

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
October 8, 2018

The City Council of the City of Milford met in Workshop Session on Monday, October 8, 2018 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:30 p.m.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilmembers Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and James Starling Sr.

City Manager Eric Norenberg and City Clerk Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson (Out of State Conference)

*Transfer Development Rights Program*

Planning Director Rob Pierce was in attendance. Mr. Pierce also introduced Scott Blair and Deputy Secretary Austin Short from State of Delaware Department of Agricultural.

Mr. Pierce reported that a similar presentation was provided to the Community and Economic Development Committee on July 24<sup>th</sup>. At that time, they recommended it be brought before City Council once more information had been obtained.

He explained that in 2008, as the Comprehensive Plan was being updated, as part of the development of the Southeast Master Plan, agricultural preservation was under consideration. At the time, there was concern of an eastward sprawl that resulted in discussions about implementing a program to create a greenbelt on the east side.

The Transfer of Development Rights (TDR) is a voluntary, incentive-based program that allows landowners to sell development rights from their land to an interested party who can use those rights to increase the density of development at another designated location. The seller of development rights continues to own the land and ultimately have it permanently preserved as agricultural land.

A TDR program protects land resources at the same time providing additional income to both the landowner and the holder of the development rights.

The City, State Planning Office, Department of Agricultural, DNREC and DelDOT agreed to honor the commitments and recommendations of the Southeast Master Plan that were incorporated in the 2018 Comprehensive Plan, adopted in January 2018. Chapter 7, Economic Development, Chapter 8 Natural Resources, Chapter 9, Parks Recreation and Open Space and Chapter 10-4A Future Land Use Categories all touch on the plan.

A map was referenced (attached) showing receiving areas and sending areas.

In the receiving areas, the City will allow residential development of up to three dwelling units per acre/by-right. In addition to this, developers will be given the opportunity to purchase TDR credits of up to eight dwelling units per acre.

The majority of the undeveloped land in the Southeast Neighborhood is designated as Low Density Residential in the City's Future Land Use maps. The City anticipates a demand for higher density housing around the Health Campus which will help the program succeed. The sending areas have been identified for potential preservation. Development credits are calculated on the net developable land within the current Sussex County AR-1 zoning designation (east of Route 1) or two dwelling units per acre.

The development rights of two dwelling units per acre would be purchased and those credits placed in a pool where they could be purchased by a developer. The City would sell the development credits within the receiving areas based on the

established dollar amount per unit. That value would be established on a routine basis within the sending areas to ensure the TDR bank is properly funded.

An appraiser would be hired to assess the land east of Route 1 and a dollar amount per unit established. The City would then work with the Department of Agriculture to identify properties for preservation; the Department of Agriculture would then purchase the development rights from the property owners with funds from the TDR Bank.

In that manner, developers would not deal directly with the farm owners. The City would hold the funds in a dedicated account until such time the easements were purchased.

Mr. Blair then spoke about the Farmland Preservation Program that was established in 1991 in the Delaware Code and first funded in 1995 to permanently preserve farmland in the State of Delaware.

The program is a voluntary two-phase program. There are approximately 47,000 acres in Phase 1/District Program. Phase 2/Permanent Easement has approximately 125,000 acres. That constitutes about 25% of all the farmland in the State of Delaware and is one of the most successful programs in the United States.

Mr. Blair explained that the first phase is the gateway into the program. A landowner/farmer will come in with a piece of land, fill out an application. Staff then evaluates it to ensure it meets the criteria. It is then sent to the Agricultural Lands Preservation Board, appointed by the Governor and staffed by Department of Agricultural Staff. The board typically approves each property. Once that process is completed, the land owner agrees not to develop the property for a period of ten years. If land is still in the agreement after ten years, the owner can either withdraw from the program or renew for five additional years.

Property taxes are reduced and the unimproved portion goes to zero dollars. There is a protection against nuisance complaints, but the real reason for the first phase is to move into the second phase.

During the second phase, the development rights on the property are purchased. Once that is purchased, a landowner sells the right to develop the property to the State of Delaware and the permanent preservation easement becomes part of the property deed of record.

While in either phase of the program, the land is restricted to farming and related uses. The State does not own the property, and it can be sold; however, the new owner must also comply with the restrictions.

He further explained that any money received from the General Assembly is matched with federal funds in all three counties. Those in the district program have an opportunity to have an appraisal and three numbers are generated. The first is the fair market value and the second is the agricultural value. The agricultural value is then subtracted from the fair market value which results in a development right value. That value reflects how much the landowner could make if the land was developed to its fullest potential.

Mr. Blair explained the next step is to meet with the Department of Agriculture's attorney to negotiate the value. A list is made with the highest discount, or best deal for the State of Delaware, at the top. The funding is received and the Department of Ag begins buying easements to preserve the land until they are out of money. Any land remaining is recycled until the following year. New applications are then submitted on a yearly basis and the process begins again.

If a property owner has made an offer for nine years and never managed to strike a deal with the State of Delaware, they can provide six months notice, renew for another five years and continue to sell their development rights.

If permanently preserved, they go to closing at which time a permanent easement is placed on the property for perpetuity. That will remain a preserved farm regardless of who owns it in the future.

He reiterated that the City could use the money they collect from developers to permanently preserve any of the farms currently enrolled in the Aglands Preservation District Program. The farm would preferably be located within the City's designated TDR sending area.

If the City selects a District farm, it will potentially benefit from a discounted price due to a landowner discount. In addition, the Department of Agriculture may be able to offer state and/or federal matching funds to further reduce the City's cost to preserve the farm. If the City decides to preserve a farm not currently enrolled in the farmland preservation program, the City would have to negotiate a price with the landowner, and matching funds might not be available.

He also shared several benefits of partnering with the Department Agriculture:

Assistance to the City in valuing TDR credits, to include making available Department of Agriculture's experienced licensed/certified real estate appraiser.

Department of Agriculture will provide pool of potential farms for the City to consider for permanent preservation (i.e., farms currently enrolled in the District Program).

Department of Agriculture will pay all closing costs associated with preserving the farm (i.e. land survey, attorney fees, appraisal fees, etc.).

Department of Agriculture may be able to provide substantial matching funds in some instances.

Department of Agriculture will hold or co-hold (with Milford) the permanent preservation easement.

Department of Agriculture will monitor the property for compliance with the easement terms while having the resources to uphold the easement (i.e. legally in a court of law).

It was confirmed there are no other municipalities involved in this process at this time.

Mr. Pierce reiterated this is a voluntary program and presently, Kent County and New Castle County both have TDR Programs.

He explained that any developer who wants to build townhouses and apartments, is currently restricted around the new Bayhealth Campus area. This TDR program would allow that to occur.

Mr. Pierce believes the program would be successful because the City is being asked where they can develop moderate density residential if able to buy and transfer credits into the receiving areas. That would allow concentrated areas of development which would reduce sprawl and City expenses related to infrastructure. It would also improve the long term transportation needs of the neighborhood by creating higher density nodes in areas with transit oriented development.

The Planning Director said this has been on the books for sometime and recommends moving forward. If Council disagrees, the Southeast Master Plan needs to be changed.

Though it is only being suggested in the Southeast area, it could be expanded down the road for lands where neighborhood parks or open spaces need to be preserved.

There being no further business, the Workshop concluded at 6:56 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder

Attachment:  
Southeast Master/Future Land Use Map

# Milford South East Neighborhood Master Plan

## Map #3 Land Use & Environment

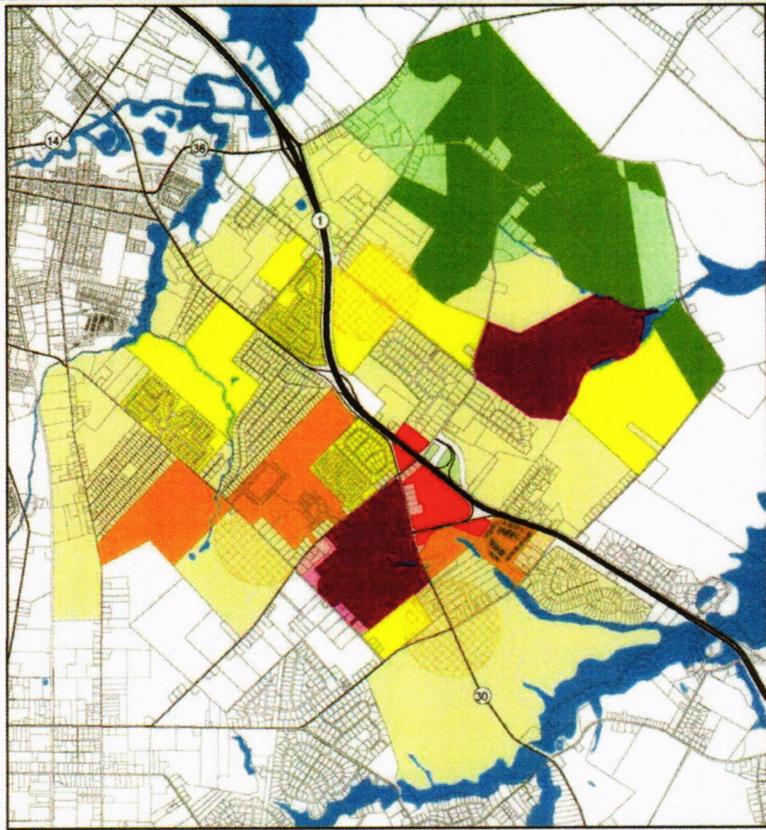
Revised March 2017

### Legend

- TDR Receiving Areas
- TDR Sending Areas
- Employment Center
- Commercial
- Residential - Low Density
- Residential - High Density
- Open Space Agriculture
- Proposed Employment
- Proposed Commercial
- Proposed Residential - Low Density
- Proposed Residential - High Density
- Proposed Open Space Agriculture



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MILFORD CITY COUNCIL  
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October 8, 2018

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, October 8, 2018.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilmembers Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and James Starling Sr.

City Manager Eric Norenberg and City Clerk Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson (Out of State Conference)

#### CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:01 p.m.

#### INVOCATION AND PLEDGE

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

#### APPROVAL OF PREVIOUS MINUTES

Included in the packet were minutes from the September 10 and 24, 2018 Committee and Council Meetings. Motion to approve made by Councilmember Mergner, seconded by Councilmember Boyle. Motion carried.

#### RECOGNITION

##### *Proclamation 2018-13/Dysautonomia Awareness Month*

Leslie Wuenstel, RN BSN, Co-Chair of the Dysautonomia International Delaware Support Group requested a proclamation acknowledging Dysautonomia be prepared by the City of Milford.

Mayor Campbell read the following proclamation into record:

*WHEREAS, Dysautonomia is a group of medical conditions that result in a malfunction of the autonomic nervous system, which is responsible for "automatic" bodily functions such as respiration, heart rate, blood pressure, digestion, temperature control and more;*

*WHEREAS, Dysautonomia impacts over 70 million people around the world, and includes conditions such as Diabetic Autonomic Neuropathy, Vasovagal Syncope, Pure Autonomic Failure, and Postural Orthostatic Tachycardia Syndrome;*

*WHEREAS, Dysautonomia impacts people of any age, gender, race or background, including many individuals living in the City of Milford, Delaware;*

*WHEREAS, Dysautonomia can be very disabling and this disability can result in social isolation, stress on the families of those impacted, and financial hardship;*

*WHEREAS, Some forms of Dysautonomia can result in death, causing tremendous pain and suffering for those impacted and their loved ones;*

*WHEREAS, Increased awareness about Dysautonomia will help patients get diagnosed and treated earlier, save lives, and foster support for individuals and families coping with Dysautonomia in our community;*

*WHEREAS, Dysautonomia International, a 501(c)(3) nonprofit organization that advocates on behalf of patients living with Dysautonomia, encourages communities to celebrate Dysautonomia Awareness Month each October around the world;*

*WHEREAS, We seek to recognize the contributions of medical professionals, patients and family members who are working to educate our citizenry about Dysautonomia in the City of Milford.*

*Now, Therefore, Be It Resolved, that I, Arthur J. Campbell, by virtue of the authority vested in me as Mayor of the City of Milford, do hereby proclaim the month of October 2018, as Dysautonomia Awareness Month in the City of Milford.*

The proclamation was presented to Ms. Wuenstel's grandmother, who was in attendance.

#### MONTHLY POLICE REPORT

Chief Brown and Police Committee Chairwoman Wilson were away attending the International Association of Chiefs of Police Conference.

There being no questions from Council, a motion was made by Councilmember Morrow, seconded by Councilmember Boyle to accept the Monthly Police Report as submitted. Motion carried.

#### MONTHLY CITY MANAGER REPORT

In addition to the report included in the packet, City Manager Norenberg shared that DelDOT will be closing the Route 1 northbound flyover exit ramp on the southeastern part of Milford beginning sometime between October 17<sup>th</sup> and 22<sup>nd</sup> while it is resealed.

Along with staff, he continues to evaluate the relocation of the four Planning and Code Enforcement employees who are presently working out of the Council Chambers. He noted it is not an ideal situation, and referenced the hundreds of record boxes that had to be moved from the flooded basement to various areas on City Hall's ground floor.

He also reported it is going to take a significant amount of money to have the basement waterproofed to ensure it is fixed permanently so the area can continue to be used.

Mr. Norenberg advised that several other City buildings have been considered for their relocation, but for a number of reasons, including renovation costs, it has not worked out. As a result, it was recommended that a modular office trailer be put in the parking lot for their use as other options are considered. In the meantime, he is asking that Council allow Planning Director Pierce to research the information on the trailer. He compared this temporary situation to those that exist at schools, construction sites and by other businesses and cities. Additional details will be provided at the next meeting.

No concerns with the plan were expressed by City Council at this time.

Councilmember Boyle moved to accept the City Manager report, seconded by Councilmember Morrow. Motion carried.

#### MONTHLY FINANCE REPORT

Finance Committee Chairman Morrow reported that through August 2018, with 17% of the fiscal year having passed, 27% of revenues have been received and 15% of the total operating budget expended.

Motion carried by Chairman Morrow and seconded by Councilman Brooks to accept the Finance Report. Motion carried.

#### COMMITTEE AND WARD REPORTS

*Annexation Committee:**Gilbert C. and Irene D. Simpson Petition/Findings**Derek R. Parker and Shawn L. Bernhard Petition/Findings*

Planning Director Pierce reported the Annexation Committee had met and recommended proceeding with the annexation request of both petitioners, as described below:

Gilbert C. and Irene D. Simpson

Location: 5919 S. Rehoboth Boulevard

Size: 1.90 +/- acres

Existing Zoning: AR-1 – Agricultural Residential (Sussex County)

Proposed Zoning: C-1 (Community Commercial District)

Tax Map and Parcel Number: 3-30-11.00-043.00

Derek R. Parker and Shawn L. Bernhard

Location: 7195 Cedar Creek Road

Size: 1.01 +/- acres

Existing Zoning: AR-1 – Agricultural Residential (Sussex County)

Proposed Zoning: C-3 (Highway Commercial District)

Tax Map and Parcel Number: 3-30-11.00-006.15

Written reports will also be forwarded to the Office of State Planning. In addition, public hearings will be scheduled before the Planning Commission and City Council and associated notices mailed.

Based on the Annexation Committee's recommendation, Chairman Brooks moved to proceed with the annexation of the Gilbert C. and Irene D. Simpson property at 5919 South Rehoboth Boulevard, seconded by Councilmember Morrow. Motion carried.

Based on the Annexation Committee's recommendation, Annexation Committee Member Peel moved to proceed with the annexation of the Derek R. Parker and Shawn L. Bernhard property at 7195 Cedar Creek Road, Lincoln, seconded by Councilmember Starling. Motion carried.

**COMMUNICATIONS & CORRESPONDENCE***Special Council Meeting Reminder*

City Manager Norenberg reminded Council of the Council meeting scheduled tomorrow night, October 9, 2018, at 6:00 p.m. to address the amendment to the Electric Tariff.

The packet also included announcements of upcoming meetings.

**UNFINISHED BUSINESS***Kent Economic Partnership Agreement Approval*

City Manager Norenberg recalled the April presentation by the Greater Kent Committee at which time Council was informed both public and private entities were helping to fund a revamped Kent Economic Partnership (KEP). At that time, City Council agreed to budget the funds and over the summer, an agreement was developed (in packet).

He also noted that Councilman Mergner is Milford's representative on the KEP Board.

KEP Executive Director Linda Parkowsky introduced herself, along with Greater Kent Committee Member Bill Strickland and Kent Economic Partnership Chairman Greg Moore.

Chairman Moore thanked the City of Milford and KEP Member/City Council Member Chris Mergner for attending their monthly meetings.

Mr. Moore explained that former President of the Greater Kent Committee Bill Strickland was instrumental in reorganizing the KEP by adding more business interest. In addition, he played a key part in raising \$100,000 from business money which added to their finances and allows them to do more. He is currently President of DE Turf who has been an economic driver throughout Central Delaware and particularly in Milford.

The biggest change in the KEP was hiring Linda Parkowski as a person who answers to the Board of Directors and not to Kent County. As a participant, when Board Member/Councilman Mergner brings something to Ms. Parkowski on behalf of Milford, he is able to provide her direction on how to execute. The Board is seeing great returns through a number of businesses that are interested in Milford and they are directed to contact City Manager Norenberg.

Ms. Parkowski then reported that they have created a business retention and expansion program and are out visiting businesses. They are soliciting information to determine what these businesses need, what they want and how this organization can make things better for them. They are also working on their supply chains in hopes of attracting those suppliers and businesses to the county.

A new website is being created which will be a foundation for business attraction and programs, in addition to providing information and help for individual municipalities. Some technology platforms will be utilized as targeted areas are identified.

Next year she hopes to go out of the area to spread the word out about Central Delaware.

Councilmember Peel moved to authorize the Kent Economic Partnership Agreement for Economic Services, seconded by Councilmember Starling. Motion carried.

## NEW BUSINESS

### *Adoption/Resolution 2018-18/Authorization to Submit DSWRF Loan Application*

City Engineer Erik Retzlaff reported on the fresh water system lead removal project. He noted that the City has identified a number of locations where lead could have been used in making the service connections. As a result, funding is being requested through the Delaware Drinking Water State Revolving Fund. City Council authorization is required to submit the application. Once the application is submitted, an offer will be provided for the funding terms after which the City would respond.

When asked if anyone from the public wished to speak, no one responded. Mayor Campbell then closed the floor to public comments.

Councilmember Peel moved to adopt Resolution 2018-18, seconded by Councilmember Morrow:

### *AUTHORIZATION FOR PREPARATION & SUBMISSION OF AN APPLICATION THROUGH THE DRINKING WATER STATE REVOLVING FUND*

*WHEREAS, the City of Milford has initiated action to prepare a Drinking Water Lead Service Line Replacement Project; and*

*WHEREAS, the City of Milford has filed an application for \$900,000 to be issued in the form of a General Obligation Bond from the Delaware Health and Social Services, Drinking Water State Revolving Fund; and*

*WHEREAS, the City of Milford will be required to comply with the borrowing requirements as listed in its Charter prior to accepting any funding offer from the Drinking Water State Revolving Fund; and*

*WHEREAS, Delaware Health and Social Services requires that a resolution be adopted by the Grantee authorizing an individual by name and title to sign the Loan Agreement and other documents related to this project.*

*NOW THEREFORE, BE IT RESOLVED that the City of Milford authorizes preparation and submission of an application through the Drinking Water State Revolving Fund.*

Motion carried.

*Introduction/Ordinance 2018-22/JGC&J Inc. Conditional Use*

Mayor Campbell introduced Ordinance 2018-22.

Planning Director Pierce reported the application involves a conditional use request for two billboards to be placed along US Route 113 between Redners and the DSWA Transfer Station. A public hearing is scheduled on October 22, 2018.

*Introduction/Ordinance 2018-23/Chapter 204/Taxation/Milford Lodging Tax*

City Manager Norenberg introduced Ordinance 2018-23, authorized by the recent amendment to the City of Milford Charter that allows levying a lodging tax in the City of Milford. Adoption is scheduled at the October 22, 2018 Council meeting.

*Introduction/Ordinance 2018-27/Electric Tariff Amendment/Appendix B/Residential Rates*

City Manager Norenberg introduced Ordinance 2018-27 which will amend the summer rates paid by City of Milford from June to September. This will align with the UFS recommendation that was included in the presentation to City Council in April 2017.

The adoption is scheduled tomorrow evening at a specially-scheduled meeting that beings at 6:00 p.m.

*Introduction/Ordinance 2018-28/Annexation/Lands belonging to the City of Milford, 20167 Elks Lodge Road, Lincoln, DE, Tax Map 3-30-15.00-058.02*

Mayor Campbell introduced Ordinance 2018-28. Planning Director Pierce explained this involves the final authorization of the annexation of the City of Milford’s substation land owned by the City. A public hearing will be held by the Planning Commission, followed by a hearing before City Council on October 22, 2018.

*Appointment/Parks and Recreation Advisory Board*

City Manager Norenberg recalled Council adopting an ordinance creating a Parks and Recreation Advisory Board. Since that time, applications have been received. Following a review of the applications and interviews of the candidate, the following individuals are recommended by Mayor Campbell, with terms staggered in accordance with the Code.

Councilmember Peel moved to appoint the following members to the Parks and Recreation Advisor Board, with the term expiring as indicated, seconded by Councilmember Boyle:

Name	Ward	Term Expiration Date
Anne Villalobos	1	August 31, 2020
Eli Howard	2	August 31, 2020
Andrew Fulton	2	August 31, 2019
Edward Evans	3	August 31, 2021
Duvanel Louis	4	August 31, 2021

Motion carried.

EXECUTIVE SESSION

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

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

Motion carried.

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

*Return to Open Session*

City Council returned to Open Session at 8:02 p.m.

*MPD Teamsters Negotiations*

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

ADJOURNMENT

There being no further action, Councilmember Peel moved to adjourn the Council Meeting, seconded by Councilmember Boyle. Motion carried.

Mayor Campbell adjourned the City Council Meeting at 8:03 p.m.

Respectfully submitted,



Terri K. Hudson, MMC  
City Clerk/Recorder