties that have not been registered for more than one year, including properties that have never been registered.

STEP 1 – *Staff would send property owners the First Notice Letter requesting registration of the property or proof that the property is not a rental unit. If multiple unpaid years are identified during staff research, up to the previous three years license fees will be due immediately along with the associated monthly penalties.*

STEP 2 – *For those properties that do not register within 30 days of the First Notice Letter, a Second and Final Notice will be mailed requesting immediate registration of the rental property.*

STEP 3 – *If registration does not occur within 30 days of receipt of the Final Notice, license fees and accrued penalties will be transferred to City property taxes. Penalties will accrue until the property is registered.*

Since the Department began implementing detailed auditing measures and strict enforcement of the code in 2017, staff recommends only accruing the monthly late penalties beginning with the 2017 calendar year. The steps outlined above should reconcile City records and bring most properties into compliance with the registration program during the first year of auditing. Future audits should be limited to newer violations that do not have several years of unpaid licenses and penalties.

In addition, staff has made changes to the annual license document, clearly stating that it is the owner's responsibility to renew the license upon the indicated expiration date.

These auditing and notification measures, if performed annually and enforced consistently, should minimize the overall number of unregistered rental properties.

PENALTIES AND LATE FEES

Chapter 180-5(D) of the City Code outlines the current late fee charge for the licensing program. Properties that do not register before the annual deadline will incur a penalty in the amount of \$25 per month per unit until the license fee is paid. The Code also states if license fees and penalties are not paid within 30 days of being assessed, and after notice is provided to the owner, the unpaid penalties shall be collected in the same manner and at the same time as City Taxes.

The City has the right to revoke/suspend licenses for unaddressed violations and an owner whose license has been suspended shall pay a reinstatement fee of \$100.

Chapter 180-9 outlines the violations, penalties and enforcement of the chapter. "Any property owner who shall violate any provisions of this chapter or who fails to comply with any notice or order issued by a Code Enforcement Official pursuant to the provisions of this chapter shall be guilty of violating the provisions of this chapter and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000. The minimum fine is not subject to suspension or reduction."

APPEAL PROCESS

Chapter 180 does not include an appeal process. Appeals related to property maintenance violations associated with rental properties are governed under Chapter 174 and are heard by the Board of Appeals for the City of Milford. Appeals related to the administration of the licensing program, including registration fees and late penalties, are evaluated by the Department and City Manager's office.

Currently, if there has been an error on the part of staff, a correction has been made and implemented by staff. However, if appeals are denied by the City Manager, some individuals acquiesce and others appeal that decision to the City Council.

OTHER POSSIBLE CHANGES

The Department has identified an issue regarding the transfer of ownership of rental properties. In the past, it has been determined that licenses were to be issued to property owners and not the properties themselves, therefore licenses have been deemed non-transferable. However, Chapter 180 does not clearly indicate whether a license is transferable or non-transferable with a change in property ownership. Staff recommends amending the ordinance to allow the transfer of the license to a new property owner upon payment of a \$50 administrative fee. This mainly becomes an issue with multi-unit apartment complexes that could be requested to pay the full registration fee twice in a calendar year.

Staff believes that if the purpose of the license fee is to cover the administrative costs of operating the rental registration and inspection program, charging the property twice in the same year is unjustifiable.

Another issue that was discussed at the October 10, 2016 Community Affairs Committee meeting related to the registration of properties rented to relatives of the property owner. The committee generally supported revisions that would exempt these types of rental units from the licensing program. As a result of the meeting, staff was directed to make proposed draft amendments to the Code to present to City Council for review. However, following review and consultation with the City Solicitor, the amendment was not ready before the fees were due for 2017, so staff waited to include with other revisions in preparation for 2018.

Chairperson Peel confirmed the intent of the November notice is to remind the property owner that the date is approaching to pay the annual fee. The subsequent documents are then late notices.

Mr. Pierce agreed and explained that an extra month is provided and they are actually given until January 31st to make payment, though in most cases a few days are typically tacked onto that because it takes until mid February for all the updates to be input into the system.

Chairperson Peel confirmed that is basically a grace period.

Mr. Pierce explained there were only a handful of property owners that contacted the City this year after the \$25 per month late fee was assessed. In addition, several properties were found to be rentals that have not been registered for several years. Chairperson Peel confirmed that those are the ones that are being assessed the license fee for the past three years.

Councilman Burk asked if only the license fee is being assessed and not the late fee; Mr. Pierce stated it is his plan to collect the late fees beginning in 2017. Once the data set was cleaned up after the research was done the past several months, they were comfortable assessing the monthly late fee.

When asked how many rentals have not been paid; Mr. Pierce explained that 49 letters were mailed in May for 84 units. He emphasized that is only a small percentage of that number that had never registered.

The Planning Coordinator also reminded the Committee that another 25 letters are ready to be mailed that have never been registered. He was waiting for feedback from this Committee before he officially addressed those 47 potential units.

When asked how these units are being identified, Mr. Pierce explained they are using all the City data sources including utility bills, City assessment records, 911 addressing, previous years' property owners' information, which often requires pulling manual reports to do the comparisons. In addition, there are field observations involved as well.

Chairperson Peel asked the status of a rental whose tenants are relatives; Mr. Pierce explained that if the family is occupying the unit, it is being treated as a rental as has been the case for many years. He said that has been questioned since before he was hired and recalled the one property owner that came before City Council last year with his concerns.

Mr. Pierce explained the risk involved in a relative-tenant situation is how to prove the relative is truly related to the property owner. In addition, at what levels of relationships should be considered.

Chairperson Peel believed it was spelled out; Mr. Pierce agreed Solicitor Rutt developed some language that was clear and specific.

Councilman Burk then referenced the following paragraph:

Chapter 180-9 outlines the violations, penalties and enforcement of the chapter. "Any property owner who shall violate any provisions of this chapter or who fails to comply with any notice or order issued by a Code Enforcement Official pursuant to the provisions of this chapter shall be guilty of violating the provisions of this chapter and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000. The minimum fine is not subject to suspension or reduction."

The Councilman asked if that fine would only be assessed if the property owner was taken to court. Mr. Pierce noted that stipulation is part of Chapter 180 and those fines assessed upon conviction by the court. That is in the general penalty clause found in the majority of Milford's ordinances for zoning, building code violations, etc.

Councilman Burk then questioned the language that the fine is not subject to suspension or reduction though the maximum fine would most likely not be imposed.

Reviewing the process, Mr. Pierce explained the renewal notices would be mailed, then a late notice outlining the additional fees that are being assessed would be sent. After that, a third and final notice will be mailed. Any new rentals that are found, will receive a first notice then a final notice sent by certified mail. Within thirty days of receipt of the final notice, the license fee and accrued penalties will be transferred to the property tax bill.

Mr. Pierce asked the Committee if they felt the process was fair in terms of notification, in addition to making the Committee aware of how this was handled in case there are any feedback from constituents.

Mr. Norenberg referenced the previously related conversation by City Council and the question is if the Committee is comfortable with the code that was written approximately ten years ago. At the time, Council felt the \$25 per month penalty was appropriate. The concern is whether that amount should be changed, should there be a different frequency and is the Committee open to any new suggestions. The code can then be amended accordingly.

Chairperson Peel said that in her opinion \$25 per month is fair. She feels that a significant effort was made on our part to communicate what a business-minded person who is renting properties should be aware of. She has no concerns with the way it is currently written at all and believes it should be enforced accordingly.

Chairperson Peel understands there was a lapse of when it was enforced in the past and that this year, we have the staff to address it. However, she feels this should be discussed by this Committee and does not feel it is appropriate for City Council to decide on the appeal process.

Councilman Starling agrees with Chairperson Peel and believes that \$25 per month is a fair late fee when they are notified in March and then provided another thirty days to pay the \$50 license and the \$25 fine. Mr. Pierce clarified that if they disregard that notice, a second notice is mailed in another thirty days (approximately in May). At that point, they would end up paying three months of late fees though they have already received substantial notification.

The Chairperson feels that anyone with rental properties has a responsibility to know what is required and that should be part of managing them.

Councilman Burk agrees that as a businessperson, it is their responsibility to understand the rules that apply. His only concern is whether to have an appeals process. He felt it was awkward having to vote on it in open Council session as was recently done.

The Planning Coordinator explained that a property maintenance code violation in Chapter 174 (Property Maintenance) and/or Chapter 88 (Building Construction) allows an appeal through the Board of Appeals. However, an administrative issue, such as paying a late fee, is not part of that process.

Chairperson Peel asked if there is an appeal process if an electric bill were late because she feels that is cut and dry; Mr. Pierce explained there are a number of cases, but the appeal does not warrant the refund.

Mr. Norenberg explained that Council did consider the one case and the other was mailed to Council. Both were evaluated and considered. In both situations, the City did not make a mistake. City Staff met with both landlords after which City Council reviewed the situation. The City followed the code which did not give staff the authority to waive the late fees. When the landlord asked who has the authority to waive the late fees, Mr. Norenberg explained that City Council is the one that adopts the code and the reason he went that route.

He agrees with Councilman Burk it was an uncomfortable situation airing that out publicly, but in essence the same would apply to the Community Affairs Committee.

Mr. Norenberg agrees we need a more consistent track record of how we are going to follow the code and enforce the rules. He had a conversation with our permit specialist who informed him that a number of people moving to Florida for the winter had already made payment arrangements ahead of deadline to ensure it was paid on time.

Mayor Shupe feels it is also important to have this conversation because once the new charter is signed, we are able to use the monition sales process. He pointed out that many of these owners will attempt to call the City or City Council to ask for relief. That is another reason we need to be consistent with how we handle these situations.

However, if the City had done something incorrectly, that could be considered. But where there was an error of the owner/customer, does not give the City the right to pick and choose what can be done as has been done in other situations.

Chairperson Peel feels that is the reason we have a Charter and Code of Ordinances.

She asked if there is any appeal process at this time; Mr. Norenberg reiterated that in the building and building maintenance codes, there is an appeal process. Councilman Burk stated that from what he read, the City Manager and Code Official are the ones that can override or make a separate determination. Mr. Pierce explained that in most of the codes, an appeal process involves an external board from City staff, including the City Manager, such as the Board of Appeals.

Mr. Norenberg said there may be some judgment involved in some cases, for example, if someone did not pay their utility bill for several months, we are not going to waive what they owe, but Customer Service will work with them. The Customer Service Manager is empowered, whether it is in the code or not, to work with customers who get behind on their bills to come up with a reasonable plan to get current. Those type of situations are, in essence, judgment calls on the part of City staff. But we will not just waive an amount owed to the City because that would not be fair to the rest of the customers or taxpayers who pay on time.

He agrees with Mayor Shupe that if the City makes a mistake, we will own up to it and fix it. He does not feel we need something in the code that gives us that authority.

Chairperson Peel asked if an appeal process is added, are we opening Pandora's Box and hearing from everyone attempting to get some type of waiver. She does not want to open the door which will result in Council spending the majority of time listening to these type appeals.

She emphasized that we have never had an appeal situation; now after all of these years, only two people have complained and in both cases, it was not the fault of the City.

Chairperson Peel noted that only two people complained about this process; she feels the message is clear we need to continue to charge the fee. If the message was unclear, there would be many more people complaining.

Councilman Starling feels we are handling it in the right manner; he does not feel we need an appeal process. They are being notified more than once which is sufficient notice in his opinion.

Chairperson Peel then referred to the following paragraph in the memo submitted by Mr. Pierce:

Another issue that was discussed at the October 10, 2016 Community Affairs Committee meeting related to the registration of properties rented to relatives of the property owner. The committee generally supported revisions that would exempt these types of rental units from the licensing program. As a result of the meeting, staff was directed to make proposed draft amendments to the Code to present to City Council for review. However, following review and consultation with the City Solicitor, the amendment was not ready before the fees were due for 2017, so staff waited to include with other revisions in preparation for 2018.

The proposed draft includes the additional language:

DIRECTLY RELATED TO THE OWNER – Any person who is related by blood or marriage (i.e. “in-laws”) to the following degrees of kinship: husband, wife, father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, uncle, aunt, niece, nephew.

§ 180-4. - Rental operating license required; **exceptions.**

A. No landlord shall operate a rental unit in the City unless an application has been filed and a current rental operating license has been issued for the specified rental unit for the current year.

B. Exceptions.

(1) No rental license shall be required where the owner occupies the dwelling.

(2) No fee shall be charged if the owner provides written verification satisfactory to the City that the tenants are directly related to the owner.

The Chairperson asked if the submission of a document stating the person was related was sufficient proof; Mr. Pierce stated

that makes it very difficult for him to make a determination.

Councilman Burk then pointed out it could involve a situation where the cohabitators live together but are not related and would still be considered a household. Mr. Pierce responded by stating that no license is required where the owner occupies the unit. For example, if the owner lives in the unit, with six other unrelated persons, no fee shall be charged though it can be changed.

It was noted that the relative not listed in the proposed 'direct relation to owner' definition is 'cousin'.

Chairperson Peel asked what kind of proof is required because anyone can submit a document stating their tenant was a relative. Mr. Pierce agrees that is a concern.

Councilman Burk reported that the Town of Dewey Beach requires property owners to sign an affidavit stating the unit is not a rental. He cannot guarantee people always tell the truth, but that is the risk.

Chairperson Peel asked if we can create an affidavit for property owners to opt out; Councilman Burk said he is uncomfortable defining relatives. He understands that the City Solicitor created the language, but he prefers the State Housing Authority review the definition.

When asked how many rentals this could impact, Mr. Pierce believes at least a handful.

The City Manager pointed out that the exception requires written verification satisfactory to the City. If someone submits an informal note stating the tenant is a relative, that is a judgment call which could open the City up to potential litigation. On the other hand, he agrees an affidavit can be created that must be completed if a birth certificate or some other legal document is needed for justification.

He recommends we postpone action on this and survey other cities to see how they handle something similar and what type of documentation is required.

There were several concerns expressed about the validity of claiming the tenant is a relative; Mr. Pierce then confirmed this language comes from Smyrna's code.

Chairperson Peel recommends removing (B)(2) and allow them to state the reason on the affidavit though the only other official reason is for the unit to be owner-occupied.

Mr. Pierce noted that the other amendments are minor with one changing the fee language and dollar amount to a fee schedule (previously adopted).

He also noted that the code is not clear on the transfer of licenses. If he owned a large apartment complex that has paid for each unit already this year, and it is sold in the middle of the year, there is no clarification on whether or not that license would be transferred. Mr. Pierce's noted there are some administrative expenses involved in issuing a new license though it does not have to be the full amount. He wants to change the language to allow an administrative charge of \$50 for the transfer of the license, regardless of the number of units involved at that particular address. In years past, every owner, regardless of the time of year, was required to register as a new landlord.

Mr. Pierce then concluded by stating that the family/relative issue will be removed temporarily, some administrative changes made associated with the transfer and the fee removed and the fee schedule added.

Chairperson Peel is comfortable with the language, notices, timing and the accrual of late fees, etc. She also agrees with the manner in which Mr. Pierce plans to handle the late fees of any rentals that were never properly registered.

Chairperson Peel, Councilman Burk and Councilman Starling agreed that they are in agreement with all the changes as has been discussed.

City Manager Norenberg stated a new draft with those changes will be presented to Council for introduction as a new ordinance.

There being no further business, Mr. Burk moved to adjourn the Community Affairs Committee, seconded by Mr. Starling. Motion carried.

Chairperson Peel adjourned the Committee meeting at 6:10 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 10, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, July 10, 2017.

PRESIDING: Mayor Bryan Shupe

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

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 7:00 p.m.

INVOCATION & PLEDGE

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

RECOGNITION

Milford Police Department Officer Recognition

Chief Brown introduced the Officer of the Quarter Detective Tim Maloney and provided some background stating that he was hired in July 2013 where he had been an officer in Milton. Chief Brown promoted him to Corporal in September 2016.

He stated that he has done a great job in every aspect of police work and especially as a detective. He noted there are only two detectives of which one has been out with medical issues. Detective Maloney has done a great job handling all of CI's duties during that time.

Detective Maloney also headed up the police department's team at Relay for Life.

He then presented the award to Detective Maloney and photos were requested by Chief Brown with Mayor Shupe.

Deputy City Clerk Christine Crouch

City Manager Norenberg acknowledged Deputy City Clerk Christine Crouch who has been filling in and doing an outstanding job covering her own responsibilities as well as those of the City Clerk while she has been out.

He also noted that she is away on vacation this week and returned back at 6:00 p.m. to handle this meeting. He presented her with some items to make s'mores when she returns to their camping site tonight.

MONTHLY POLICE REPORT

Police Committee Chairman Burk presented the monthly report on behalf of Chief Brown, noting they have been dealing with a number of issues and asked that Council keep them in their prayers.

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

MONTHLY CITY MANAGER REPORT

City Manager Norenberg referenced his monthly report and asked for questions.

Councilman Brooks acknowledged that Mr. Norenberg was recognized by the International City/County Management Association for thirty years of dedicated service and professional management at the local level. City Manager Norenberg was congratulated by those present. He will be provided a service award at their annual conference in San Antonio, Texas in October.

Councilman Burk moved to accept the City Manager report as submitted, seconded by Councilwoman Peel. Motion carried.

MONTHLY FINANCE REPORT

City Manager Norenberg reported that through the eleventh month of Fiscal Year 2016-2017 with 92% of the fiscal year having passed, 92% of revenues have been received and 82% of the operating budget expended.

He noted that a number of the revenue categories are coming in ahead of expected and the overall expenditures are under budget adding that our staff has done a great job of collecting revenue and trying to stay under budget.

Councilwoman Peel moved to accept the May 2017 Finance Report, seconded by Councilman Starling. Motion carried.

COMMITTEE & WARD REPORTS

Community Affairs Meeting

Community Affairs Committee Chairperson Peel discussed the Rental License Ordinance that was reviewed as was recommended at a prior Council meeting.

The appeals process was considered, but because the City does not have an appeal process for late payments in regard to any other payments or license, the Committee agreed not to recommend an appeals process. However, if the City was at fault, corrections would be made.

In addition, some updates to the code were reviewed in order for City Planner to continue following the policy outlined in the ordinance with a notification going out in November and subsequent late notices going out twice.

Mr. Norenberg clarified that a notice would be sent prior to the first of the year, January would be the grace period, with late notices being mailed in late February and a final notice in April.

One other subsequent recommendation was that when the rental license is transferred from one owner to another, rather than requiring the new owner to apply for rental licenses for each unit in an apartment building, an administrative rental license transfer fee would be charged instead. Council will see that introduction in the next couple meetings.

COMMUNICATIONS & CORRESPONDENCE

Chief Brown announced that the department lost their K9 unexpectedly a day after he became ill and lethargic on the officer's way home. He was immediately taken to Savannah Animal Hospital where emergency surgery was performed and the canine died on the operating table.

UNFINISHED BUSINESS

Alcohol Waiver/Chapter 77 Alcoholic Beverages/DMI 3rd Thursdays

Mayor Shupe recalled this event being discussed at the last meeting and involved a proposal, submitted by Downtown Milford, who in conjunction with the Second Street Players, Riverfront Theater, wanted to establish a small beer garden in the front of the theater.

Additional information was requested by City Council at that time.

Mayor Shupe followed up with them today noting that he was provided with a copy of the Gathering License application sent by the Riverfront Theater to the State of Delaware and a drawing of the plan. He asked that Council approve the waiver but because there remains some confusion over whether this would occur inside or outside, some additional paperwork will be provided if the event was outside. Delaying the approval would not permit the beer garden at the July 15th event.

City Manager Norenberg noted that part of the dilemma in the front is there are public right-of-ways on three sides. Therefore, the drawing would need to show the fencing as is submitted with other requests.

Mr. Norenberg added that he, Mayor Shupe and DMI Third Thursday Chair Peggy Reilly has been trying to get that information for the past couple weeks. He agrees that if we can get something satisfactory that will not adversely impact the public right-of-way and is compatible with the food trucks and other activities, he agrees with Mayor Shupe's recommendation.

Councilman Morrow arrived at this time.

Councilman Burk pointed out that he has been to a couple of events at the theater and has found that the adults serving the alcohol have ABC server cards and he does not believe they will allow the alcohol outside, when they are serving it inside. Therefore, he does not see an issue with it.

Councilman Campbell spoke with the Theater's Treasurer Dan Marabello who indicated he had no problem with the request.

Councilman Burk moved to approve the alcohol waiver as permitted in Chapter 77, with the stipulation that additional information is needed if the location is planned outside, seconded by Councilman Campbell. Motion carried by a 4-1 vote with Councilman Starling casting the sole dissenting vote.

NEW BUSINESS

*Introduction/Ordinance 2017-16
Susan Frketic on behalf of Faulton LLC for a Conditional Use
156/158 Mullet Run Street
Tax Map MD-16-173.00-01-03.07*

City Manager Norenberg introduced Ordinance 2017-16 stating this is a conditional use for the First Kids Academy. City Council will hold a public hearing on the ordinance at the July 24th meeting.

*Introduction/Ordinance 2017-19
Perdue Real Estate Holdings Inc. for a Conditional Use
255 N Rehoboth Boulevard
Tax Map MD-16-174.19-01-09.00*

City Manager Norenberg introduced Ordinance 2017-19 for an amended conditional use for chicken processing at the Perdue plant. Council will also hold a public hearing at the July 24th meeting.

Tax Waiver/Exemption Status – Michelle Gardner (Draper Farm)

City Manager Norenberg explained we have been going through all of our tax records to ensure they are correct. In doing so, we are making certain that every property being taxed should be taxed and vice versa.

In March and April, a number of property owners who had tax-exempt properties, were sent letters asking for proof. For example, a non-profit was required to submit the IRS non-profit certification or other documentation. In many of these cases, the City did not have any information in our files and there was no action by Council or some other legal authority.

Ms. Gardner is one of the recipients of these letters. She met and discussed the situation as was discussed. She inherited these properties from her parents and thought that the property had been tax exempt by approval of the City. After further discussion, we realized that her property would most likely qualify under the County and State farmland agricultural exemption program. Therefore, it was agreed to put this matter on hold as she proceeded with the process needed through the USDA, State of

Delaware and Kent County. She understood that if she secured those approvals, the property would continue to be tax exempt.

In late June, Ms. Gardner provided the City with paperwork from Kent County indicating she met the terms and conditions for exemption under the Farmland Assessment Act. Since the Draper Farm would have been exempt under the provisions of the Farmland Assessment Act program from the point at which the property was annexed, and the fact that our recent audit only discovered this discrepancy, but had never taxed the property nor should it be taxed (prior to rezoning or development occurring), it is recommended that the City Council approve a temporary exemption for the Draper Farm for taxes billed and due in 2016 and 2017 pending activation of the Kent County Farmland Exemption for tax year 2018.

In 2009, City Council took formal action on a number of tax exempt properties. This property was not included during that meeting though the note associated with this account referred to those minutes.

He noted that the City Clerk and Deputy City Clerk did a lot of searching for the documentation and this is the result.

Councilman Campbell asked if this is a similar situation to the Jesse Webb property; Mr. Norenberg stated it is similar with a twist. That is based on how Sussex County handles the farmland exemption program and the reason we are still working on that. There are a number of issues in each individual situation that will be reviewed by our City Solicitor.

Councilman Starling moved that City Council approve a temporary exemption for the Draper Farm for taxes billed and due in 2016 and 2017 pending activation of the Kent County Farmland Exemption for tax year 2018, seconded by Councilman Campbell. Motion carried.

Delinquent Tax Accounts Update

City Manager Norenberg submitted the following memo:

As we await the Governor's signature on Senate Bill 82 to enact our revised City Charter, we are making plans to begin collection of delinquent taxes. Since you are likely to get calls and questions, I wanted you to be aware that in accordance with the following provision in our soon-to-be-updated Charter, letters will be sent to the top ten delinquent property owners in the next week or so:

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands or tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by monition sale according to the same procedures and subject to the same rights, authority and powers as are applicable to the Counties under Chapter 87 of Title 9 of the Delaware Code, as may later be amended, replaced or relocated within the Delaware Code. Prior to commencing any action for the sale of lands and tenements, the City shall send written notice to the assessed owner providing the total balance owed and language indicating a failure to pay within 30 days may result in the commencement of legal proceedings for the sale of the assessed property.

Attached is a draft of the first such letters. You will notice it contains the provision for publishing information about the delinquencies on the City website as was requested by City Council during the retreat.

He recalled the Taxpayer Penalty and Interest Forgiveness Program Council approved last year for those property owners who became current by June 30, 2016. They also had the opportunity to pay the base fee and taxes owed while having their interest and penalties waived. A number of property owners took advantage of that.

At that same time, sixteen taxpayers entered into payment plans which allowed them to pay their taxes throughout the year a little at a time. If they completed that program by June 2017, their interest and penalties would have been waived as well. Of those sixteen, twelve were completed and four did not follow through with their agreements. Of the four, approximately \$6,000 is still owed.

Mr. Norenberg advised the total delinquencies are still at approximately \$431,000 when taxes, penalties and interested are totaled. Included in that were the two properties, Draper being one, and another that owed \$18,000 that just went through a Kent County-initiated monition sale. As a result, that amount is reduced to approximately \$400,000.

The new charter language requires a thirty-day notice before initiating legal action. The following draft letter is proposed to

be sent to those delinquent property owners:

Dear Mr. and/or Ms. Taxpayer:

As you are no doubt aware, your property taxes and/or fees/charges owed to the City of Milford are overdue and you owe the City not only back taxes/fees/charges, but penalties and/or interest. Attached is a current statement. As a result of your delinquency, other taxpayers must pay more than their fair share to support the operations of the City of Milford.

We understand that there may be extenuating circumstances for some taxpayers. That is why in 2016 we offered you and other taxpayers an opportunity to have penalties and/or interest waived if your account(s) were brought current by June 30, 2016 (or enter into a payment program). Unfortunately, you did not take advantage of that opportunity.

Accordingly, in the coming months the City will take legal action against property owners to obtain a legal judgement in order to collect the funds owed to the City. Such action would be reflected on your credit report. However, if you make full payment of amounts owed to the City (including penalties/interest) by August XX, 2017, you will avoid any further legal action related to the amounts currently due.

To make your payment, please contact the City of Milford Customer Service Office at 422-6616 or visit the Office at 119 S. Walnut Street.

Also, please be aware that the City of Milford intends to list the names, addresses and amounts owed for the most delinquent properties on the City website beginning on August XX, 2017. Anyone who owes the City more than \$6,900 in back taxes, fees, liens, penalties and interest, and has not made payment as described above by August XX, 2017 will be included on the list. Milford is a community worth investing in. Our dedicated staff provides public safety and other services that maintain and improve the quality of life for our residents and businesses. We hope you agree that these services are worth paying for and will bring your accounts current please.

Mr. Norenberg reported that there is approximately \$120,000 owed in the top ten delinquent properties, which includes one commercial property and a handful of properties that were condemned and demolished. The fees associated with the demolitions were added to the account. In addition, we are maintaining those laws and assessing \$100 each month for mowing services.

He also noted that two of the properties are in our business park and one-owner occupied home that staff is attempting to get their taxes current to prevent selling the property.

When the process is started, he hopes the word will spread. In addition, Mayor Shupe has recommended a press release be prepared.

When asked if the delinquent list will be posted in the newspaper, Mr. Norenberg recommends posting the top ten on the website once the letter is mailed.

Ethics Policy/Introductory Discussion

The City Manager noted that the new charter language includes the adoption of an Ethics Policy. During the past couple months, he has been working with the City Solicitor on a draft that would apply to City Council, City Employees and a number of Boards and Commissions that currently exist or could be appointed in the future. Eventually it will need to be on the agenda as an ordinance.

Councilman Brooks said the last time Council talked about this, City Council elected to go with the State law. Solicitor Rutt explained that Title 29 has an ethics policy that is applicable to municipalities. However, they also encourage each municipality to adopt their own. Councilman Brooks said this has been talked about at least three times and the other solicitor said he didn't have one. Councilman Brooks brought one in and showed him; then Council adopted another one.

Solicitor Rutt said he has not seen that. He explained the ethics code by statute, has to be at least as restrictive as the State Code. Therefore, it is required to be reviewed by the Public Integrity Commission before the City officially adopts it.

He has not seen another code and is unsure if it complies with State law. However, the one that has been developed meets those standards and is geared toward Milford.

There may be questions about a lot of the language though it is what the State code requires.

Currently if there was an ethics violation, it would have to go through the State Public Integrity Commission. In our City, a Milford Ethics Commission would be established. Councilman Burk asked if we need a Milford Commission. He remembers talking about it and recalled appointing another five-member body that the State already had in place. He referenced the thirteen-page document and questioned its need.

Councilman Brooks prefers going with the State code; Councilman Burk agrees.

Solicitor Rutt explained this was prepared because the charter amendment states there should be an ethics code in place. He confirmed the State code endorses each individual municipality having their own. But each municipality has the option of following the State code.

Councilman Brooks said the last time it was discussed, City Council agreed to follow the State code as was advised. He asked Councilman Morrow and Councilman Morrow said he recalled that.

Solicitor Rutt said it is here for Councils' consideration and if it wants to be introduced now or later, or not at all, that is a Council decision.

According to Councilman Brooks, it was discussed and he brought a copy and showed it to former Solicitor Tim Willard, who indicated that Milford did not have one. It was discussed and a new ethics policy was made and there were things added to it. But he thinks they keep disappearing.

City Manager Norenberg stated that with all due respect, it did come up and was considered by the Charter Review Committee so there is language in the new charter that states the Mayor and City Council shall develop and adopt a Code of Ethics applying to elected officials and city employees in general. This document is one option though we can continue to look for the missing code as determine whether or not it complies with State law.

Councilman Burk asked if we would still adhere to the charter if we adopted the State's code. Councilman Morrow recalled that the new language allowed us to follow the State code or create a new one for Milford.

Councilman Burk feels we have enough problems filling the vacancies on the Planning Commission and now we are going to find five more people for an ethics board.

Solicitor Rutt said it could be reduced to three members. Councilman Burk feels we do not need one. He sees of a lot of duplication of efforts lately which is very frustrating to him.

Solicitor Rutt explained there is a lot of information in the proposed code that deals specifically with the City. For example, the following definitions:

“Official” means any elected or appointed official of the City, including all members of any committee, commission or board appointed by the Mayor or City Council by virtue of their powers and authority pursuant to the Charter and/or Code of the City of Milford, or an act of the General Assembly or Constitution of the State of Delaware, and including the members of the Ethics Committee established in this Code and the City Manager, Chief of Police, Department Head, or other person authorized to represent the City in an official capacity.

“Political Candidate” means any person who is a candidate or nominee to be an official of the City, any person who has been identified officially as a prospective nominee, and any person who is openly considering becoming a candidate to become an official at the next City election.

The conflicts of interest are geared more toward City-activity as opposed to State-activity. He recommends that be considered when this decision is made.

Councilman Brooks asked if a new one should be created though the City would continue to use the State Ethics Commission; Solicitor Rutt reiterated the State code prefers each municipality have their own ethics commission if their own code is created. Solicitor Rutt said he is willing to ask them if they would still be willing to hear the violations on behalf of the City.

Mayor Shupe recommends we track down the specific document that Councilman Brooks has referenced. Councilman Burk asked that more research be done before it is put on another agenda.

City Manager Norenberg recommends it be added to the next agenda for more discussion in two weeks. In the meantime, we will do some research in hopes of answering the questions brought forth tonight.

Councilman Morrow confirmed that Council adopted an ethics policy in the past.

Councilman Campbell asked why the previous ethics policies disappeared adding that is a concern.

Councilman Burk said it would have to be in the minutes if it had been adopted.

EXECUTIVE SESSION

Councilman Burk moved to go into Executive Session reference below reason, seconded by Councilwoman Peel:

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 7:43 p.m. for the purpose of an Executive Session as permitted by Delaware's Freedom of Information Act.

RETURN TO OPEN SESSION

Councilman Burk moved to return to Open Session, seconded by Councilman Morrow. Motion carried.

The Open Session resumed at 8:02 p.m.

No action was needed as a result of the Executive Session.

ADJOURN

The Council Meeting was adjourned by Mayor Shupe at 8:03 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 24, 2017

Milford City Council held Public Hearings on Monday, July 24, 2017 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Christopher Mergner, Arthur Campbell, Lisa Peel, Jamie Burk,
Owen Brooks Jr, Douglas Morrow, James Starling Sr. 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 7:00 p.m.

ORDINANCE 2017-16

Susan Frketic of Kids First Academy on behalf of Faulton LLC for a Conditional Use to allow a public, private or professional school on 2.00+/- acres in a BP (Business Park) Zoning District. Property is located on the south side of Mullet Run Street, 550.1 feet west of Hickman Door Way and Mullet Run Street Intersection; 156/158 Mullet Run Street, Milford, Delaware. Present Use: Warehouse & Office; Proposed Use: Warehouse and Private School. Tax Map MD-16-173.00-01-03.07.

City Planning Coordinator Pierce advised that properties within 200 feet of the site were notified of the public hearing in addition to its publication in the Milford Beacon on May 24, 2017.

He reported that the property was originally approved in 2003 for office space and warehouse space.

The applicant proposes to convert the existing 2,400 square foot office and 6,000 square feet of warehouse into a private school. The proposed school would serve pre-kindergarten through 12th grade and have approximately 35 students. The school will employ five instructors and one administrator. Hours of operation will be 7:00 a.m. through 5:30 p.m.. The location would offer a before/after school care program. The area behind the existing warehouse space would be used as an outdoor recreation/play area for the students.

Chapter 230-19 states “public, private or professional schools” are conditional uses within the Business Park zoning district.

Mr. Pierce shared that the existing site does not meet the minimum parking criteria found in the Zoning Ordinance and additional parking needs to be provided. The applicant has already received approval from the State Fire Marshal Office for a re-stripping plan to accommodate the required number of parking spaces.

Under the proposed re-stripping plan, it would meet the parking and loading standards in Chapter 230. It is noted that all parking must be contained on the site and no parking will be permitted along Mullet Run or the adjoining properties.

The site meets the established setback requirements and there will be no anticipated adverse impacts due to the lack of screening.

The Planning Commission recommended unanimous approval at their June meeting with the following conditions:

- * The parking lot must be re-striped to add eight spaces;
- * A building permit from the City must be obtained for the interior renovations and the change in use, which will require a commercial plumbing permit from the Division of Public Health and approval from the State Fire Marshal’s Office;
- * Hours of operation will be Monday through Friday from 7:00 a.m. to 5:30 p.m.;
- * Fencing must be installed around the proposed play area within one year of opening.

It was confirmed the business on the right is a storage accessory building with two vacant bays for the contractor's office which is located to the left.

Councilman Mergner expressed concern about the safety of the students in comparison to the business park environment. Planning Coordinator Pierce reiterated the fencing requirements and suggested the applicant address the interim plan for recreational purposes.

Councilwoman Peel then asked the applicant if they are required to follow the playground structure under the Office of Childcare Licensing. Solicitor Rutt asked that response be postponed and be made part of her testimony record.

Principal Sue Frketic then addressed Council stating that she wanted to personally thank Mr. Pierce for all the hard work he has done in the past couple months to help get this approval.

Principal Frketic confirmed they are not operating under the Office of Childcare Licensing.

Councilman Brooks said he looked at the site today and it is a big area and asked if the fence will be installed before the one-year. Principal Frketic explained that they will install it as soon as possible but right now they are focusing on the interior renovations. A portion of the warehouse would then be used as an indoor recreation area. They are currently at the Boys and Girls Club and have a very good working relationship with them and are able to use their playground as well.

Solicitor Rutt then asked the Principal to explain the plan versus relying on what the City Planning Coordinator reported.

Ms. Frketic commented that Kids First Academy started in 2009 as a part-time tutoring service and has grown steadily from a home-school into a private school to meet the needs in this area. They cater to a number of children that struggle in public schools and larger classrooms. They have been looking for a site for approximately five years and accommodate students from pre-kindergarten through 12th grade.

This was started at Ms. Frketic's home, then moved to Lincoln Community Center for a couple years. They continued to grow and found that facility was not large enough. They then went to the Boys and Girls Club, but found a need to have their own place. Financially it has been a strain to find something in the Milford area that they could afford.

Mayor Shupe then opened the floor to public comment.

Billy Baker, the father of a student that attends the Kids First Academy, then spoke. He stated that as Principal Frketic mentioned, the public school system was too much for his daughter. This provided an avenue for her to receive a quality education in comparison to her maturity level and grade, and she has successfully adapted to the structure and atmosphere of the private setting.

She had been in another private school that did not work out as well. Kids First Academy has been a big advantage to his daughter's education and has resulted in a positive outcome for many other students as well.

Councilwoman Wilson asked how many students are currently enrolled; Principal Frketic stated she has been receiving calls from other interested parents but was waiting on the outcome of this hearing before she was able to confirm there would be enough space to accept additional students.

There being no further public comments, Mayor Shupe closed the floor to public comment on the conditional use for Kids First Academy.

Councilman Burk then moved to adopt Ordinance 2017-16 authorizing the conditional use for Susan Frketic of Kids First Academy on behalf of Faulton LLC for a Conditional Use to allow a private or professional school in a Business Park Zoning District at 156/158 Mullet Run Street, Milford, Delaware, seconded by Councilwoman Wilson.

Motion carried by the following 8-0 roll call vote:

Councilman Mergner stated he votes to approve based on the Planning Commission's recommendation.

Councilman Campbell approves the Planning Commission's recommendation as noted.

Councilwoman Peel approves the motion based on the Planning Commission's recommendation and mainly because there will plenty of regulations that will fall under the governing restrictions with schools.

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

Councilman Brooks votes yes based on the Planning Commission and going there today and looking at the area.

Councilman Morrow votes yes based on the Planning Commission and the need for this type of education in our school district.

Councilman Starling votes yes based on the need for additional educational facilities for certain students.

Councilwoman Wilson votes yes and likes the idea of an alternative educational facility versus public schools and also based on the Planning Commission's recommendation.

ORDINANCE 2017-19

Perdue Real Estate Holdings Inc. for a Conditional Use to allow chicken processing on 24.70+/- acres in an I2 (General Industrial) Zoning District. Property is located on the east side of N Rehoboth Blvd., 1,130 feet north of NE Front Street intersection; 255 N Rehoboth Blvd., Milford, Delaware. Present Use: Poultry Processing Plant; Proposed Use: Same. Tax Map MD-16-174.19-01-09.00

City Planning Coordinator Pierce reported that this is an amendment to Perdue's original conditional use for a meat and poultry processing plant. All properties within 200 feet were notified of the public notice which was published in the Milford Beacon on June 28, 2017.

The applicant proposes to construct a 1,890 square foot trailer wash enclosure, a 13,630 square foot live receiving addition and a 1,044 square foot sanitation supply room as indicated on the site plan. A meat processing, chicken processing or seafood processing operation is a conditional use under Chapter 230-17.

The proposed trailer wash enclosure and the live receiving addition do not meet the setback requirements of 50 feet set forth in the zoning code. As a result, the applicant was required to obtain a variance from the Board of Adjustment for these encroachments. The application was approved at the July 13, 2017 Board of Adjustment hearing.

The proposed improvements do not impact current parking and traffic control for the site. As mentioned, a variance was approved for two proposed encroachments into the rear property setback. There is an existing fence and vegetative screen located along the eastern property line separating the existing facility from the adjacent agricultural use. The applicant has stated that the proposed live receiving facility, referred to as a controlled atmosphere stunning addition, will serve to enclose the unloading operation which should reduce current noise and dust impacts on neighboring properties.

The Planning Commission approved the final site plan contingent upon Council's approval of the conditional use amendment and recommended unanimous approval at their July 18, 2017 hearing.

When asked more information about the trailer washer station, Mr. Pierce explained that once they unload the poultry, the truck and cages are sanitized prior to moving onto the next farm to gather more chickens in an effort to reduce the spread of disease. There is currently an on-site treatment facility that will be adjacent to the new addition so that the wastewater would enter into their pre-treatment program before being discharged into the City/County wastewater system.

Perdue Director of Operations Dean Walston was present. He stated that Mr. Pierce was very eloquent in describing the trailer wash process. Poultry is brought to Milford from Maryland, Delaware and Virginia and avian influenza has received a lot of attention from a disease standpoint. A lot of states they travel in have established strict biosecurity and sanitation standards.

As a result, every trailer that leaves the Milford Plant must have a certificate that states it has been commercially cleaned and

sanitized. This is a reaction to some of the influenza that has been found in the United States over the past several years. It is a contingent step for their business because they are in multiple states.

Mr. Walston also advised that Perdue's equipment needs to be the cleanest on the shore and that is what this trailer-wash facility will allow.

Because this will be enclosed, that wastewater will be captured and the solids removed from the site by a waste hauler; the water is then captured and goes through the normal pre-treatment system before it is released into the City/County system under their current permit guidelines.

When asked if the State Board of Health regulates the operation, Mr. Walston explained the various State Veterinarians actually stop the equipment on the road. For example, the State of Pennsylvania may stop a load going to a farm and request to see the certificate which is followed up by feedback to Perdue. Both the Delaware State Veterinarian and the Pennsylvania Veterinarian have actually monitored the process.

Councilman Mergner asked if the Milford Plant has this process today; Mr. Walston advised there is a washing system that is used for the cages inside the building. He feels it is not done as well as they would like and during the winter, because it is in the open air, it tends to freeze. As a result, some is done inside and some is done outside.

The new structure will be enclosed primarily because of the temperature.

Mr. Walston advised there is no other wash station on the Eastern Shore like the one they are proposing.

He stated that the second piece of the process is the automation of the process in the CAS (Central Authentication Service) building. The process they are proposing will be manual and involves hoses and people. The process will include the transition to an automated controlled atmosphere stunning. Once the equipment is removed from the trailer, the trailer will be washed by the driver inside a building. All of the components of transport will go through an automated process and when it comes out the other end, it will go back on the truck and no human intervention will be needed at that point. However, that transition is approximately two years down the road.

Mr. Walston added that about a year ago, Perdue made an animal care commitment to the world that they will be a leader in animal care. With that, they publicly announced a number of things they were going to do. The controlled atmosphere stunning is a technique used heavily in Europe and in their turkey operation in Indiana. That was one of their commitments and an attribute that their customers and consumers will look for.

He is pleased that Milford was chosen and last week, Jim Perdue told the national media that he is excited that the Milford facility will be the first to pilot the controlled atmosphere stunning technology. This will be the first phase of a \$17 million investment in the company.

Councilman Campbell asked if these additions will create more jobs; Mr. Walston stated that the wash station initially will create twelve to fourteen additional positions. As they automate, that will change.

He feels that the attribute they are going to add by improving their animal welfare position is going to make their brand, facility and the products they produce more valuable. In turn, that means more hours for the business and their associates and provides an opportunity to grow in the future.

Mayor Shupe then opened the floor to public comment; no one responded; the Mayor then closed the floor.

Councilman Morrow moved to adopt Ordinance 2017-19 authorizing an amendment to the conditional use for Perdue Real Estate Holdings Incorporated to allow poultry processing at 255 N Rehoboth Blvd., Milford, Delaware, seconded by Councilwoman Wilson.

Motion carried by the following unanimous 8-0 vote:

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

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

Councilwoman Peel votes yes based on the Planning Commission's recommendation.

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

Councilman Brooks votes yes based on the Planning Commission and the City Manager showing him exactly where it is going to be located.

Councilman Morrow votes yes based on the Planning Commission's recommendation and the improvements Perdue is bringing to the community.

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

Councilwoman Wilson votes yes based on the Planning Commission's recommendation in addition to the enhancement of their facilities and the benefits to Milford.

There being no further business, the Public Hearing was adjourned by Mayor Shupe at 7:30 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 24, 2017

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, July 24, 2017

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Christopher Mergner, Arthur Campbell, Lisa Peel, Jamie Burk,
Owen Brooks Jr, Douglas Morrow, James Starling Sr. 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 7:31 p.m.

RECOGNITION

Milford Police Department Promotion

Officer John Collins was present to be recognized for a promotion. Chief Brown advised Council that Officer Collins started in Milford in March 2014 after working at Milton Police Department. He was promoted in April 2015 to PFC and tonight is being recognized for his promotion to Corporal effective June 1, 2017.

COMMUNICATIONS AND CORRESPONDENCE

Wastewater Issues

City Manager Norenberg referenced a two-page document submitted by Steve Ellingsworth, Assistant Supervisor for Water and Sewer Plant Operations, describing two jobs that had to be done on weekends in July:

On Saturday, July 15, 2017 at 4:30 A.M., I responded to an alarm for flooding on the basement (1st) floor of Washington Street pump station. A Maxi fit coupling had come loose on a 12" discharge line causing waste fluid to pour into the basement when the pumps kicked on. I called Clean Delaware to assist in pumping the wastewater out of the first floor so it would not reach the second floor and destroy motors on that floor. I also called in Vince Waydellis, Shawn O'Neil, and Bill Hughes to help out. We brought in a bypass pump and hooked up outside to bypass the pump station. We had trouble finding an 8x6 fitting to connect the bypass hose but after making several phone calls we found one at Blair Road Supply in Selbyville. I also call Wayne Brennaman and Erik Retzlaff to help me out, knowing Mr. Retzlaff did the engineering work and Mr. Brennaman was the inspector when this pump station was refurbished about three years ago. They were a big help in controlling what could have been a major problem. It was a long, hot, busy day for all. Everyone worked together well and we had no major issues we could not handle. Once again, I would like to thank the following people that were involved in the activities.

Marvin Millman – Kent County Treatment Plant

Bill Bradley – Town of Georgetown

Rodney Marvel – Sussex County

Kevin Reichold - HD Supply

A special Thanks to Tony DiBuo of Blair Road Supply in Selbyville who had the part we needed.

On Sunday, July 23, 2017, we were called to Washington Street pump station because the pump stop working. We put in another pump supplied by Godwin Pumps of New Jersey. A big thanks to Dale Bracken of Godwin Pumps for his assistance.

What we found was the screen had plugged up with rags and other unmentionables. The pump had run all night and ran out of fuel. We cleaned the screen several times that day.

Erik Retzlaff is assisting in getting a company to come in and repair the pipe and clean up/grease pumps in order to get the station back up and running.

The City Manager hopes to find some educational materials and create an information campaign that other Cities have used to educate people on 'what not to flush or put down the drain' because of the problems we are encountering and the purchase of expensive equipment needed to address such items.

Councilman Burk recommended contacting Kent County Environmental Program Manager Jim Newton for related materials.

Mount Enon Annual Conference

Councilwoman Wilson confirmed that Mayor Shupe and City Manager Norenberg received an invitation to the Mount Enon Conference on Wednesday that she plans to attend.

Mayor Shupe said he has a family conflict but City Manager Norenberg will be filling in for him and provide the welcome address.

UNFINISHED BUSINESS

Ethics Policy

City Manager Norenberg recalled the charter requirement that was adopted included language on an Ethics Code. A draft was presented at the last meeting at which time there was a question of using the State Ethics Commission to oversee sanctions, investigations, appeals, etc. for any concerns that were raised under the Ethics Policy. Solicitor Rutt's firm did some research and found that would not be possible under the rules of the Public Integrity Commission. If Milford has their own policy, Milford needs to establish their own commission to oversee these matters.

Solicitor Rutt stated there was a decision on the same issue that involved the Public Integrity Commission who informed the City of Newark they would not have jurisdiction.

Councilman Brooks stated that at least three times he has received the Code of Ethics even if we can't find it. He did some research and found a Code of Ethics from 1984 though it was later decided we would follow the State code.

He asked Councilman Morrow if he recalled that and Councilman Morrow agreed.

Mayor Shupe said the issue is whether or not the current Council wants to create their own commission or continue to use the State's Commission. We are required to have some education and training to ensure we are up to date with the proper knowledge of the State of Delaware's ethics.

Councilman Campbell feels that the new draft pertains specifically to the City of Milford and believes that is more appropriate.

Councilman Burk asked if there is anyway we can compare the two documents and suggested including both documents in the packet. Solicitor Rutt said he has a copy but anyone can look at Title 29 Chapter 58 of the Delaware Code which can be found on line.

Councilman Brooks feels the State has trained professionals whereby Milford will only have volunteers who are hard to get for other boards. He prefers having someone that deals with ethics to be trained versus someone that only has a little knowledge. He prefers a professional interrogate him because they know what they are doing.

Councilman Burk pointed out we have enough trouble filling vacancies on the Planning Commission as he discussed before.

He emphasized that is a group that meets on a regular basis and he does not anticipate this body would meet regularly. He also asked how experienced they would be if they are appointed and agrees there is more experience at the State level if they are doing it on a regular basis versus someone that is called upon every ten years or so.

Solicitor Rutt explained the Public Integrity Commission has one or two appointees, but the majority are chosen from the general public.

Councilman Burk noted that there is much more experience on the State level, versus the Milford level, which is a concern even though he is not opposed to an policy.

Solicitor Rutt noted that he recommended a commission of five, but that could be reduced to three if Council prefers. That was only an arbitrary number, though it needs to be an odd number.

According to Councilman Brooks, you have to investigate the person, then explain the reason you voted. He said it takes a lot of time to investigate a problem and not just a fifteen-minute hearing.

Councilman Burk feels that it would be difficult for a City the size of Milford to have an impartial body.

Councilman Morrow referenced a typo on Section 120-4(e) Gifts and Favors where an employee or official should not accept anything in excess of \$50 though it appears to be \$50,000. Councilman Brooks emphasized that Council should not accept any gifts.

City Manager Norenberg stated that in addition to the two documents being added to the packet, he recommends Council look up the Delaware Public Integrity Commission to look at their members. Two are attorneys and other members are on boards, employed or involved in nonprofits. He believes that because they are not all experts, they do have a fair amount of training.

The matter will be discussed again at the August 14th meeting.

Service Club Sign Display Concept Design

Mr. Norenberg recalled a few weeks ago Council discussed some possible locations for a collection of service club signs in our community. At that time, it was agreed they would need to be placed at the northeast corner of Front and Walnut Streets where some old fencing exists.

After discussing it with Public Works and Parks and Recreation, it was decided there would be too much clutter at that corner.

He referenced a photo in the packet of a small grassy area between the current Police Department and the Kent County Pumping Station on Northeast Front Street. It faces north and though State Route (SR) 14 is currently busy, once the overpass is added and the Streetscapes Project completed in the next couple of years, it will become a real gateway into the downtown area.

Samples of other welcome/service signs in other cities were also included in the packet.

Councilman Mergner does not have a preference and trusts the staff's judgment. The only concern he has is to make sure the sign will hold up and not need to be replaced in two to three years.

Mayor Shupe added that a number of the civic organizations have offered to assist with the funding.

Councilwoman Wilson feels the more we can add the better; however, we will not be able to include all of them. In comparison, she prefers the Laramie's service club sign as is shown in the packet.

Milford Community Parade/Utility Bill Insert

The City Manager recalled that for a number of years, the City has included a flyer in our utility bills asking for financial

support of the Milford Community Parade. The price to add the inserts is \$730 though for another \$20, something can be added to the back. The flyer is designed so that the bottom can be torn off and returned with the donation.

Mr. Norenberg is suggesting we add a back page with updated information about the City's utility plan to install smart meters for electric and water customers. There would be no pertinent information on the bottom that our customers will need when they submit their donation with the tear-off.

Councilman Mergner suggested that because this is prime electric bill time due to higher bills as a result of the hot weather, perhaps another time could be considered next year. He recommends possibly November (after the parade) or March or when electric costs are lower based on usage. He feels that may result in more contributions for the parade.

Councilwoman Wilson moved to authorize using discretionary funding needed for our Customer Service Department to print, add the parade inserts and collect the donations, to include the smart metering information on the reverse side, seconded by Councilman Starling. Motion carried.

Downtown Milford Inc./Riverwalk Farmers Market/Alcohol Vendor

Mr. Norenberg referenced the following addendum to the original request for an alcohol waiver at the Riverwalk Farmer's Market:

TO: City of Milford
FROM: Downtown Milford, Incorporated - Riverwalk Farmer's Market Committee
DATE: July 10, 2017
SUBJECT: Addendum to Special Event Permit

The Riverwalk Farmer's Market would like to accept Harvest Ridge Winery, a local winery, to our farmer's market. They make excellent wines from local grapes and obtain their fruit from local sources whenever possible. Their business model stays within the theme of our own Riverwalk Farmer's Market where we like to promote local farmers and local homemade product vendors. They would provide samples of their product to attendees; which will include wine and cider. Vendors like this have started participating in local farmers' markets throughout the state and have helped the farmer's market to expand. The winery and Riverwalk Farmer's Market will adhere to all state laws, and Downtown Milford, Inc. would hold the gathering license. The Riverwalk Farmer's Market is requesting that this vendor be added to the Special Event Permit and be able to participate in the market.

Councilman Burk expressed concern that Council has to approve alcohol waivers with every vendor; Mr. Norenberg explained it is required by an ordinance.

Councilman Burk asked if this will only be approved for Harvest Ridge Winery; Mr. Norenberg recommended a motion to authorize up to three or five alcohol vendors to display in the Farmer's Market if he wished. Councilman Burk said he does not want to have to go through the procedure every time some other alcohol vendor decides they want to do the same thing the following week.

Councilman Burk has a hard time with a limit on the number of vendors who can sell alcohol. He does not want the Farmer's Market to turn it into a liquor store. He is recommending one vendor per event per week, but he also does not want to go through this each time there is a different brewery or winery.

Councilman Burk moved to approve the request to allow one featured alcohol vendor per week at the Farmer's Market for the remainder of the season, seconded by Councilwoman Peel. Motion carried by a vote of 7-1 with one dissenting vote by Councilman Starling. Councilwoman Wilson stated she was hesitant but will approve for the benefit of the Farmer's Market.

Transportation Alternatives Program (TAP) Design/Funding/NE & NW Front Street

Planning Coordinator Pierce recalled that in December 2016, the City submitted an application to the State of Delaware, Department of Transportation (DelDOT) for Transportation Alternatives Program (TAP) funding for bicycle and pedestrian

improvements along Northeast and Northwest Front Street between Route 113 and Rehoboth Boulevard. This would involve the area that was not part of the Streetscapes Project that occurred in the past.

The proposed project would include new sidewalks and curbing, multi-use paths, landscaping and bump-outs where necessary, bicycle facilities, crosswalks, potential elimination of shoulders in some areas and traffic calming techniques as vehicles enter into the City from the east and west.

Though the specifics have not been developed, the TAP program would fund the concept design and 80% of the final design and construction phases. Each project cannot exceed \$1 million in construction costs. That means the improvements could be broken into multiple phases. We will have a better idea once the design is completed and a cost estimate provided.

The final design phase could take up to eighteen months to complete, putting the start of construction and the need for the 20% construction match into the Fall of 2019.

Mr. Pierce would like to proceed with the application process with the City allocating \$30,000 out of the economic development fund to cover the 20% design match. Once the plans come back, a decision can be made on which portions of the project to fund.

DelDOT has been working with the City and actually brought this to our attention because SR 14 is scheduled for a paving project. They are trying to delay that and speed up the TAP application so they will coincide and the road can be resurfaced along with other right-of-way improvements.

It was confirmed the City has final authorization on the design.

Councilman Mergner moved to proceed with the conceptual design phase for the project area and authorize \$30,000 from the Economic Development Fund to start the process, seconded by Councilwoman Peel. Motion carried.

Adoption/Fiscal Year 2018 Tax Warrant

In accordance with the City Charter requirements, Councilman Brooks moved to adopt the FY18 Tax Warrant, seconded by Councilman Burk:

GREETINGS:

The Charter of the City of Milford provides the following:

"Article VII, Section 7.12: Attached to said tax list shall be a warrant, under the Seal of the City of Milford, Signed by the Mayor and Attested to by the City Clerk, commanding the City Manager to make collection of Taxes as stated in the Tax Lists."

THEREFORE, YOU, THE CITY MANAGER, DULY APPOINTED BY THE COUNCIL OF THE CITY OF MILFORD, ARE HEREBY COMMANDED TO COLLECT THE TAXES AS LEVIED IN THE FOUR WARDS, AS FOLLOWS:

Assessed Per Billing Register	\$1,061,148,804.00
Exemptions	[\$222,104,400.00]
TOTAL ASSESSED VALUE	\$839,044,404.00
	x.0046
ESTIMATED TAX PER PROPERTY VALUES	\$3,859,604.26
Senior Citizen Discount	[\$31,648.00]
TOTAL TAXABLE (Fiscal Year 2017-2018)	\$3,827,956.26

Due Date: September 30, 2017

Motion carried.

Solicitor Rutt said as he reported, the City Charter has been approved and there was an issue regarding past delinquent taxes. The charter now allows for the monition process. In addition, there were two house bills passed that allow municipalities the flexibility to add any maintenance, upkeep fees, etc. to the tax bill. It also has a provision that if the City proceeds with the sale, anyone interested in purchasing has to certify to the sheriff they do not own any properties on which taxes are owed. It requires them to be fiscally responsible in order to purchase the properties.

He explained this will allow municipalities to add properties that are not generating taxes back on the tax rolls and purchased by fiscally responsibly buyers.

Ratify/Purchase of Police Vehicles

In accordance with the City Charter, Mr. Norenberg explained the minimum amount requiring formal bidding and approval by City Council has gone up to \$50,000. Two 2016 Police Tahoes were included in the budget to replace two older vehicles and the total purchase is \$64,587.58.

Councilman Burk moved to approve the purchase of the two 2016 Tahoes for approximately \$64,587.58, seconded by Councilman Campbell. Motion carried.

EXECUTIVE SESSION

Councilman Burk moved to go into Executive Session reference below reason, seconded by Councilwoman Peel:

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

Motion carried.

Mayor Shupe recessed the Council Meeting at 8:13 p.m. for the purpose of an Executive Session as permitted by Delaware's Freedom of Information Act.

RETURN TO OPEN SESSION

City Council returned to Open Session at 8:23 p.m.

Police Chief Employment Agreement

City Solicitor explained there was a discussion in the Executive Session and he is going to make a suggestion motion if Council is so compelled. The motion would be for an adjustment of the compensation package to Chief Brown, retroactive to January 1, 2017, in accordance with the recommendation of Mayor Shupe in Executive Session.

Councilman Burk moved on the motion as recommended by the City Solicitor, seconded by Councilman Campbell. Motion carried.

ADJOURN

The Council Meeting was adjourned by Mayor Shupe at 8:25.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Transcriber

City of Milford



TRIBUTE

RECOGNIZING RUTH ANN BEIDEMAN

WHEREAS, It is incumbent upon the City of Milford to recognize and acknowledge those people in our midst that have made outstanding contributions to our citizens and our community; and

WHEREAS, One such outstanding person deserving of recognition is Ruth Ann Beideman for her many years of service to Milford's seniors and all of Sussex County's senior citizens; and

WHEREAS, The willingness of Ms. Beideman to assist senior citizens in and around Milford has significantly raised the quality of life for senior citizens in our community and thus, strengthened and enriched all of Milford; and

WHEREAS, Ms. Beideman has served as the Community Outreach Coordinator at the Milford Senior Center for many years; and

WHEREAS, Since 2016 Ms. Beideman has been the Chairperson of the Sussex County Advisory Committee on Aging and Adults with Physical Disabilities.

NOW, THEREFORE, BE IT RESOLVED, that I, Bryan W. Shupe, Mayor of the City of Milford, take this opportunity to thank and extend the appreciation of the City Council and a grateful Milford community to Ms. Ruth Ann Beideman for her many years of assisting seniors in and around the City of Milford.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 14th day of August in the Year of Our Lord, Two Thousand Seventeen.

Mayor Bryan W. Shupe

Attest:

Christine R. Crouch, Acting City Clerk

City of Milford



PROCLAMATION 2017-18

DELAWARE HOSPICE 35TH ANNIVERSARY

WHEREAS, Delaware Hospice was founded in 1982 by Delawareans for Delawareans; and

WHEREAS, As the only not-for-profit hospice in the state, Delaware Hospice has maintained their mission of providing the highest quality hospice care to the communities it serves; and

WHEREAS, Professional and compassionate hospice staff and volunteers, including physicians, nurses, social workers, therapist and clergy, provide comprehensive care and attend to the particular needs and wishes of each patient; and

WHEREAS, Family members also receive counseling and bereavement care that help them cope with the loss of their loved one; and

WHEREAS, Delaware Hospice, through their numerous programs and services, support almost 10,000 people each year with the support of the community through donations and volunteer hours; and

WHEREAS, Delaware Hospice is an active member of the National Hospice and Palliative Care Organization (NHPCO) and a recipient of the voluntary accreditation from the Joint Commission; and

WHEREAS, Milford is honored to have Delaware Hospice in our community.

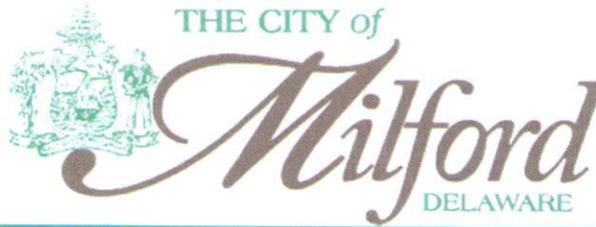
NOW, THEREFORE, I, Bryan W. Shupe, Mayor of the City of Milford, do hereby congratulate Delaware Hospice on their 35th Anniversary and thank them for providing the highest quality hospice services, resources, support and education to Milford residents and all families of Delaware.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 14th day of August in the Year of Our Lord, Two Thousand Seventeen.

Mayor Bryan W. Shupe

Attest:

Christine R. Crouch, Acting City Clerk



OFFICE OF THE CHIEF OF POLICE
 KENNETH L. BROWN
 kenneth.brown@cj.state.de.us

400 NE Front Street
 Milford Delaware 19963
 302.422.8081 Fax 302.424.2330

TO: Mayor and Members of City Council
 FROM: Kenneth L. Brown, Chief of Police *(KLB)*
 DATE: August 8, 2017
 RE: Activity Report/Jul 2017

Monthly Stats:

A total of 480 arrests were made by the Milford Police Department during July 2017. Of these arrests, 176 were for criminal offenses and 304 for traffic violations. Criminal offenses consisted of 14 felonies and 162 misdemeanors. Traffic violations consisted of 58 Special Duty Radar, 5 Drunk-Driving charges, 241 other.

Police officers investigated 79 accidents during the month and issued 86 written reprimands. In addition, they responded to 1190 various complaints including city requests and other agency assistance.

Monthly Activities:

One officer attended the NASRO Conference held in Washington DC.

SRO:

Sgt. Masten and Pfc. Stanton participated in a 3-day information session at Nemours Healthcare. Unit spent a large amount of time finalizing plans for the August 1st Night Out.

K9 Unit:

For the month of Jul 2017 the Milford Police Department K9 unit had the following stats:

- Utilized 9
- Drugs 0
- Crowds 1
- Assist Other Agencies 1
- Building Searches 0
- Deployed as Precaution 0
- Area Search 1
- Article Search 0

- Bite Apprehensions 0
- No Bite Apprehensions 2
- Tracks 2
- Demo 3
- Foot Patrols 0
- Drug Sniff 1
- Open Door 0

<u>Seized Items</u>	<u>Amount</u>	<u>Value</u>
• Marijuana	33 grams	
• Heroin	0	
• Cocaine	0	
• Crack	0	
• Methamphetamine	0	
• Hashish	0	
• Pills	0	
• Currency	0	
• Gun	0	
• Vehicles	0	
• Other	0	

JUL 2017 ACTIVITY REPORT

	JUL 2017	TOTAL 2017	JUL 2016	TOTAL 2016
COMPLAINTS	1190	8241	1398	8782
CRIMINAL ARRESTS	176	986	163	1216
Felonies	14	150	39	355
Misdemeanors	162	831	124	861
TRAFFIC ARRESTS	304	2676	492	2944
Special Duty Radar	58	664	105	845
D.W.I.	5	30	4	31
Other	241	1982	383	2099
REPRIMANDS	86	761	181	832
ACCIDENTS	79	364	67	386
Fatal	0	0	0	2
PARKING SUMMONS	9	100	10	47
CRIME PREV. CHECKS	9	176	59	216
FINES RECEIVED	\$ 10,109.78	\$ 61,967.57	\$ 10,143.34	\$ 52,312.36

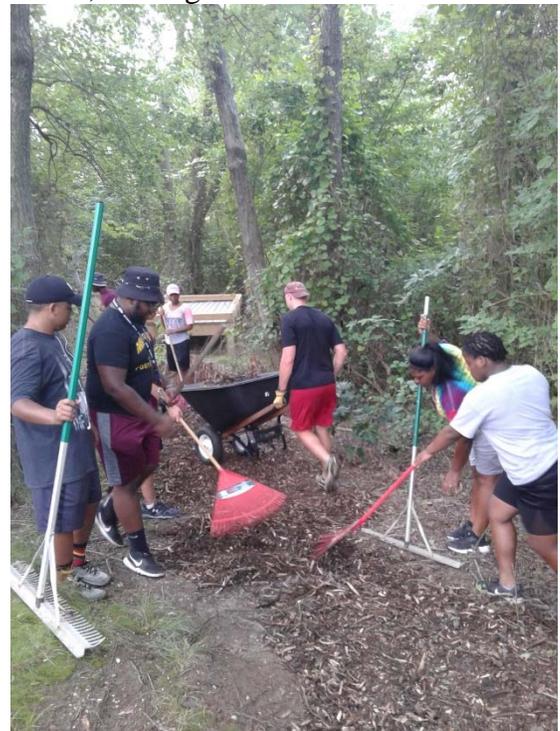


City Manager's Report August 14, 2017

ADMINISTRATION

Parks & Recreation

- There have been on-going issues with homeless individuals in the parks which prompted a meeting with different departments and agencies to strategize how to assist this population.
- Staff met with the Electric Division to begin planning lighting in the park for night practices.
- Staff coordinated with Milford School District and their leadership S.W.E.A.T program to have a number of student leaders volunteer to spread wood chips on the trail at Goat Island. This is a “win-win” situation for our P&R as we get wood chips donated by a local tree cutting company and then the students spread them. Some of these students are former participants in our programs and some of them have never been on Goat Island, so we get to showcase that as well. P&R is truly grateful for their time and effort.
- The Fall Brochure was finalized and sent to the printer. Fall registration is scheduled for August 12 onsite at the P&R office and begins the same day online.
- Summer Programs:
 - Tennis Clinic-Session II was cancelled due to low registration. We are finding that during the summer break we are competing with a wide variety of other programs offered in the surrounding areas.
 - Summer Playground Day Camp-Grew in participation from 50-60 participants to 60-70 this year.



- Kiddie Kamp-Almost 20 participants this year.
- Field Hockey Camp-A former Milford student ran the camp, however due to her accepting and out of state job, we will be looking for a new coordinator.



FINANCE DEPARTMENT

Customer Service Division

Accounts Billed for the Month	
Residential Service	5902
Small General Service	740
Medium General Service	347
Contract Services	3
Large General Service	6
General Service Primary	13
City Accounts	49
Lights: Street/Security	183
Total	7,243

Payments Processed	
Cash	\$141,419.84
Check	\$2,552,421.70
Money Orders	\$9,530.94
Direct Deposit	\$733,164.59
Credit Card (Utilities)	\$103,812.35
Online Credit Card (Utilities)	\$259,216.57
Online Credit Card (Taxes)	\$514.29
Online E-Check (Utilities)	\$82,905.92
Online E-Check (Taxes)	\$2,588.58
City Accounts	\$44,490.50
Total	\$3,930,065.28

Payment Plan/Delinquent/New Accounts/Terminated Accounts	
Payment Plans Arranged	222
Sent to Collections	29
Delinquent Notices Mailed	1,758
Disconnect for Non-Payment	57
Accounts Not Re-Connected	4
Door Tags (requesting customer contact us)	0
Final Bills Mailed	41
New Services Set Up	0
Services Terminated	0
Total	2,111

- The new electric rates have created some minor issues that we have worked through.
- The Tax Assessor performed quarterly assessments for April through June and we are preparing the interim and annual tax bills.
- The DeVisser tax credits have been applied to affected tax accounts and we have mailed those customers letting them know they will receive a credit on their tax invoice.
- We have received many calls regarding the solid waste schedule that was implemented in June and continue to assist customers with the adjustment.

Information Technology Division

Issues Addressed	
Administration/Council	10
Customer Service	12
Finance	4
Parks & Recreation	2
Planning	5
Police	0
Public Works	33
Information Technology	23
Vendor/3 rd Party	15
Total	104

PLANNING DEPARTMENT

Code Enforcement & Licensing Division

Case Activity	
New Cases	16
Closed Cases	17
Open at Start of Month	264
Open at End of Month	263

Case Violations	
Abandoned Vehicle	0
Dangerous Tree	6
Furniture	0
Generic	1
Property Maintenance	2
Rubbish/Garbage	3
Weeds & Grass	4
Zoning Use	0
Total	16

Inspections & Licensing	
Rental Inspections Performed	0
Rental Licenses Issued	7
Vendor Licenses Issued	1
Contractors Licenses Issued	17

Building Inspections & Permitting Division

Building Permits Issued	
Commercial Foundation	0
Commercial New Construction	6
Demolition	1
Residential New Construction	12
Residential Renovation/Accessory Structure	3
Roof/Siding	5
Solar Panels	2
Utility (Electric/Water)	5
Total	34

Planning & Zoning Division

- Several project, including Milford Plaza, Crop Production Services, KP Realty Holdings LLC (Dunkin Donuts), and Gator & Associates are awaiting final construction plan approval from the Public Works Department and the City’s engineering consultant before scheduling the site plans for final approval with the Planning Commission. Building construction cannot commence until final approval is issued.
- The Planning Commission met on July 18 to review the amended conditional use and final site plan for the Perdue controlled atmosphere stunning (CAS) expansion project. The application was approved by City Council on July 24.
- The Board of Adjustment met on July 13 and approved two setback variances associated with the aforementioned Perdue application.
- Staff met with the Strong Neighborhood Housing Fund (SNHF) development team to discuss the use of grant funds awarded to the group from the Delaware State Housing Authority (DSHA). The team consists of the Milford Housing Development Corporation (MHDC), John DiTommaso, Kevin Craig and Dan Bond. The partnership intends to create 10 new homeownership opportunities through new construction, demolition of existing blighted properties and redevelopment of other vacant parcels in a concentrated area within the

Downtown Development District (DDD). Area of opportunity is located in the 4th Ward, targeting the blocks around West Street, Front Street, North Street, NW Second Street and N Church Street.

Economic Development Division

- The City has seen a committed investment of \$3,636,292.00 within the Downtown Development District (DDD) area since September 2016 (based on permit valuations from submitted applications). The State of Delaware has committed or awarded over \$575,000.00 in grant funds for both large and small commercial and residential projects in Milford. The City has waived \$26,855.64 in permit fees associated with these projects in accordance with Chapter 19- Economic Development and Redevelopment and DDD program guidelines.

PUBLIC WORKS DEPARTMENT

Electric Division

Power Outages	14
Poles Replaces (due to age, rot or damage)	0
Closed Work Orders	6
Trouble Service Calls	23
After Hours Calls	20
New Electric Service Installed	4
Preventative Maintenance/Trees Trimmed	7
Miss Utility Locates	235

- Three poles and ground rods for the smart metering collectors were installed and crews ran antenna wires to DEL1, DEL2, and the Tap Station. They also helped contractor from Silver Springs install the collectors at these locations.
- Representatives from AMP and Silver Springs provided training regarding setting up, testing, and trouble-shooting the Field Service Units and the Communication Testers. Rick Carmean, Jenn Anderson, Timmy Barnett, Steve Zeveney, and Chris Hitchens were all in attendance.
- Crews changed arrestors and repaired the transformer at the City’s Solar Project on Airport Rd. Damage was likely due to a lightning strike in the area from storms.
- Jeremiah Curry attended LTAP #3 training in Culpepper, VA to continue his education and work towards obtaining his Journeyman/Lineman Certification.

Engineering Division

- Due to a failed pipe coupling at Washington Street Wastewater Pump Station, crews spent a considerable amount of time performing repairs, facilitating temporary operations, and cleaning the station once repaired.
- Well 13 BAC T has twice failed its testing and is yet to be up and running.
- Construction of the Southeast Regional Pump Station has begun.

Public Service Division

Bulk Pick Ups	53
Brush Collections	4
Additional Trash Container	12
Additional Recycle Container	14

Additional Yard Waste Container	14
Change Container Size	7
Damaged/Replaced Container	13

- A fund extension has been requested from DNREC for the Dual Container Grant. We are seeking a matching grant for \$25,000 from the Healthy America Grant.
- Conducted weed spraying of curb throughout the town.
- Removed and installed new base in parking lot behind Touch of Italy.
- Removed old trash cans downtown and in the parks.
- Airport Road project is up and running. Two phases have been completed.

MONTHLY DIVERSION CHART NOT PROVIDED.

**CITY OF MILFORD
FUND BALANCES REPORT**

Date: JUNE 2017

Cash Balance - General Fund Bank Balance	\$2,610,184
Cash Balance - Electric Fund Bank Balance	\$3,419,190
Cash Balance - Water Fund Bank Balance	\$1,295,791
Cash Balance - Sewer Fund Bank Balance	\$327,027
Cash Balance - Trash Fund Bank Balance	\$346,502

	<u>General Improvement</u>	<u>Municipal Street Aid</u>	<u>Real Estate Transfer Tax</u>	<u>Economic Development Fund</u>
Beginning Cash Balance	318,140	1,305,518	1,963,745	350,758
Deposits			47,155	
Interest Earned this Month	121	749	1,130	
Disbursements this Month	(107,355)		(41,667)	
Investments				
Ending Cash Balance	\$210,906	\$1,306,267	\$1,970,363	\$350,758

	<u>GF Capital Reserves</u>	<u>Water Capital Reserves</u>	<u>Sewer Capital Reserves</u>	<u>Electric Reserves</u>
Beginning Cash Balance	2,036,090	7,046,127	3,923,085	8,236,727
Deposits	50,000	317,730	289,725	
Interest Earned this Month	1,043	4,714	2,295	4,538
Disbursements this Month	(30,704)	(1,479)	(538,602)	(198,400)
Investments				
Ending Cash Balance	\$2,056,429	\$7,367,092	\$3,676,503	\$8,042,865

	<u>Water Impact Fee</u>	<u>Sewer Impact Fee</u>	<u>Electric Impact Fee</u>
Beginning Cash Balance	\$1,663,927	1,056,778	487,265
Deposits	19,958	10,548	9,000
Interest Earned this Month			
Disbursements this Month			
Investments			
Ending Cash Balance	\$1,683,885	\$1,067,326	\$496,265

INTEREST THROUGH THE TWELTH MONTH OF THE FISCAL YEAR:

General Fund	21,866	Water Fund	8,594
GF Capital Reserves	13,644	Water Capital Reserves	61,073
Municipal Street Aid	5,985	Sewer Fund	6,264
Real Estate Transfer Tax	9,066	Sewer Capital Reserves	29,975
Electric Fund	18,977	Trash Fund	6,389
Electric Reserves	58,488		

TOTAL INTEREST EARNED TO DATE \$240,321

REVENUE REPORT

Page Two

				100% of Year Expended
Date: June 2017	AMOUNT BUDGETED	MTD	YTD	YTD%
ACCOUNT				
Economic Development Fund	201,255	0	177,846	88.37%
General Fund Reserves	610,088	262,650	532,673	87.31%
Realty Transfer Tax-Police	500,000	41,667	500,000	100.00%
Real Estate Tax	3,762,970	2,473	3,840,849	102.07%
Business License	106,250	925	42,775	40.26%
Rental License	85,000	5,075	95,500	112.35%
Building Permits	75,000	15,981	120,271	160.36%
Planning & Zoning	15,000	0	24,800	165.33%
Grasscutting Revenue	16,000	0	16,000	100.00%
Police Revenues	440,000	90,198	442,064	100.47%
Misc. Revenues	272,820	52,113	324,404	118.91%
Transfers From	3,300,000	275,000	3,300,000	100.00%
Total General Fund Revenues	\$9,384,383	\$746,082	\$9,417,182	100.35%
Water Revenues	2,730,500	257,685	2,762,786	101.18%
Sewer Revenues	2,506,500	236,385	2,545,584	101.56%
Kent County Sewer	1,850,000	171,091	1,795,309	97.04%
Solid Waste Revenues	1,360,440	113,690	1,368,943	100.63%
Electric Revenues	24,935,790	2,225,612	25,326,573	101.57%
TOTAL REVENUES	\$42,767,613	\$3,750,545	\$43,216,377	101.05%
YTD Enterprise Expense		(101,748)		
YTD Enterprise Revenue		97,806		
LTD Carlisle Fire Company Building Permit Fund		252,121		

EXPENDITURE REPORT

Page Three

Date: June 2017

100% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	472,655	\$62,001	480,725	101.71%	(8,070)
O&M	259,095	\$12,373	138,446	53.43%	120,649
Capital	0	\$0	0		0
Total City Manager	\$731,750	\$74,374	\$619,171	84.62%	112,579
Planning & Zoning					
Personnel	177,263	\$21,198	178,669	100.79%	(1,406)
O&M	67,975	\$4,397	61,279	90.15%	6,696
Capital	0	\$0	0		0
Total P, C & I	\$245,238	\$25,595	\$239,948	97.84%	5,290
Code Enforcement & Inspections					
Personnel	215,210	\$10,991	130,186	60.49%	85,024
O&M	79,290	\$9,784	55,947	70.56%	23,343
Capital	25,000	\$0	0	0.00%	25,000
Total P, C & I	\$319,500	\$20,775	\$186,133	58.26%	133,367
Council					
Personnel	31,225	\$2,938	30,496	97.67%	729
O&M	54,650	\$6,323	54,075	98.95%	575
Council Expense	17,000	\$232	16,975	99.85%	25
Contributions	206,000	\$0	206,000	100.00%	0
Codification	9,500	\$0	6,196	65.22%	3,304
Employee Recognition	11,000	\$0	9,656	87.78%	1,344
Insurance	21,740	\$0	19,636	90.32%	2,104
Christmas Decorations	15,000	\$0	10,355	69.03%	4,645
Economic Development	15,000	\$0	1,621	10.81%	13,379
Resident Survey	15,000	\$0	9,800	65.33%	5,200
Armory Expenses	10,000	\$109	11,999	119.99%	(1,999)
Total Council	\$406,115	\$9,602	\$376,809	92.78%	29,306
Finance					
Personnel	418,395	\$36,534	351,068	83.91%	67,327
O&M	62,270	\$2,954	53,154	85.36%	9,116
Capital	0	\$0	0		0
Total Finance	\$480,665	\$39,488	\$404,222	84.10%	76,443
Information Technology					
Personnel	148,680	\$19,079	143,528	96.53%	5,152
O&M	177,450	\$7,036	177,139	99.82%	311
Capital	55,000	\$0	51,855	94.28%	3,145
Total Information Technology	\$381,130	\$26,115	\$372,522	97.74%	8,608

EXPENDITURE REPORT
Page Four

Date: June 2017

100% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	4,129,680	\$463,131	3,927,219	95.10%	202,461
O&M	507,360	\$34,715	416,203	82.03%	91,157
Capital	71,600	\$0	67,271	93.95%	4,329
Total Police	\$4,708,640	\$497,846	\$4,410,693	93.67%	297,947
Streets & Grounds Division					
Personnel	474,431	\$31,521	344,797	72.68%	129,634
O&M	410,434	\$16,940	292,444	71.25%	117,990
Capital	211,000	\$0	0	0.00%	211,000
Debt Service	16,475	\$0	16,475	100.00%	0
Total Streets & Grounds	\$1,112,340	\$48,461	\$653,716	58.77%	458,624
Parks & Recreation					
Personnel	605,635	\$84,426	630,274	104.07%	(24,639)
O&M	267,370	\$27,902	261,650	97.86%	5,720
Capital	126,000	\$0	41,099	32.62%	84,901
Total Parks & Recreation	\$999,005	\$112,328	\$933,023	93.40%	65,982
Total General Fund					
Operating Budget	\$9,384,383	\$854,584	\$8,196,237	87.34%	1,188,146

EXPENDITURE REPORT

Page Five

Date: June 2017

100% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	314,350	\$34,362	300,406	95.56%	13,944
O&M	1,111,675	\$142,596	966,086	86.90%	145,589
Capital	402,730	\$367,730	401,556	99.71%	1,174
Debt Service	901,745	\$46,500	776,411	86.10%	125,334
Total Water	\$2,730,500	\$591,188	\$2,444,459	89.52%	286,041
Sewer Division					
Personnel	314,350	\$34,358	300,391	95.56%	13,959
O&M	1,144,955	\$48,729	909,091	79.40%	235,864
Capital	434,725	\$279,113	424,113	97.56%	10,612
Debt Service	612,470	\$121,905	549,538	89.72%	62,932
Sewer Sub Total	\$2,506,500	\$484,105	\$2,183,133	87.10%	323,367
Kent County Sewer	1,850,000	\$174,046	1,795,303	97.04%	54,697
Total Sewer	\$4,356,500	\$658,151	\$3,978,436	91.32%	378,064
Solid Waste Division					
Personnel	395,634	\$39,930	336,836	85.14%	58,798
O&M	723,806	\$60,523	692,938	95.74%	30,868
Capital	241,000	\$0	220,291	91.41%	20,709
Total Solid Waste	\$1,360,440	\$100,453	\$1,250,065	91.89%	110,375
Total Water, Sewer Solid Waste	\$8,447,440	\$1,349,792	\$7,672,960	90.83%	774,480
Electric Division					
Personnel	1,254,300	\$153,874	1,223,295	97.53%	31,005
O&M	1,785,045	\$159,756	1,615,012	90.47%	170,033
Transfer to General Fund	2,500,000	\$208,333	2,500,000	100.00%	0
Capital	450,000	\$78,499	215,713	47.94%	234,287
Debt Service	346,445	\$57,716	342,197	98.77%	4,248
Electric Sub Total	\$6,335,790	\$658,178	\$5,896,217	93.06%	439,573
Power Purchased	18,600,000	\$1,534,086	17,995,016	96.75%	604,984
Total Electric	\$24,935,790	\$2,192,264	\$23,891,233	95.81%	1,044,557
TOTAL OPERATING BUDGET	\$42,767,613	\$4,396,640	\$39,760,430	92.97%	3,007,183

INTERSERVICE DEPARTMENTS REPORT

Page Six

Date: June 2017

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	100% of Year Expended	UNEXPENDED BALANCE
				YTD%	
Garage					
Personnel	89,850	10,577	88,501	98.50%	1,349
O&M	78,135	6,021	67,779	86.75%	10,356
Capital	0	0	0		0
Total Garage Expense	\$167,985	16,598	\$156,280	93.03%	11,705
Public Works					
Personnel	199,550	32,866	207,174	103.82%	(7,624)
O&M	185,772	15,287	174,742	94.06%	11,030
Capital	21,708	0	21,708	100.00%	0
Total Public Works Expense	\$407,030	48,153	\$403,624	99.16%	3,406
Billing & Collections					
Personnel	532,230	64,708	528,662	99.33%	3,568
O&M	225,530	17,219	216,720	96.09%	8,810
Capital	0	0	0		0
Total Billing & Collections	\$757,760	81,927	\$745,382	98.37%	12,378
City Hall Cost Allocation					
Personnel	0	0	0		0
O&M	61,000	3,072	54,591	89.49%	6,409
Capital	0	0	0		0
Total City Hall Cost Allocation	\$61,000	3,072	\$54,591	89.49%	6,409

ALL COSTS SHOWN ON PAGE 6 ARE ALSO INCLUDED IN THE VARIOUS DEPARTMENTS LISTED ON PAGES 3-5 OF THE EXPENDITURE REPORT WHO UTILIZE THE SERVICES OF THE DEPARTMENTS LISTED ABOVE. INTERSERVICE FUNDS ARE ENTIRELY FUNDED BY OTHER CITY DEPARTMENTS.

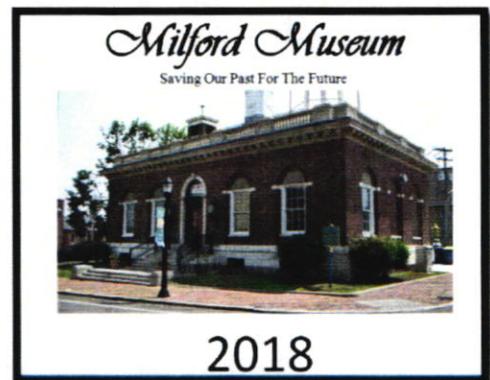
PLEASE JOIN US

**AT THE
MILFORD MUSEUM
FOR ICE CREAM**



**AND
THE DEBUT OF OUR
2018 MILFORD CALENDAR
ON
THURSDAY AUGUST 17TH
FROM 5-8 PM**

The Museum will be open during Downtown Milford's 3rd Thursday Event. Come out to shop, eat and check out the Museum.



Dear Mayor + Council,

The Board of the Milford Museum wishes to thank you for your continued support. Financial support from the City, County + State help us continue to share Milford's story.

Please join us on Thursday Aug. 17th for our Ice Cream Social and debut of our 2018 Milford History Calendar from 5-8pm.

Thank you again,
Claudia Leister
Exec. Director

DRAFT CODE OF CONDUCT ORDINANCE

There is hereby established a new Chapter 120 of the Code of the City of Milford as follows:

CHAPTER 120 – CODE OF CONDUCT AND ETHICS COMMISSION

§ 120-1 Purpose

In order to preserve public respect and confidence in our local government and to avoid any conduct that would create even a justifiable impression of impropriety or breach of the public trust, The City of Milford has deemed it both appropriate and necessary to adopt a code of conduct that will establish specific ethical standards of conduct that will apply to all elected and appointed officials and employees of the City along with uniform mechanisms to guarantee both interpretation and enforcement of such standards.

§ 120-2 Applicability

This Code shall be applicable to all elected and appointed officials and all employees of the City of Milford as of _____, except as otherwise provided.

§ 120-3 Definitions

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

“City” means the City of Milford, a political subdivision of the State of Delaware, and its elected and appointed officials, councils, boards, commissions, departments, employees, committees, or other public bodies existing by virtue of the Charter and/or Code of the City of Milford or an act of the General Assembly or Constitution of the State of Delaware.

“Close relative” means a person's parents, spouse, guardian, grandparents, children and grandchildren (natural or adopted), and siblings of the whole and half-blood, aunt, uncle, first cousin, corresponding in-law, corresponding step-relative, or any member of an employee’s household. “Commission” and “Ethics Commission” means the City Ethics Commission established by this Code.

"Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by oneself or another.

“Employee” means all persons who receive compensation as an employee of the City or any department thereof, whether full time, part time, temporary or seasonal, but not persons that are elected or appointed to serve as Mayor, City councilmember or a member of any City committee, commission or board, whether paid or unpaid.

"Financial interest" in a private enterprise applies to any of the following:

(1) The person has or intends to purchase or acquire a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market);

(2) The person is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or

(3) The person is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

"Matter" means any application, petition, request, business dealing, contract, subcontract, or any other transaction of any sort with the City.

"Official" means any elected or appointed official of the City, including all members of any committee, commission or board appointed by the Mayor or City Council by virtue of their powers and authority pursuant to the Charter and/or Code of the City of Milford, or an act of the General Assembly or Constitution of the State of Delaware, and including the members of the Ethics Committee established in this Code and the City Manager, Chief of Police, Department Head, or other person authorized to represent the City in an official capacity.

"Official responsibility" means any direct administrative or operating authority at any level, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, recommend or otherwise direct action on behalf of the City.

"Person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

"Political Candidate" means any person who is a candidate or nominee to be an official of the City, any person who has been identified officially as a prospective nominee, and any person who is openly considering becoming a candidate to become an official at the next City election.

"Private enterprise" means any activity conducted by any person, whether conducted for profit or not for profit which includes the ownership of real or personal property. Private enterprise does not include any activity of the City or of any agency, authority or instrumentality thereof.

§120-4 Prohibitions Relating to Conflict of Interest

A. General. Each official and employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such employee or official is engaging in acts which are in violation of the public trust or which will reflect unfavorably upon the City. Each official and employee shall further avoid any conduct that may justifiably be viewed by the public as an act of impropriety even if such conduct is not specifically prohibited or considered by such official or employee to be improper absent receipt of a waiver or opinion from the Ethics Commission.

B. Restrictions on exercise of official authority.

(1) Prohibited participation: No employee or official may participate on behalf of the City in the review or disposition of any matter pending before the City in which he or she has a personal or private interest, provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter.

(a) Personal or private interest: A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his or her duties with respect to that matter.

(b) Impairment of judgment: A person has an interest which tends to impair his or her independence of judgment in the performance of his or her duties with respect to any matter when:

(i) Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or

(ii) The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(2) Representing another person before the City: No employee, officer or official may represent or otherwise assist any person with respect to any matter before the City with which the employee, officer or official is associated by employment or appointment, unless such employee, officer or official is assisting such person with respect to any matter in the exercise of his or her official duties.

(3) Personal Benefit: No employee or official or private enterprise in which such employee holds a financial interest shall enter into or benefit from any contract with the City (other than an employment contract).

(4) Private Enterprise:

(a) No City employee, officer or official may represent or otherwise assist any private enterprise with respect to any matter before the City with which the employee, officer or official is associated by employment or appointment.

(b) No City officer may represent or otherwise assist any private enterprise with respect to any matter before the City.

(c) This subsection shall not preclude any City employee, officer or official from appearing before the City or otherwise assisting any private enterprise with respect to any matter in the exercise of such person's official duties.

C. Close Relatives.

The City will use sound judgment in the placement of related employees in accordance with the following guidelines:

(1) No close relative may be hired as an employee if such employment would result in another close relative directly or indirectly supervising such employee.

(2) There will be no direct reporting or supervisor to subordinate relationship allowed.

(3) No relatives of Department Directors will be permitted to work within the chain of command of his/her department.

(4) No relatives of City Council Appointees or the Human Resources Director will be permitted to work in any department.

(5) Employees who marry or become part of the same household while employed are treated in accordance with this policy and may be transferred at the earliest practicable time.

(6) The prohibition against indirect supervision would encompass any person who is a close relative of any Official, the City Manager or Chief of Police.

(7) No relatives of the Mayor or a City councilmember shall be hired by the City during that elected official's term in office.

(8) Any employees that were hired prior to _____ [effective date or adoption of this Code] _____ may remain an employee in their current position notwithstanding any prohibition under this section provided that the employee or official who is a close relative of such employee abstains from any matter that would directly or indirectly effect such employee. No employee exempted by this subsection may be promoted or transferred to a different position in the City without first receiving the prior written consent of the Ethics Commission. Once an employee is promoted or transferred to a different position, or separated from employment and later rehired, no exemptions shall apply.

D. Political Activities: No official or employee may solicit political contributions from any person, including other officials or employees during the course of performing his or her official duties on behalf of the City.

E. Gifts and Favors

(1) No employee or official shall accept any gift in excess of \$50.00, whether in the form of service, loan, thing or promise, from any person who, to the employee's or official's

knowledge, is interested directly or indirectly in any matter with the City and where said contact can be construed as having or attempting to improperly influence said employee or official, or which may result in any of the following:

- (a) Impairment of independence of judgment in the exercise of official duties;
- (b) An undertaking to give preferential treatment to any person;
- (c) The making of a governmental decision outside official channels; or
- (d) Any adverse effect on the confidence of the public in the integrity of the government of the City.

(2) No employee or official shall grant, in the discharge of duties, any improper favor, service or thing of value.

(3) Gifts or favors from any individual person, entity, organization or related combination thereof aggregating \$250.00 or more in the City's fiscal year.

F. Abuse of Office

(1) Political contributions. No official shall agree to sponsor legislation, or to influence in any manner the formulation or passage of legislation, in exchange for political contributions or promises thereof.

(2) Substantial interest. No official shall vote for, or promote in any manner whatsoever, legislation affecting any subject matter in which he or she has a substantial interest. Any such interest shall be disclosed by said official prior to a vote on any such legislation, and said official shall not participate in any discussion on such matters and shall vote "abstain" when called upon to vote.

(3) Use of City property. No official or employee shall request or permit the use of City-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided for the use of such official or employee in the conduct of official business as a matter of municipal policy.

(4) Personal gain. No official or employee shall utilize the influence of his office or position for personal pecuniary gain, or to avoid the legal consequences of his or her personal conduct, or to secure unwarranted privilege, private advancement or gain, nor shall such official or employee acquire a financial interest in any private enterprise which such official has reason to believe may be directly involved in decisions to be made by such official in an official capacity on behalf of the City.

(5) Sexual favors. No employee or official, in the course of his or her public responsibilities, may use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a City agency.

G. Post Office or Employment Restrictions.

(1) No person who has served as an employee or official shall represent or otherwise assist any private enterprise on any matter involving the City, for a period of two years after termination of his or her employment or elected or appointed status with the City, if he or she gave an opinion, conducted an investigation or otherwise was substantially involved in such matter in the course of his or her official duties as an employee or official, nor shall any former City employee or official disclose confidential information gained by reason of his public position, nor shall he otherwise use such information for personal gain or benefit.

(2) For all full-time employees, their employment with the City shall take precedence over all other occupational interests of such employee. All outside employment for salaries, wages, commission and self-employment must be reported to the employee's supervisor, who in turn will report to the City Manager or Chief of Police for review. The City Manager or Chief of Police will review such employment for possible conflicts of interest and/or impact upon the efficiency of the employee. Conflicting outside employment or outside employment which inhibits an employee's efficiency will be grounds for disciplinary action, up to and including dismissal. Findings, approvals, and denials of said outside employment requests shall be documented in writing to the employee and the employee's personnel file.

H. Restrictions on Contracting with the City.

No City employee, officer and no private enterprise in which a City employee or officer has legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities mark shall enter into any contract with the City) other than an employment contract unless such contract was made or let after public notice and competitive bidding.

I. Disclosure.

Any City employee or officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any City agency shall file with the Ethics Commission a written statement fully disclosing the same. Such disclosure shall be confidential and the Ethics Commission shall not release such disclosed information, except as may be necessary for the enforcement of this Code. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the City.

J. Exceptions

(1) Statutory responsibility. In any case where a person has a statutory responsibility with respect to action or inaction on any matter where such person has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided that, promptly after becoming aware of such conflict of interest, such person files a written statement with the Ethics Commission, fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(2) Waiver. Any employee or official who has acted in reliance upon a waiver from the Ethics Commission that was received in writing before the action or inaction that would otherwise be a violation under this Code is not a violation under this Code unless it is proven that the Ethics Commission granted such waiver without having received a full and fair disclosure of all material information from such employee or official.

(3) Advisory Opinions. Any employee or official who acts or fails to act in accordance with a reasonable interpretation of an advisory opinion that was issued by the Ethics Commission shall be valid and not considered a violation of this Code. For purposes of this exception, no employee or official may rely upon an advisory opinion that has been overturned or superseded by a subsequent advisory opinion of the Ethics Commission.

§120-5 Disclosure and Confidentiality of Information

A. Confidential Information. No employee or official shall engage in any activity beyond the scope of his or her public position which might reasonably be expected to require or induce such person to disclose confidential information such person may have acquired by reason of public position nor shall the person otherwise use such information for personal gain or benefit.

B. Disclosure of Information. No employee or official shall, beyond the scope of such person's public position, disclose confidential information gained by reason of the public position, nor shall such employee or official disclose any information required to be maintained confidential by the Ethics Commission under this Code.

§120-6 Structure of the Ethics Commission

A. Established; composition; removal. The Ethics Commission is hereby established to administer and implement this Code. The Ethics Commission shall consist of five members appointed by the Mayor and confirmed by the City Council. No member of the Ethics Commission shall hold any elected or appointed office under the government of the United States or the government of the State of Delaware or any county or city thereof, nor shall the member or a close relative be an employee of the City or be an appointee by the Mayor or City Council to any other position within the City. Members of the Ethics Commission may be removed by the Mayor, with the concurrence of the City Council, for substantial neglect of duty, gross misconduct in office or a violation of this Code.

B. Terms of office; vacancies. A member of the Ethics Commission shall be appointed for terms of office of five years that may be renewed. Upon the expiration of a member's term, such member shall remain a member until such a time as a new member has been confirmed by the City Council. The initial members shall be appointed for staggered terms of office. When a vacancy occurs in the membership of the Ethics Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as the original appointment.

C. Chairperson; quorum. The Ethics Commission shall elect a chairperson from among its membership. Three members of the Ethics Commission shall constitute a quorum and, if a quorum is present, a vacancy on the Ethics Commission shall not impair the right of the

remaining members to exercise all the powers of the Ethics Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least three members; otherwise, the Ethics Commission may delegate authority to the chairperson to act for the Ethics Commission between meetings.

D. Compensation. Members of the Ethics Commission shall receive no compensation.

E. Commission counsel. The City Solicitor appointed pursuant to the Charter of the City shall provide legal counsel to the Ethics Commission and shall be the legal representative of the Ethics Commission in connection with its duties hereunder, on a case-by-case basis, or determine that outside counsel is needed and obtain such outside counsel for a particular matter. In furtherance of its representation, counsel shall have the power and duties to:

(1) Assist the Ethics Commission in preparing and publishing manuals and guides explaining the duties of individuals covered by this Code and in other activities, such as seminars and workshops, educating individuals covered by this Code about its requirements and purposes, and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(2) Provide legal counsel to the Ethics Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(3) Review information coming to the attention of the Ethics Commission relating to potential violations of this Code.

(4) Investigate information coming to the attention of the Ethics Commission that, if true, could constitute a violation of any provision of this Code and/or to recommend that possible violations of these, or other state and federal laws, be referred by the Ethics Commission to the Attorney General or the United States Attorney for investigation and prosecution. Matters may be so referred to the Attorney General or the United States Attorney only upon a determination by at least a majority of the Ethics Commission that there are reasonable grounds to believe that a violation may have occurred.

(5) Prosecute disciplinary proceedings, if a determination has been made by at least a majority of the Ethics Commission that there are reasonable grounds to believe that a violation may have occurred before the Ethics Commission and to assist the Ethics Commission in drafting educational materials, waiver decisions and advisory opinions.

(6) Employ and supervise staff necessary to perform investigatory and prosecutorial functions.

(7) Maintain its files and records of all advisory, waiver, investigatory and prosecutorial matters for as long as appointed, at which time they shall be made available to the City.

(8) Perform any other tasks requested by the Ethics Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(a) The Commission Counsel may be recused from a matter before the Ethics Commission when, in the view of Commission Counsel or of the Ethics Commission, such recusal is deemed necessary or appropriate. In situations where Commission Counsel recuses, the duties of the Commission Counsel may be exercised by outside counsel chosen by the Ethics Commission.

(9) The Commission Counsel shall not represent the Ethics Commission until adequate funds have been appropriated for such purpose.

§120-7 Powers and Duties of Ethics Commission

A. The powers, duties and obligations of the Ethics Commission include the following:

(1) Rules of conduct. To recommend to the Mayor and City Council, from time to time, such rules of conduct for public employees and officials as it shall deem appropriate.

(2) Waivers. Upon the written request of any City agency or of any individual who is or was an employee or official, the Ethics Commission may grant a waiver to the specific prohibitions contained in this Code if the Ethics Commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this Code or would result in an undue hardship on any employee or official. Any such waiver may be granted only by written decision of the Ethics Commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision, provided there was a full disclosure to the Ethics Commission of all material facts necessary for the waiver decision.

(3) Advisory opinions. Upon the written request of any employee or official, the Ethics Commission may issue an advisory opinion as to the applicability of this Code to any particular fact or situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion, provided there was a full disclosure to the Ethics Commission of all material facts necessary for the advisory opinion

(4) Referrals to solicitor. To refer to the City Solicitor for investigation any alleged violation of this Code and, after notice and hearing, to recommend such disciplinary action as it may deem appropriate to such appropriate official or agency as the Ethics Commission shall determine, or to take such other disciplinary action as authorized by this Code. The Ethics Commission may dismiss, without reference to the City Solicitor, any complaint which the Ethics Commission determines is frivolous or fails to state a violation.

(5) Report of crimes. To report to the appropriate federal, state or City authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding, whether advisory or disciplinary.

(6) Records. To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of this Code.

(7) Procedures. The Ethics Commission may adopt such other procedures as it deems appropriate in order to fairly and efficiently fulfill its duties and meet the goals of this Code.

(8) To prescribe forms for reports, statements, notices and other documents required by law. The Ethics Commission may permit the filing of reports, statements, notices and other documents by electronic means and may specify the form and contents of such filings.

(9) To prepare and publish manuals and guides explaining the duties of individuals covered by this Code; and giving instructions and public information materials to facilitate compliance with and enforcement hereof.

(10) To provide assistance to appropriate agencies, employees and officials in administering the provisions of this law.

(11) To prepare an annual report to City Council each year describing its activities for the previous year and to prepare such other reports and studies as may advance the purposes of this Code.

(12) Confidentiality. Any application for a waiver or advisory opinion and any proceeding and any decision with respect thereto shall be maintained confidential by the Ethics Commission, unless disclosure is warranted by any of the following:

(a) Upon the written request of the applicant.

(b) Upon determination by the Ethics Commission after a hearing that a violation has occurred.

(c) Upon the determination by the Ethics Commission that public disclosure is required in connection with the prosecution of any violation of this Code.

(d) Substantial evidence of a criminal violation that is reported to the appropriate federal, state and/or City authorities.

(e) All waivers approved by the Ethics Commission, including the record thereof, shall be open to the public for inspection.

(f) The record of all proceedings relating to any decision of the Ethics Commission which is appealed to the Superior Court shall automatically be made available for public inspection.

B. Complaints and Hearing Procedures.

(1) Upon the sworn complaint of any person or on its own initiative, the Ethics Commission may refer to the Commission Counsel for investigation any alleged violations of this Code. The Commission Counsel shall be the prosecuting attorney in disciplinary proceedings before the Ethics Commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross-examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of subsection (h) of this section.

(2) A member of the Ethics Commission shall be ineligible to participate, as a member of the Ethics Commission, in any Ethics Commission proceeding relating to such member's conduct. A member of the Ethics Commission who has been found by the Ethics Commission to have violated this Code shall be ineligible to serve again as a member of the Ethics Commission.

(3) A member of the Ethics Commission may disqualify himself or herself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to disqualify himself or herself.

(4) In any proceeding before the Ethics Commission, upon the request of any person charged with a violation of this Code, such person shall be permitted to inspect, copy or photograph books, papers, documents, photographs or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of a defense.

(5) Evidence. The Ethics Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of books, papers, records or other evidence needed for the performance of the Ethics Commission's duties or exercise of its powers.

(6) In any proceeding before the Ethics Commission, if the Commission Counsel or the Ethics Commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall automatically and forthwith make such information available to such person, and upon request of the person charged shall make any evidence that may be used or relied upon by the Ethics Commission available for inspection and copying.

(7) Any person charged with a violation of this Code may apply to the Ethics Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on the person's behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(8) All proceedings relating to a charged violation of this Code shall be maintained confidential by the Ethics Commission unless (i) public disclosure is requested in writing by the

person charges; or (ii) the Ethics Commission determined after a hearing that a violation has occurred.

(a) Notwithstanding the confidentiality requirements of paragraph (1) of this subsection, the Ethics Commission shall make available for public inspection the record of all proceedings relating to any decision of the Ethics Commission which is appealed to Superior Court and the Ethics Commission shall report to appropriate federal or state authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this Code.

(b) The chairperson of the Ethics Commission shall, with the approval of the Ethics Commission, establish such procedures as in the chairperson's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Ethics Commission or its staff except as permitted by this Code.

§120-8 Enforcement and penalties.

A. Enforcement authority. With respect to any violation with which a person has been charged and which the Ethics Commission has determined as proved, the Ethics Commission may take any one or more of the following actions:

(a) Issue a written reprimand or censure of that person's conduct.

(b) With respect to a City employee, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by this Code, but within the limits of the constitution, the laws of the state, the Charter of the City, and ordinances and existing collective bargaining agreements.

(c) With respect to an appointed official, recommend that appropriate action be taken to remove the official from the appointed position.

(d) With respect to an elected City official, recommend that such official be fined in an amount recommended by the Ethics Commission

B. Contracts voidable by Court action. Any contract entered into by any City agency in violation of this Code shall be voidable by the City agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the City agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the City agency involved has, or should have, knowledge of such violation.

C. Penalties. The Ethics Commission shall have the authority to refer any person who knowingly or willfully violates any provision of this Code to the State of Delaware Office of Attorney General for prosecution pursuant to 29 Del.C., Section 5806(f).

§120-9 Judicial Review

In the event the Ethics Commission finds that any person has violated any provision of this Code, said person shall have a right of appeal to the Superior Court of any such finding, and of any sanctions imposed with respect thereto, by filing a notice of appeal with the Superior Court within 30 days of the final action by the Ethics Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Ethics Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Ethics Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

§ 5801 § 5802 § 5803 § 5804 § 5805 § 5806 § 5807 § 5808 § 5808A § 5808B § 5809 § 5810 § 5810A

TITLE 29

State Government

Public Officers and Employees

CHAPTER 58. LAWS REGULATING THE CONDUCT OF OFFICERS AND EMPLOYEES OF THE STATE

Subchapter I. State Employees', Officers' and Officials' Code of Conduct

§ 5801 Short title.

This subchapter shall be known and may be cited as the "State Employees', Officers' and Officials' Code of Conduct."

67 Del. Laws, c. 417, § 1.;

§ 5802 Legislative findings and statement of policy.

The General Assembly finds and declares:

- (1) In our democratic form of government, the conduct of officers and employees of the State must hold the respect and confidence of the people. They must, therefore, avoid conduct which is in violation of their public trust or which creates a justifiable impression among the public that such trust is being violated.
- (2) To ensure propriety and to preserve public confidence, officers and employees of the State must have the benefit of specific standards to guide their conduct and of some disciplinary mechanisms to guarantee uniform maintenance of those standards. Some standards of this type are so vital to government that violation thereof should subject the violator to criminal penalties.
- (3) In our democratic form of government, it is both necessary and desirable that all citizens should be encouraged to assume public office and employment, and that, therefore, the activities of officers and employees of the State should not be unduly circumscribed.
- (4) It is the desire of the General Assembly that all counties, municipalities and towns adopt code of conduct legislation at least as stringent as this act to apply to their employees and elected and appointed officials. This subchapter shall apply to any county, municipality or town and the employees and elected and appointed officials thereof which has not enacted such legislation by January 23, 1993. No code of conduct legislation shall be deemed sufficient to exempt any county, municipality or town from the purview of this subchapter unless the code of conduct has been submitted to the State Ethics Commission and determined by a majority vote

thereof to be at least as stringent as this subchapter. Any change to an approved code of conduct must similarly be approved by the State Ethics Commission to continue the exemption from this subchapter.

67 Del. Laws, c. 417, §§ 1, 2; 68 Del. Laws, c. 433, § 1.;

§ 5803 Construction.

This subchapter shall be construed to promote high standards of ethical conduct in state government.

59 Del. Laws, c. 575, § 1; 67 Del. Laws, c. 417, § 1.;

§ 5804 Definitions.

For the purposes of this subchapter:

- (1) "Close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.
- (2) "Commission" means the State Public Integrity Commission established by this chapter.
- (3) "Commission Counsel" means the legal counsel appointed by the Commission pursuant to this chapter.
- (4) "Compensation" means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by oneself or another.
- (5) A person has a "financial interest" in a private enterprise if:
 - a. The person has a legal or equitable ownership interest in the enterprise of more than 10% (1% or more in the case of a corporation whose stock is regularly traded on an established securities market);
 - b. The person is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or
 - c. The person is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).
- (6) "Honorary state official" means a person who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive not more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses).
- (7) "Matter" means any application, petition, request, business dealing or transaction of any sort.
- (8) "Person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

(9) "Private enterprise" means any activity conducted by any person, whether conducted for profit or not for profit and includes the ownership of real or personal property. Private enterprise does not include any activity of the State or of any political subdivision or of any agency, authority or instrumentality thereof.

(10) "State" means the State of Delaware and includes any state agency.

(11) "State agency" means any office, department, board, commission, committee, court, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition which exist by virtue of state law, and whose jurisdiction:

- a. Is limited to a political subdivision of the State or to a portion thereof; or
- b. Extends beyond the boundaries of the State.

(12)a. "State employee" means any person:

1. Who receives compensation as an employee of a state agency;
2. Who serves as an appointed member, trustee, director or the like of any state agency and who receives or reasonably expects to receive more than \$5,000 in compensation for such service in a calendar year (not including any reimbursement for expenses); or
3. Who is an elected or appointed school board member.

b. "State employee" does not include:

1. Members of the General Assembly;
2. The Chief Justice and Justices of the Supreme Court;
3. The Chancellor and Vice-Chancellors of the Court of Chancery;
4. The President Judge and Judges of Superior Court;
5. The Chief Judge and Judges of Family Court;
6. The Chief Judge and Resident Judges of the Court of Common Pleas;
7. The Chief Magistrate and Justices of the Peace;
8. State officers; or
9. Honorary state officials.

(13) "State officer" means any person who is required by subchapter II of this chapter to file a financial disclosure statement but does not include:

- a. Members of the General Assembly;
- b. The Chief Justice and Justices of the Supreme Court;
- c. The Chancellor and Vice-Chancellors of the Court of Chancery;
- d. The President Judge and Judges of Superior Court;

- e. The Chief Judge and Judges of Family Court;
- f. The Chief Judge and Judges of the Court of Common Pleas; or
- g. The Chief Magistrate and Justices of the Peace.

59 Del. Laws, c. 575, § 1; 61 Del. Laws, c. 132, § 23; 62 Del. Laws, c. 48, § 1; 67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, §§ 2, 3; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 176, §§ 33, 34; 73 Del. Laws, c. 19, § 1; 76 Del. Laws, c. 213, §§ 44-51.;

§ 5805 Prohibitions relating to conflicts of interest.

(a) *Restrictions on exercise of official authority.* —

(1) No state employee, state officer or honorary state official may participate on behalf of the State in the review or disposition of any matter pending before the State in which the state employee, state officer or honorary state official has a personal or private interest, provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of the person's duties with respect to that matter.

(2) A person has an interest which tends to impair the person's independence of judgment in the performance of the person's duties with respect to any matter when:

- a. Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
- b. The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.

(3) In any case where a person has a statutory responsibility with respect to action or nonaction on any matter where the person has a personal or private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided, that promptly after becoming aware of such conflict of interest, the person files a written statement with the Commission fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(b) *Restrictions on representing another's interest before the State.* —

(1) No state employee, state officer or honorary state official may represent or otherwise assist any private enterprise with respect to any matter before the state agency with which the employee, officer or official is associated by employment or appointment.

(2) No state officer may represent or otherwise assist any private enterprise with respect to any matter before the State.

(3) This subsection shall not preclude any state employee, state officer or honorary state official from appearing before the State or otherwise assisting any private enterprise with respect to

any matter in the exercise of such person's official duties.

(c) *Restrictions on contracting with the State.* — No state employee, no state officer and no private enterprise in which a state employee or state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) shall enter into any contract with the State (other than an employment contract) unless such contract was made or let after public notice and competitive bidding. Such notice and bidding requirements shall not apply to contracts not involving more than \$2,000 per year if the terms of such contract reflect arms' length negotiations. For the period of July 1, 1990, through June 30, 1991, nothing in this subsection shall prohibit a state employee, a state officer, or a private enterprise in which a state employee or a state officer has a legal or equitable ownership of more than 10% (more than 1% in the case of a corporation whose stock is regularly traded on an established securities market) from contracting with a public school district and/or the State Board of Education for the transportation of school children without public notice and competitive bidding as is permitted under § 6923 of this title.

(d) *Post-employment restrictions.* — No person who has served as a state employee, state officer or honorary state official shall represent or otherwise assist any private enterprise on any matter involving the State, for a period of 2 years after termination of employment or appointed status with the State, if the person gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of official duties as a state employee, officer or official. Nor shall any former state employee, state officer or honorary state official disclose confidential information gained by reason of public position nor shall the person otherwise use such information for personal gain or benefit.

(e) *Unauthorized disclosure of confidential information.* — No person shall disclose any information required to be maintained confidential by the Commission under § 5806(d), § 5807 (b) or (d), or § 5810(h) of this title.

(f) *Criminal sanctions.* —

(1) Any person who knowingly or wilfully violates any provision of this section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than 1 year and by a fine not to exceed \$10,000.

(2) A prosecution for a violation of this section shall be subject to the time limitations of § 205 of Title 11.

(3) The Superior Court shall have exclusive jurisdiction over prosecution for all criminal violations of this section.

(g) *Contracts voidable by court action.* — In addition to any other penalty provided by law, any contract entered into by any state agency in violation of this subchapter shall be voidable by the state agency; provided, that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the state agency shall consider the interests of innocent 3rd parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the state agency involved has, or should have, knowledge of such violation.

(h) *Exceptions for transportation contracts with school districts.* — *Except for transportation supervisors for any school district within this State, nothing in this section shall prohibit an*

employee or the employee's spouse or children (natural or adopted) from contracting for the transportation of school children. Such transportation contracts may be entered into by an employee or the employee's spouse or children without public notice and competitive bidding as is provided in § 6916 of this title.

(i) [Deleted.]

59 Del. Laws, c. 575, § 1; 63 Del. Laws, c. 1, § 1; 64 Del. Laws, c. 423, § 1; 67 Del. Laws, c. 314, § 1; 67 Del. Laws, c. 417, § 1; 68 Del. Laws, c. 198, § 1; 69 Del. Laws, c. 467, §§ 4, 27; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 150, § 86; 71 Del. Laws, c. 227, § 2.;

§ 5806 Code of conduct.

(a) Each state employee, state officer and honorary state official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that such state employee, state officer or honorary state official is engaging in acts which are in violation of the public trust and which will not reflect unfavorably upon the State and its government.

(b) No state employee, state officer or honorary state official shall have any interest in any private enterprise nor shall such state employee, state officer or honorary state official incur any obligation of any nature which is in substantial conflict with the proper performance of such duties in the public interest. No state employee, state officer or honorary state official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

- (1) Impairment of independence of judgment in the exercise of official duties;
- (2) An undertaking to give preferential treatment to any person;
- (3) The making of a governmental decision outside official channels; or
- (4) Any adverse effect on the confidence of the public in the integrity of the government of the State.

Provided however, that a minimal gratuity provided on occasion to blind or disabled state employees or other blind or disabled persons supervised by the Division of Visually Impaired, shall not be considered to be a violation of this section.

(c) No state employee, state officer, or honorary state official shall acquire a financial interest in any private enterprise which such official has reason to believe may be directly involved in decisions to be made by such official in an official capacity on behalf of the State.

(d) Any state employee or state officer who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, any state agency (and any honorary state official who has a financial interest in any private enterprise which is subject to the regulatory jurisdiction of, or does business with, the state agency on which the official serves as an appointee) shall file with the Commission a written statement fully disclosing the same. Such disclosure shall be confidential and the Commission shall not release such disclosed information, except as may be necessary for the enforcement of this chapter. The filing of such disclosure statement shall be a condition of commencing and continuing employment or appointed status with the State.

(e) No state employee, state officer or honorary state official shall use such public office to secure unwarranted privileges, private advancement or gain.

(f) No state employee, state officer or honorary state official shall engage in any activity beyond the scope of such public position which might reasonably be expected to require or induce such state employee, state officer or honorary state official to disclose confidential information acquired by such official by reason of such public position.

(g) No state employee, state officer or honorary state official shall, beyond the scope of such public position, disclose confidential information gained by reason of such public position nor shall such official otherwise use such information for personal gain or benefit.

(h) No state employee, state officer or honorary state official, in the course of public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a state agency.

(i) Notwithstanding the provisions of Chapters 58, 59, and 69 of this title and the State Merit Rules of Personnel Administration, state employees may contract to provide foster care or respite care for individuals with fees paid for by the State provided further that the employee does so at other than assigned work hours. Additionally, these individuals are not permitted to participate in the review or disposition of any matter related to foster and/or respite care in which they have or may have a personal or private interest and may not be monitored or reviewed by other state employees who are more junior or related to them.

59 Del. Laws, c. 575, § 1; 63 Del. Laws, c. 1, § 2; 65 Del. Laws, c. 349, § 1; 67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, §§ 5, 27; 70 Del. Laws, c. 186, § 1; 70 Del. Laws, c. 567, § 1; 76 Del. Laws, c. 80, § 33.;

§ 5807 Waivers of restrictions and advisory opinions.

(a) Notwithstanding the provisions of §§ 5805 and 5806 of this title, upon the written request of any state agency or of any individual who is or was a state employee, state officer or honorary state official, the Commission may grant a waiver to the specific prohibitions contained therein if the Commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee, officer, official or state agency. Any such waiver may be granted only by written decision of the Commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision provided there was a full disclosure to the Commission of all material facts necessary for the waiver decision.

(b) Any application for a waiver, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that:

(1) Public disclosure shall be made by the Commission upon the written request of the applicant;

(2) The Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this subchapter;

(3) The Commission shall report to appropriate federal and state authorities substantial

evidence of any criminal violation which may come to its attention; and

(4) In the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.

(c) Upon the written request of any state employee, state officer, honorary state official or state agency or a public officer as defined in § 5812 of this title, the Commission, or Commission Counsel subject to § 5808A(a) of this title may issue an advisory opinion as to the applicability of this chapter to any particular fact situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Commission or Commission Counsel of all material facts necessary for the advisory opinion.

(d) Any application for an advisory opinion, any proceedings and any decision with respect thereto shall be maintained confidential by the Commission provided that:

(1) Public disclosure shall be made by the Commission upon the written request of the applicant;

(2) The Commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this chapter;

(3) The Commission shall report to appropriate federal and state authorities substantial evidence of any criminal violation which may come to its attention; and

(4) The Commission shall prepare a summary of its advisory opinions for public distribution without disclosing the identity of the applicants.

59 Del. Laws, c. 575, § 1; 67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, §§ 6, 7, 27; 80 Del. Laws, c. 204, § 1.;

§ 5808 State Public Integrity Commission; establishment, membership, offices.

(a) The State Ethics Commission is hereby renamed and reestablished as the State Public Integrity Commission to assume the functions of the State Ethics Commission and to administer and implement this chapter, and to perform such other responsibilities as may be entrusted to it by law.

(b) The Commission shall consist of 7 members appointed by the Governor with the concurrence of the Senate. Not more than 4 members shall be registered with the same political party. No member shall hold any elected or appointed office under the government of the United States or the State or be a candidate for any such office. No member shall hold any political party office or an office in any political campaign. Members of the Commission may be removed by the Governor, with the concurrence of the Senate, for substantial neglect of duty, gross misconduct in office or violation of this chapter.

(c) A member of the Commission shall be appointed for a term of office of 7 years and until a successor has been appointed and has qualified, except that initially the Commission shall consist of the members of the former State Ethics Commission as of July 15, 1994, and said members shall serve the remaining portion of their terms and until their successors have been appointed and have qualified. No member shall serve for more than 1 full 7-year term. When a vacancy occurs in the membership of the Commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as original appointments.

(d) The Commission shall elect a chairperson from among its membership. Four members of the Commission shall constitute a quorum and, if a quorum is present, a vacancy on the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least 4 members. Otherwise the Commission may delegate authority to the chairperson to act for the Commission between meetings.

(e) Each member of the Commission shall be compensated at the rate of \$100 for each day devoted to the performance of official duties. Each member of the Commission shall be reimbursed for reasonable and necessary expenses incurred in the performance of official duties.

(f) The principal office of the Commission shall be in Dover but it may meet, and exercise its power, at any other place in the State.

67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, § 8; 70 Del. Laws, c. 186, § 1.;

§ 5808A Commission Counsel; powers and duties.

(a) There shall be a Commission Counsel who shall be the legal representative of the Commission and have the following powers and duties:

- (1) To assist the Commission in preparing and publishing manuals and guides explaining the duties of individuals covered by this chapter and in other activities, such as seminars and workshops, educating individuals covered by this chapter about its requirements and purposes, and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.
- (2) To provide legal counsel to the Commission concerning any matter arising in connection with the exercise of its official powers or duties.
- (3) To review information coming to the attention of the Commission relating to potential violations of this chapter.
- (4) To investigate information coming to the attention of the Commission that, if true, would constitute a violation of any provision of this chapter and/or to recommend that possible violations of these, or other state and federal laws, be referred by the Commission to the Attorney General or the United States Attorney for investigation and prosecution. Matters may be so referred to the Attorney General or the United States Attorney only upon a determination by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred.
- (5) To prosecute disciplinary proceedings, if a determination has been made by at least a majority of the Commission that there are reasonable grounds to believe that a violation may have occurred, before the Commission and to assist the Commission in drafting educational materials, waiver decisions and advisory opinions.
- (6) To employ and supervise staff necessary to perform investigatory and prosecutorial functions.
- (7) To maintain permanent records of all advisory, waiver, investigatory and prosecutorial matters.

(8) To perform any other tasks requested by the Commission concerning any matter arising in connection with the exercise of its official powers or duties.

(9) Under circumstances in which the Commission has not convened for 60 or more consecutive days, and after notice to the Commission, Commission Counsel may issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of this chapter to any particular fact situation if the request concerns an issue that does not require a waiver and that has previously been determined by:

- a. Written opinion of the Commission; or
- b. Court opinion interpreting the State Code of Ethics.

(b) The Commission Counsel may recuse from a matter before the Commission when, in the view of Commission Counsel or of the Commission, such recusal is deemed necessary or appropriate. In situations where Commission Counsel recuses, the duties of the Commission Counsel may be exercised by the Attorney General or by outside counsel chosen by the Commission.

69 Del. Laws, c. 467, § 9; 70 Del. Laws, c. 186, § 1; 80 Del. Laws, c. 204, § 1.;

§ 5808B Commission Counsel's appointment contingent upon appropriations.

The Commission Counsel established by § 5808A of this title shall not be appointed by the Commission until adequate funds have been appropriated for such purpose. In the absence of such appointment, the Attorney General shall provide legal assistance to the Commission and shall exercise any duties assigned to the Commission Counsel by this chapter. Such duties may also be exercised by outside counsel chosen by the Commission, if adequate funds are appropriated for such purpose.

69 Del. Laws, c. 467, § 9.;

§ 5809 State Public Integrity Commission — Power and duties.

The powers and duties of the Commission shall be as follows:

- (1) To recommend to the General Assembly from time to time such rules of conduct for public employees and officials as it shall deem appropriate.
- (2) To issue written advisory opinions upon the request of any state employee, state officer, honorary state official or state agency as to the applicability of this chapter to any particular fact situation.
- (3) To refer to Commission Counsel to investigate any alleged violation of this chapter and, after notice and hearing, to recommend by resolution, such disciplinary action as it may deem appropriate to such appropriate official or agency as the Commission shall determine or to take such other disciplinary action as is authorized by § 5810(d) of this title or other provisions of this Code. The Commission may also dismiss any complaint that it determines is frivolous or fails to state a violation.
- (4) To report to the appropriate federal or state authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding whether advisory or disciplinary.

(5) To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of § 5807(b) and (d), and § 5810(h).

(6) To follow the procedural rules specified in § 5810 of this title and to establish such other procedural rules as shall not be inconsistent with the rules prescribed therein.

(7) To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Commission's duties or exercise of its powers.

(8) To prescribe forms for reports, statements, notices and other documents required by law. The Commission may permit the filing of reports, statements, notices, and other documents by electronic means and may specify the form and content of such filings.

(9) To prepare and publish manuals and guides explaining the duties of individuals covered by this chapter; and giving instructions and public information materials to facilitate compliance with, and enforcement hereof.

(10) To provide assistance to state agencies, employees and officials in administering the provisions of this law.

(11) To prepare an annual report by March 1st of each year describing its activities for the previous year and to prepare such other reports and studies as may advance the purposes of this chapter.

(12) To appoint a lawyer admitted to practice in the State to serve as Commission Counsel.

(13) To request appropriate state agencies to provide such professional assistance as it may require in the discharge of its duties.

(14) To contract for any services which cannot satisfactorily be performed by the Commission Counsel or other Commission staff.

(15) Commencing January 15, 1995, to administer and implement the financial disclosure provisions of subchapter II of this chapter and to maintain the records filed pursuant thereto.

(16) Commencing January 15, 1996, to administer and implement the lobbyist registration provisions of this Code and to maintain the records filed pursuant thereto.

(17) To perform such other responsibilities as may be assigned to it by law.

59 Del. Laws, c. 575, § 1; 67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, §§ 10-13, 27; 75 Del. Laws, c. 57, § 6.;

§ 5810 State Public Integrity Commission — Complaints; hearings; dispositions.

(a) Upon the sworn complaint of any person or on its own initiative, the Commission may refer to the Commission Counsel for investigation any alleged violations of this chapter. The Commission Counsel shall be the prosecuting attorney in disciplinary proceedings before the Commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to

cross-examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of subsection (h) of this section.

(b) A member of the Commission shall be ineligible to participate, as a member of the Commission, in any commission proceeding relating to such member's conduct. A member of the Commission who has been found by the Commission to have violated this chapter shall be ineligible to serve again as a member of the Commission.

(c) A member of the Commission may disqualify himself or herself from participating in any investigation of the conduct of any person upon submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision in the case in which the member seeks to disqualify himself or herself.

(d) With respect to any violation with which a person has been charged and which the Commission has determined as proved, the Commission may take any 1 or more of the following actions:

(1) Issue a written reprimand or censure of that person's conduct.

(2) With respect to a state employee or state officer, other than an elected official, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any limits imposed by Chapter 59 of this title but within the limits of the Constitution and other laws of the State.

(3) With respect to an honorary state official, recommend that appropriate action be taken to remove the official from office.

(e) In any proceeding before the Commission, upon the request of any person charged with a violation of this chapter, such person shall be permitted to inspect, copy or photograph books, papers, documents, photographs or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of a defense.

(f) In any proceeding before the Commission, if the Commission Counsel or the Commission at any time receives any exculpatory information respecting an alleged violation against any person, it shall forthwith make such information available to such person.

(g) Any person charged with a violation of this chapter may apply to the Commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on the person's behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(h)(1) All proceedings relating to a charged violation of this chapter shall be maintained confidential by the Commission unless:

a. Public disclosure is requested in writing by the person charged; or

b. the Commission determines after a hearing that a violation has occurred.

(2) Notwithstanding the confidentiality requirements of paragraph (h)(1) of this section, the Commission shall make available for public inspection the record of all proceedings relating to

any decision of the Commission which is appealed to Superior Court and the Commission shall report to appropriate federal or state authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this chapter.

(3) The chairperson of the Commission shall, with the approval of the Commission, establish such procedures as in the chairperson's judgment may be necessary to prevent the disclosure of any record of any proceedings or other information received by the Commission or its staff except as permitted by this chapter.

67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, §§ 14-18; 70 Del. Laws, c. 186, § 1.;

§ 5810A Judicial review.

In the event that the Commission finds that any person has violated any provision of this chapter, said person shall have a right of appeal to Superior Court of any such finding and of any sanctions imposed with respect thereto by filing a notice of appeal with the Superior Court within 30 days of the final action by the Commission in a particular case. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Commission for further proceedings on the record. The Court's review, in the absence of actual fraud, shall be limited to a determination of whether the Commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

67 Del. Laws, c. 417, § 1; 69 Del. Laws, c. 467, § 19.;



CITY OF MILFORD SPECIAL EVENTS APPLICATION AND PERMIT PACKET

PERMIT NUMBER:	Date of Application: <u>08.09.17</u>
-----------------------	--------------------------------------

Name of Event: Arena's Annual Running of the Goat

Location: 200 NE Front St

Date(s): August 18, 2017

APPLICANT INFORMATION

Name of Applicant Organization: Greater Milford Boys & Girls Club

Chief Authorizing Official: Tod Van Eyken

Address: 101 Delaware Veterans Blvd

City: Milford State: DE Zip Code: 19963

Phone: 422-4453 Cell: 631-662-4080

Email: TVanEyken@bgclubs.org

The **Applicant** must provide a letter or resolution from the organization authorizing the representative to apply for this permit on its behalf.

EVENT ORGANIZER

Name: Tiffany Schrader / *Matt Rowan* Title: Unit Board Member, Race Committee Co-chair

Driver's License Number: [REDACTED] State: [REDACTED] Date of Birth: [REDACTED]

Address: 6582 Shawnee Rd

City: Milford State: DE Zip Code: 19963

Phone: 302-841-0873 Cell: _____

Email: TiffanyJSchrader@yahoo.com

The **Event Organizer** must be available to answer questions regarding the event and the event application. He/She must also be available for any planning meetings scheduled prior to the event.

*Nicole Silicato
Matt Rowan*



DESCRIPTION OF EVENT

Description of Event:

This is a 5K race, and approximately 1/4 mile kids race, with after race festivities including: kids crafts and activities, music and food. Arena's Milford is the presenting sponsor but the event is a Boys and Girls Club event. This is the third year the race is planned to be held in downtown Milford.

Date/Time:

Setup	Date	8/18/17	Time	10:00 am
Event Starts	Date	8/18/17	Time	5:00 pm * 5:30 PM
Event Ends	Date	8/18/17	Time	11:59 pm
Dismantle	Date	8/19/17	Time	12:00 am ✓

Type of Event: (see DEFINITIONS on page 5)

- | | |
|--|---|
| <input type="checkbox"/> Carnival / Circus | <input type="checkbox"/> Exhibition (i.e. Car Show) |
| <input type="checkbox"/> Fair | <input type="checkbox"/> Farmer's Market |
| <input type="checkbox"/> Festival | <input type="checkbox"/> Parade/March |
| <input checked="" type="checkbox"/> Run/Walk/Marathon/Race | <input type="checkbox"/> Street Fair/Block Party/Neighborhood Event |
| <input type="checkbox"/> Street Market | <input type="checkbox"/> Other: _____ |

Anticipated Attendance:

Total: ~~400~~ 500 Daily: _____

Yes No Is this an annual event?

Yes No Has this event ever been held at another location?
If yes, please provide the appropriate references:

Location	Date	Contact Name	Phone Number
----------	------	--------------	--------------

Applicant must complete all required pages except as noted for Block Party/Neighborhood Event.



ALCOHOLIC BEVERAGES

If your event is selling or dispensing alcoholic beverages, it may require a temporary alcohol permit, and if so you will need to submit an application for a permit to the Delaware Office of Alcoholic Beverage Control Commissioner. Applications are available at: <http://date.delaware.gov/OABCC/forms-applications.shtml>

Check all that apply:

- Free/Host Alcohol
- Alcohol Sales
- Host and Sale Alcohol
- Beer
- Beer and Wine
- Beer, Wine and Distilled Spirits

Do you plan to secure a:

- Gathering License
- Extension of Premises License

Attached
License #
50327

Please describe your security plan to ensure the safe sale or distribution of alcohol at your event.

All runners ID'd and bracelets for those
over 21.

If applying for a Gathering License, the following must be provided:

Boys & Girls Club of Delaware
Charity or Organization Name IRS 501(C)3#

Tod Van Eyken 631-662-4080
Name of contact at Charity or Organization Phone

Matt Rowan/Arenas
On-site Agent Responsible for Liquor

How will attendees over the age of 21 be identified?

Bracelet

What controls will be used to keep attendees under the age of 21 from obtaining alcohol at the event?

ID area

If you are having alcohol sales, you will need to obtain a Permit from the Delaware Office of Alcoholic Beverage Control Commissioner, Carvel State Building, 820 North French Street, 3rd Floor, Wilmington, DE 19801 - (302) 577-5222.



NE Front St

Denny Row

Denny Row

Denny Row

7

To be closed off.

To be closed off.

Fenced in Area for those with alcoholic beverages.

To be closed off.

1

2

6

3

5
a

+

4

Fur Baby Boutique

Arena's Sports Bar

Delaware

- 1. Stage**
- 2. Photo booth**
- 3. Beer vendors**
- 4. Food**
- 5. Kids Area, inflatable at (a) and first Aid**
- 6. Portable toilets**
- 7. Live goat area.**

§ 77-3. - Special events.

Alcoholic beverages may be sold and consumed at special events or gatherings in public places, upon application to and approval of the City Council.



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

**Milford Community Gardens
Lease Agreement**

THIS LEASE AGREEMENT (hereinafter referred to as the "Agreement") made and entered into this _____ day of 2017 by and between City of Milford, (hereinafter referred to as "Landlord") and Milford Community Gardens, (hereinafter referred to as "Tenant").

WITNESSETH:

WHEREAS, the Landlord is the fee owner of certain real property being, lying and situated in Kent County, Delaware such real property as shown on Exhibit "A" and described as the northeast corner of parcel 5-16-18306-02-1400-0001 on N. Walnut Street approximately 300' south of the intersection of NE 7th Street (hereinafter referred to as the "Premises").

WHEREAS, Landlord desires to lease the Premises to Tenant upon the terms and conditions as contained herein; and

WHEREAS, Tenant desires to lease the Premises from Landlord on the terms and conditions as contained herein;

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **TERM.** Landlord leases to Tenant and Tenant leases from Landlord the above described Premises together with any and all appurtenances thereto, for a term of five (5) years, such term beginning on September 1, 2017 and ending on August 30, 2023. This Lease is subject, however, to the termination and renewal rights as are hereinafter set forth; and is further subject to the rights of the parties to terminate this lease at any time upon mutual agreement during the initial term and any renewals thereafter.
2. **RENT.** The total rent for the term hereof is the sum of ONE DOLLAR (\$1.00), the receipt of which is hereby acknowledged.
3. **USE OF PREMISES.** The Premises shall be used occupied by Tenant exclusively for the purpose of a community garden for the Milford community. The purpose of this garden will be to provide a space for residents to learn how to grow food and a place to do so. Tenant shall comply with any and all laws, ordinances, rules and orders of any and all governmental or quasi-governmental authorities affecting the cleanliness, use, noise, zoning, occupancy and preservation of the Premises.
4. **CONDITION OF PREMISES.** Tenant stipulates, represents and warrants that Tenant has examined the Premises, and that they are at the time of this Lease in good order, repair, and in a safe, clean condition.
5. **ASSIGNMENT AND SUB-LETTING.** Tenant shall not assign this Agreement, or sub-let or grant any license to use the Premises or any part thereof.

6. **ALTERATIONS AND IMPROVEMENTS.** Tenant shall make no alterations to the Premises or construct any building or make any other improvements on the Premises without the prior written consent of Landlord. Any and all alterations, changes, and/or improvements built constructed or placed on the Premises by Tenant shall, unless otherwise provided by written agreement between Landlord and Tenant, be and become the property of Landlord and remain on the Premises at the expiration or earlier termination of this Agreement.
7. **HAZARDOUS MATERIALS.** Tenant shall not keep on the Premises any item of a dangerous, flammable or explosive character that might unreasonably increase the danger of fire or explosion on the Premises or that might be considered hazardous or extra hazardous by any responsible insurance company.
8. **UTILITIES.** Landlord agrees to pay for the installation of one garden meter and water service connection. Tenant shall be responsible for arranging for and paying for all water services required on the Premises.
9. **MAINTENANCE AND REPAIR; RULES.** Tenant will, at its sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition and repair during the term of this Agreement and any renewal thereof. Without limiting the generality of the foregoing, Tenant shall remove all trash, garbage, rubbish or refuse and shall not allow any trash, garbage, rubbish or refuse to be deposited or permitted to stand on the property.
10. **INSPECTION OF PREMISES.** Landlord and Landlord's agents shall have the right at all reasonable times during the term of this Agreement and any renewal thereof to enter the Premises for the purpose of inspecting the Premises.
11. **SURRENDER OF PREMISES.** Upon the expiration of the term hereof, Tenant shall surrender the Premises in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and tear thereof and damages by the elements expected.
12. **INDEMNIFICATION.** Landlord shall not be liable for any damage or injury of or to the Tenant, guests, invitees, agents or employees or to any person entering the Premises or to goods or equipment and Tenant hereby agrees to indemnify, defend and hold Landlord harmless from any and all claims or assertions of every kind and nature. Tenant shall obtain an insurance policy at its own expense which policy shall provide for general public liability insurance in the amount of \$1,000,000 per occurrence and \$2,000,000 per year and shall name Landlord as an additional insured on said policy. Tenant shall, without demand and furnish Landlord with a certificate or certificates evidencing such insurance. Failure of Tenant to provide the certificate or certificates shall constitute an act of default under this Lease.
13. **DEFAULT.** If Tenant fails to comply with any of the material provisions of this Agreement, other than the covenant to pay rent, or of any present rules and regulations or any that may be hereafter prescribed by Landlord, or materially fails to comply with

any duties imposed on Tenant by statute, within seven (7) days after delivery of written notice by Landlord specifying the non-compliance and indicating the intention of Landlord to terminate the Lease by reason thereof, Landlord may terminate this Agreement.

14. **GOVERNING LAW.** This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Delaware.
15. **SEVERABILITY.** If any provision of this Agreement or the application thereof shall be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.
16. **DESCRIPTIVE HEADINGS.** The descriptive headings used herein are for convenience of reference only and they are not intended to have any effect whatsoever in determining the rights or obligations of the Landlord or Tenant.
17. **CONSTRUCTION.** The pronouns used herein shall include, where appropriate, either gender or both, singular and plural.
18. **NON-WAIVER.** No indulgence, waiver, election or non-election by Landlord under this Agreement shall affect Tenant's duties and liabilities hereunder.
19. **MODIFICATION.** The parties hereby agree that this document contains the entire agreement between the parties and this Agreement shall not be modified, changed, altered or amended except through a written amendment signed by all of the parties hereto.
20. **PUBLICITY.** Tenant shall publicize opportunities to participate in the Community Garden through a wide variety of methods, including outreach to immediate neighbors, use of social and traditional media and through other community organizations.
21. **NON-DISCRIMINATION.** Tenant shall not discriminate on the basis of race, creed, color, religion, citizenship status, gender, age, national origin, ancestry, disability, sexual orientation, gender identity or expression, marital status, military veteran status, political beliefs or affiliation, or any other legally-protected attribute.
22. **NOTICE.** Any notice required or permitted under this Lease or under state law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord:

City Manager
City of Milford
201 S. Washington Street Milford, DE 19963

If to Tenant:

Milford Community Gardens
c/o 1013 SE 2nd Street
Milford, DE 19963

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this paragraph by written notice thereof to the other party.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

Tenant:
Milford Community Gardens

Witness: _____

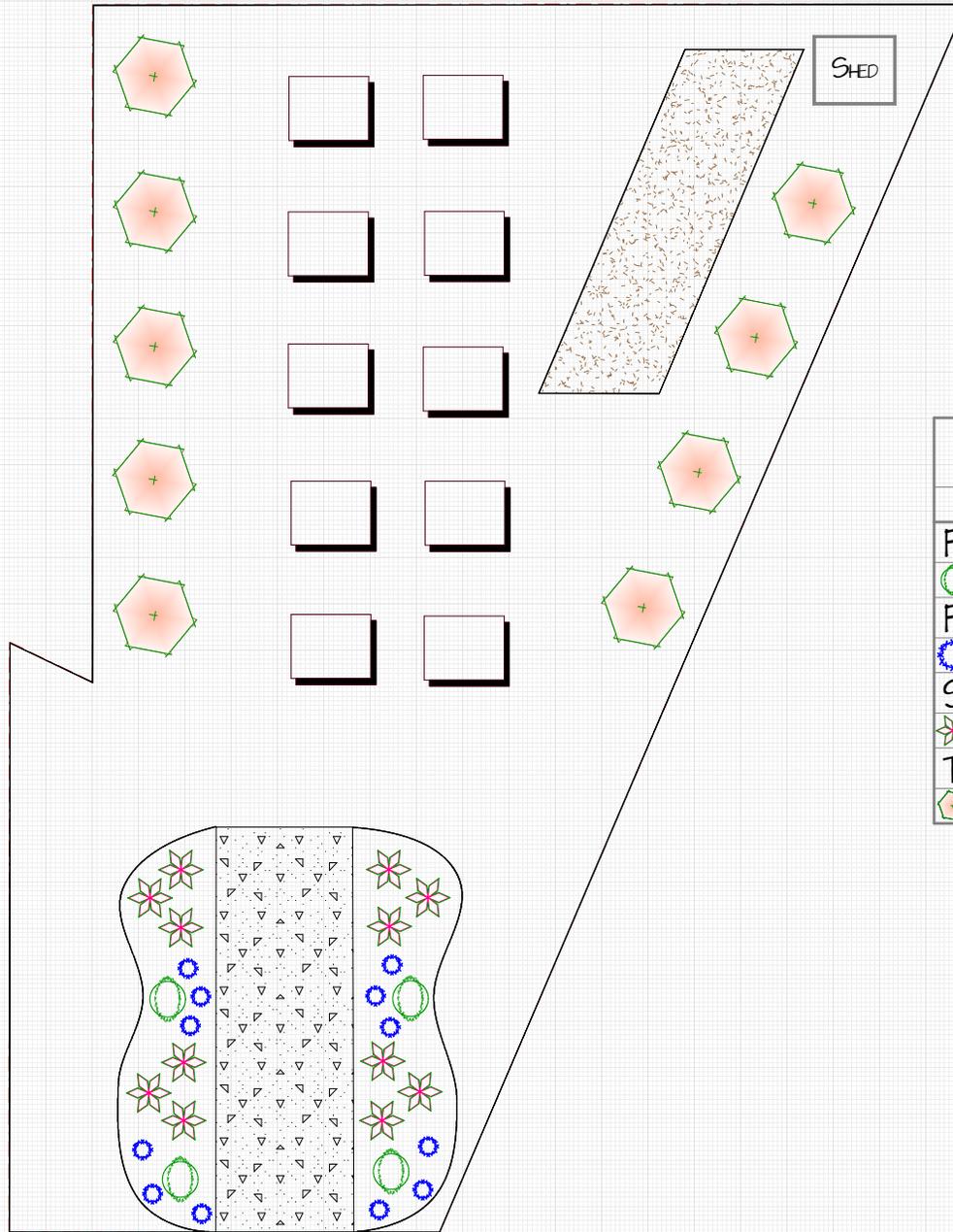
(signature, printed name)

(title)

Landlord:
City of Milford

Witness: _____

Bryan Shupe, Mayor



LEGEND

QTY	COMMON NAME
FLOWER, GRASS	
4	GRASS, SWITCH CLOUD NINE
FLOWER, PERENNIAL	
12	CATMINT
SHRUB, DECIDUOUS	
12	HYDRANGEA, OAK-LEAF
TREE, DECIDUOUS	
9	EASTERN REDBUD

Change Order No. 1

Date of Issuance: July 5, 2017
 Owner: City of Milford
 Contractor: Diamond Materials, LLC
 Engineer: Davis, Bowen & Friedel, Inc.
 Project: Airport Road Rehabilitation

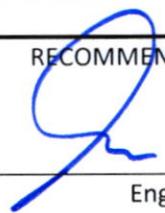
Effective Date: July 5, 2017
 Owner's Contract No.: N/A
 Contractor's Project No.: N/A
 Engineer's Project No.: 052A171
 Contract Name: N/A

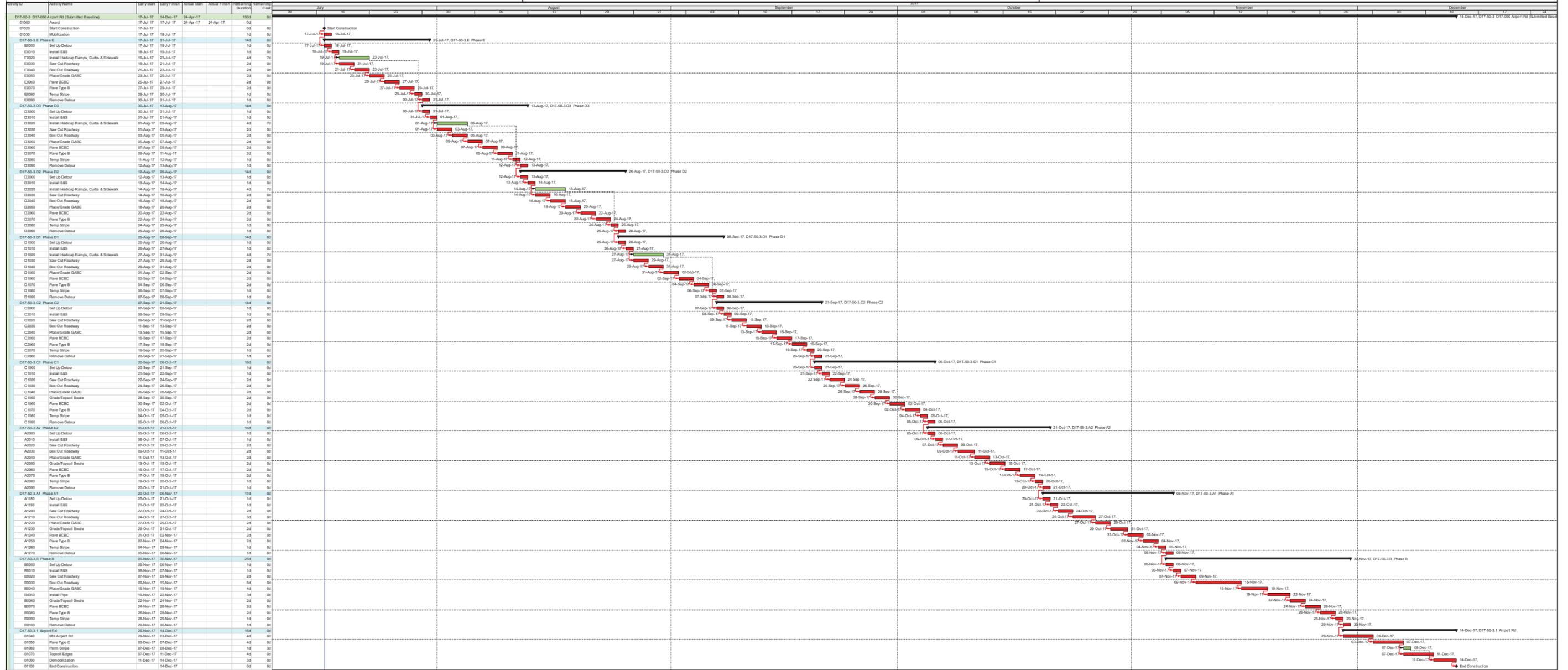
The Contract is modified as follows upon execution of this Change Order:

Description: Modification of the phasing scheduling to as follows: Phase E, D3, D2, D1, C2, C1, A2, A1, and B. Due to modification of phasing and reduction of contract schedule, liquidated damage are not anticipated without documentation contractor is not on site and proceeding in a timely manner.

Attachments: Revised construction schedule

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: \$ <u>1,655,177.50</u>	Original Contract Times Substantial Completion: <u>January 13, 2018</u> Ready for Final Payment: <u>February 12, 2018</u>
Modification due to previously approved Change Orders No. ___ to No. ___: \$ <u>N/A</u>	Modification due to previously approved Change Orders No. ___ to No. ___: Substantial Completion: <u>N/A</u> Ready for Final Payment: <u>N/A</u>
Contract Price prior to this Change Order: \$ <u>1,655,177.50</u>	Contract Times prior to this Change Order: Substantial Completion: <u>January 13, 2018</u> Ready for Final Payment: <u>February 12, 2018</u>
Modification due to this Change Order: \$ <u>0.00</u>	Modification due to this Change Order: Substantial Completion: <u>Decrease of 30 days</u> Ready for Final Payment: <u>Decrease of 30 days</u>
Contract Price incorporating this Change Order: \$ <u>1,655,177.50</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>December 14, 2017</u> Ready for Final Payment: <u>January 13, 2018</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:  _____ Engineer	By: _____ Owner (Authorized Signature)	By:  _____ Contractor (Authorized Signature)
Title: <u>Principal</u>	Title: <u>Mayor</u>	Title: <u>Project Manager</u>
Date: <u>7.12.17</u>	Date: _____	Date: <u>7-10-17</u>



█ Remaining Level of Effort
 █ Actual Work
 █ Critical Remaining Work
█ Actual Level of Effort
 █ Remaining Work
 ◆ Milestone

**CITY OF MILFORD, DELAWARE
PLANNING COMMISSION MEMBERS**

LAST NAME	FIRST NAME	TERM EXPIRES	WARD	
CHAIRMAN				
Sharp	Marvin C.	8/31/2018	3	
MEMBERS				
Boyle	Michael J.	8/31/2019	1	
Fulton	Andrew P.	8/31/2018	2	Vice Chair
Holloway	W. Ed	8/31/2017	4	
Lynch	Raymond E.	8/31/2019	1	
Mims	Rae M.	8/31/2017	1	Secretary
Pletcher	Sara M.	8/31/2017	2	
VACANT		8/31/2019		
VACANT		8/31/2018		

**CITY OF MILFORD, DELAWARE
BOARD OF ADJUSTMENT
MEMBERS**

LAST NAME	FIRST NAME	TERM EXPIRES
CHAIRMAN		
Warfel	Brendon	8/31/19
MEMBERS		
Baker	Ronald	8/31/17
Carter	Chad	8/31/18



Public Works Department

TO: Eric Norenberg, City Manager

CC: Mark Whitfield, Jeff Portmann

FROM: Christie Murphy, Asst. Supervisor for Solid Waste & Facilities

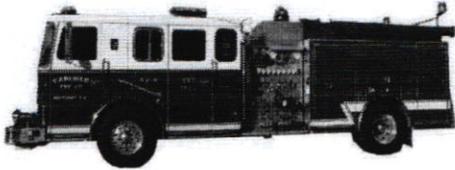
DATE: July 28, 2017

RE: **Request to move software funding from FY 2016-17 to FY 2017-18**

On May 19, 2017, you approved the purchase of the RVision Software in the amount of \$14,150 of which the funding was transferred from the Landfill Fees line item to Contract Services for the purchase.

Since we were unable to complete the software purchase and installation by the fiscal year on June 30, 2017, it was recommended by Jeff Portmann that we cancel the existing purchase order for the software and request that City Council authorize the appropriation from the Solid Waste fund balance to FY 2017-18 Contract Services

Thanks.



Carlisle Fire Company Inc.

PO Box 292 - 615 NW Front St Milford De 19963

Phone (302)422-8001 Fax (302)422-2146 Web: www.carlisle42.com

Office of the President

Tuesday, August 1, 2017

Bryan Shupe
Mayor
City of Milford
119 South Walnut Street
Milford, DE 19963

Dear Mayor Shupe,

This correspondence is to inform you that the Carlisle Fire Company is requesting a withdrawal from the building enhancement monies being maintained by the City of Milford. These requested funds will be utilized to newly construct an ambulance building at our current 615 N.W. Front Street location. As you and your constituents may be aware, we have quickly outgrown our current facility and need the additional space to combat the demands of future growth. Over the past year or so, our building committee has been working extremely hard on this project and has developed what we feel will be a huge asset to our organization with the proposal of this newly constructed facility. Overall, this project is estimated to cost roughly \$270K which is prompting the withdrawal of \$150K from the building enhancement monies. We understand the conservative nature of this account and that these funds have been generated from building permits over the last several years; however, we have no other alternatives but to tap into this funding source for assistance. The remaining \$120K in funding for this project will be derived from the Carlisle Fire Company's contingency fund in an effort to continue our savings and generating interest on those set aside funds.

I would ask that you please review my request and if you have any additional questions or concerns please contact me directly at 302-233-8135. Again, thank you for your time, consideration, and continued support to our organization in our time of need.

Sincerely,

Kevin Donovan
President