

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
January 27, 2020

The City Council of the City of Milford met in Workshop Session on Monday, January 27, 2020 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:32 p.m.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow, Jason James Sr. and Katrina Wilson

STAFF: Interim City Manager Mark Whitfield, Police Chief Kenneth Brown and Deputy City Clerk Christine Crouch

COUNSEL: Solicitor David Rutt, Esquire

*Quarterly Update/Downtown Milford, Inc.*

DMI President Peggy Reilly introduced Executive Director Trish Gerken.

Executive Director Gerken provided the following report, followed by some highlights:

**OPERATIONS/PROGRAMS/SERVICE**

**Board Updates:**

- Denise Rivera and Sher Valenzuela resigned from the board
- Joe Phillips, owner of Causey Mansion, and Craig de Mariana Aleman, Esq. owner of Aleman Fitzgerald Properties, LLC were unanimously voted to fill vacant positions until their terms are up.

**Organization Committee (open):**

- Chairperson was asked to resign – the chair is temporarily being filled by Board President Peg Reilly
- Volunteer Appreciation held on November 14, 2019

**Promotions Committee (Nina Pletcher):**

- 4th quarter events include: Santa House and Holiday Stroll
- DE Turf Button Promotion continues
- Looking for new Committee Chair

**Economic Development Committee (Sher Valenzuela):**

- Sher Valenzuela has volunteered to chair the committee with David Pickrell co-chair, many thanks to Walt Hepford for his time and dedication to the committee
- Building Inventory conducted monthly
- Focus on creating a public/private partnership with DNS to create outdoor recreational activities to increase foot traffic to downtown
- Team Vinyard received a \$12K grant from USDA and continues to:
  - o Build partnership with Delaware Nature Society (DNS)
  - o Find options for the Spoon Factory
  - o Find pathway through Lofland property for continuous Riverwalk
  - o Fundraise
  - o Trying to get Bond Bill funding to help with purchase costs
  - o Met with Governor Carney, Sec. Bullock, Rep. Shupe, Wilson, Postles, among other local government officials to tour and discuss the Shipyard

**Design Committee (Joey Phillips):**

- Awarded 2 sign, façade, and awning grants
- Awarded 1 Five for free paint matching program

- Winter wreath fundraiser – raised \$643.50 for Milford in Bloom
- Collected and installed winter greenery for hay baskets
- Working with Parks and Rec for potential rain garden locations

**PERFORMANCE INDICATORS**

- Santa House: 2,396 visitors + 26 dogs and 1 horse
- Holiday Stroll: Estimated 2500 visitors
- Riverwalk Farmer’s Market:
  - o 10/5/19 (Customer Appreciation – 297 visitors, \$5,511.00 sales
  - o 11/23/19 (Fall Market) – 383 visitors \$6,376.00
  - o **Total sales: \$11,887, Total visitors: 680**

**VOLUNTEERS**

- 4<sup>th</sup> Quarter logged volunteer hours: 1,059.5
- Continuing use of signup.com to recruit and retain volunteers

**CITY FUNDING**

CURRENT QUARTER		YEAR-TO-DATE	
ITEM	AMOUNT	ITEM	AMOUNT
Salary Director	\$16,876.53	Salary Director	\$44,807.42
Administrative Assistant	\$30.00	Administrative Assistant	\$3,557.27
Phone/Internet	\$612.54	Phone/Internet	\$2,203.26
PO Box Rental	\$0.00	PO Box Rental	\$106.00
Utilities	\$2,382.41	Utilities	\$4,831.39
<b>TOTAL:</b>	<b>\$19,901.48</b>	<b>TOTAL:</b>	<b>\$55,605.34</b>

**UPCOMING EVENTS**

- 3rd Thursdays ongoing
- Pub Crawl – Saturday, March 14
- Irish Dance & Music Concert – Sunday, March 15
- April 4<sup>th</sup> Citywide Community Clean-up (with Parks and Rec, City of Milford, Chamber of Commerce)

*Quarterly Update/Milford Museum*

The following report was presented by Director Claudia Leister, who also provided some highlights:

**OPERATIONS/PROGRAMS/SERVICES**

- *Presentations: 0*
- Two attempted break-ins in early December. Installed security cameras and signage at front and back doors.
- Lulu the Ladybug has been installed on the front landing. She has been very well received by locals and visitors.
- The Museum used for an interview of Dr. Reba Hollingsworth, 2018 Delaware Women’s Hall of Fame Inductee, for a Department of Archives documentary.
- Director: Began working on collections inventory at Parson Thorne Mansion for tours taking place there the first Saturday of May thru October; Assisted Chamber of Commerce with Taste of Milford event; Created a map and story regarding Milford Shipbuilding and Shipbuilders as part of the Vinyard Shipyard Task Force.

**PERFORMANCE INDICATORS**

- Museum Visitation: September 154; October 165; November 125; December 310
- A total of 144 new items have been added during 2019.
- *Milford Art League Big Draw Attendees 0*

- *Holiday Stroll* Attendees 185 \*275 in 2018 and 450 in 2017; Director believes this decrease is due to carriages not starting at City Hall, no music at Jesus Love Temple, Causey Mansion not open.
- Current membership 242

**VOLUNTEERS**

- In addition to Board Members and spouses (11), 10 volunteers
- Three new Board members: Kevin Mullican (Architect and new resident), Steve Curtis (former buildings manager for the State Division of Historical & Cultural Affairs), and Kelly Sylvester (Shore United Bank Branch Manager).
- Nicole Rogers is volunteering one day a week to work Archival collections. She is a part-time Docent for the State Division of Historical & Cultural Affairs.

**CITY FUNDING \$30,500**

CURRENT QUARTER (Oct, Nov, Dec)		Year-to-Date	Calendar
ITEM	AMOUNT	ITEM	AMOUNT
Payroll	\$11,089.60	Payroll	\$44,387.74
Utilities	\$3,655.39	Utilities	\$9,192.85
TOTAL:	\$14,744.99	TOTAL:	\$53,580.59

**UPCOMING EVENTS**

- Kentucky Derby Party, 05/02/20*
- Ice Cream Social, 0*
- Hippifest, 08/22/20*

As noted, Director Leister continues to work with the Milford Historical Society and the Parson Thorne Mansion. Her concern is the lack of hours Parson Thorne is available and is actually only open two days of the year for their antique show on the first Saturday in May and October.

She is working to get docents trained to allow the house to be open the first Saturday of each month for six months from May through October.

Ms. Leister also learned they did not have an inventory of their collections and have since taken upon herself collection management.

She is also a member of the Vinyard Task Force and has been working to create a map of Milford which will include the locations of the shipyards. In doing so, she has learned there were thirteen shipyards on the south side of the Mispillion River as early as 1761.

They also believe the Vinyard Shipyard is the only existing 19<sup>th</sup> Century in existence in the entire United States.

*Quarterly Update/Milford Public Library*

On behalf of the library, Director Kay Hudson provided the following information:

**OPERATIONS/PROGRAMS/SERVICES**

Christmas Tree Extravaganza raised \$3,000.00 which was given to an elderly couple with medical issues who are raising their child with disabilities.

**PERFORMANCE INDICATORS**

- September-December Visitors 46,308
- New Members 331
- Computer Users 3,826
- Outside Use of Meeting Rooms 177

**VOLUNTEERS**

Library Volunteers: 200 hours Library Friends: 1,000 hours  
 Friends of the Library: Holiday Boutique and Book Sale

**CITY FUNDING**

CURRENT QUARTER (Oct-Dec)		FISCAL YEAR TO DATE (July 1-present)	
Item	Amount	Item	Amount
Safety Officer	\$3405	Safety Officer	\$3405
Bilingual Staff	\$3598	Bilingual Staff	\$3598
Self-Checkout	\$2819	Self-Checkout	\$2819
Children’s 1000 Books Program	\$600	Children’s 1000 Book Program	\$600
		Teen Center	\$2000
		Film on Windows	\$870
		Adult Programing	\$1000
		Summer Reading	\$595
<b>TOTAL:</b>	<b>\$10422</b>	<b>TOTAL</b>	<b>\$10,887</b>

**UPCOMING EVENTS**

Children: Story times, Life Size Candyland, Friday Flicks, Minecraft, Knit and Crochet  
 Teen: Art and Crochet Club, TinkerCad, STEM, Movie Nights, Chess and Checkers Club, Virtual Reality, Robotics  
 Adults: Know 10 Signs of Alzheimer’s s, Movie Nights, Book Clubs, Cyber Awareness Health Class, Paint Night, Create Your Own Sea Glass Necklace

Ms. Hudson then spoke about the number of activities offered to our citizens and how the library has become more of a community center. She talked about the Christmas Tree Extravaganza. The trees are decorated by businesses, organizations, and groups and donations accepted for the favorite tree. This project raised \$3,000, which in turn, was given to a needy family in the area.

She also talked about the various services offered including computer assistance, adult, teen and children programs, along with a new program entitled Music and Memory for Alzheimer’s patients.

Other services offered are tax preparation, art, movie night, life-size Candyland, Friday flicks, Minecraft, knit and crocheting, TinkerCad, STEM, chess and checkers, virtual reality, AARP tax preparation, Census training, Blood Bank, in addition to hosting events such as Seasons Hospice.

*Quarterly Update/Carlisle Fire Company*

The following written report was submitted:

Last quarter the Carlisle Fire Company, Inc. responded to a total of 152 fire calls and 829 Ambulance calls:

<u>Fire Calls</u>		<u>Ambulance Calls</u>	
October	61	October	279
November	46	November	250
December	45	December	300

President Marvin Sharp reported that Carlisle Fire Company continues to stay extremely busy and responded in excess of 3,200 ambulance calls last year, and alarms were down by 17.

He also reminded Council they are still awaiting the \$100,000 promised last year. Deputy City Clerk was directed to follow-up with the Finance Department.

Solicitor Rutt shared that his recollection is that last year's payment was made; however, no payment has been made this year because the agreement is still pending. President Sharp stated that is not an agreement, but a dictatorship.

Solicitor Rutt said he has worked with Carlisle (Duane Fox) and their attorney and met on numerous occasions. The City was waiting for the signed agreement, though there has not been any communication since September.

President Sharp said he was unaware of that though the original part was totally unacceptable.

Solicitor Rutt then explained the process.

President Sharp apologized, stating he will follow up.

He then recalled that originally Carlisle always received \$165,000 and in 2007 or 2008, City Manager Carmean contacted President Sharp there was a shortfall in the budget. City Manager Carmean asked if the Fire Company would take a \$15,000 cut to help balance the budget. Mr. Sharp agreed and Mr. Carmean said he would get that difference back as quick as possible. However, that never happened.

Since then, they went from \$140,000 to \$100,000, which resulted in a \$40,000 deduction for no apparent reason. Their budget of \$1.3 plus million, that amount does not sound like much, but does have a chunk that needs to be made up.

In addition, Finance Committee Chairman Steve Ellingsworth is a penny pincher and very frugal and knows what he is doing.

Regardless, Mr. Sharp will check on the 2019 and humbly apologizes.

There being no further business, the Workshop concluded at 6:55 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Transcriber

MILFORD CITY COUNCIL  
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A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, January 27, 2020.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Lisa Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow, Jason James Sr. and Katrina Wilson

STAFF: Interim City Manager Mark Whitfield, Police Chief Kenneth Brown and Deputy City Clerk Christine Crouch

COUNSEL: Solicitor David Rutt, Esquire

#### CALL TO ORDER

Mayor Campbell called the Council meeting to order at 7:03 p.m.

#### INVOCATION AND PLEDGE

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

#### RECOGNITION

*Parks & Recreation Department/Check Presentation from Chamber of Commerce for Greater Milford*

Riverwalk Freedom Festival Chairperson Angela Dorey, along with Executive Director Jo Schmeiser and Ruth Abbott of the Greater Milford Chamber of Commerce presented Parks and Recreation Director Brad Dennehy with a check for \$3,500 for his department assisting with the Riverwalk Freedom Festival.

#### PUBLIC HEARINGS

##### *Ordinance 2019-30*

*Milford Marina Enterprises LLC for a Conditional Use for a Planned Unit Development and a Preliminary Major Subdivision on 40.35 +/- acres in R3 (Garden Apartment and Townhouse) and C3 (Highway Commercial) Zoning Districts. Property is located on the south of Cedar Beach Road, east of Beaver Dam Road and west of State Route 1, Milford, Delaware. Present Use: Vacant Land; Proposed Use: 101 Single Family units and 30 Townhouse units for a total of 131-unit subdivision to be known as Knight Crossing. Tax Map 3-30-7.00-035.00, 036.00 & 037.00 (portions)*

Planning Director Rob Pierce announced that this application has been postponed and will be heard at the February 24, 2020 Council meeting, at the request of the applicant.

##### *Ordinance 2019-41*

*Change of Zone/Lands Belonging to Coranado Treasures LTD/  
1017 S DuPont Blvd, Milford, DE 19963  
2.84 +/- Acres/Current Zone OB1/Proposed Zone C3/Tax Map 1-30-3.19-013.00*

Planning Director Rob Pierce reported that the applicant proposes to change the zoning designation of the above referenced parcel from OB-1 (Office Building) to C-3 (Highway Commercial).

The Change of Zone request is consistent with the 2018 Comprehensive Plan Future Land Use maps. The Future Land Use designation for the property is Commercial, for which C-3 (Highway Commercial) is a suitable zoning designation.

The Comprehensive Plan desires that Highway Commercial zones should be located along major transportation routes, including DE 1, US 113, Route 14 and Business 1.

Any proposed use would be subject to the City Code, specifically the use and area regulations adopted at the time of application.

According to Chapter 230, the purpose of the C-3 category is to provide for larger-scale commercial uses that may require large amounts of parking space or have a high traffic impact. These uses generally require locations on major arterial routes and serve both local and regional customers.

US 113/South Dupont Boulevard is a State maintained roadway and considered a principal arterial road according to DeIDOT's functional classification map. Site access and entrance improvements would be reviewed and approved by DeIDOT as part of the site plan approval process.

The Council packet includes a staff report outlining the request and shows the location of the property in relation to the other adjacent zones. This section of US 113 contains a mixture of commercial, residential and office type uses. The property to the north is zoned R-1 (Single-family Residential District) and contains a single-family detached dwelling. The property to the south is zoned R-1 (Single-family Residential) and contains a single-family detached dwelling. The property to the east is zoned R-3 (Garden Apartment and Townhouse District) and will contain future townhouses within the Simpsons Crossing Planned Unit Development. The property to the west, across US Route 113, are zoned R-3 (Garden Apartment and Townhouse District) and are part of the Cypress Hall Residential Planned Unit Development.

The packet also contains a survey of the property and the future land use exhibit, along with a table from the Comprehensive Plan confirming C-3 is a suitable zoning designation. All the permitted and conditional uses permitted in the C-3 are also included.

The applicant does not currently have a planned use, according to Mr. Pierce, and will market the land as commercial land with the approved change of zone.

The public notice was advertised in the Milford Beacon on November 26, 2019 and all property owners with properties within 200 feet were mailed copies.

Mr. Pierce did receive an email from a neighboring property owner that is in opposition to the proposed change of zone stating as follows:

*Dear Council Members:*

*I am writing about the proposed zoning change and the land at 1017 South DuPont Boulevard from the current zone of OB1 to the proposed zone of C3, an item on the agenda of the January 27 City Council meeting.*

*My brother and I are co-owners of the neighboring property to the south at 1019 South DuPont Boulevard. Our land and house were purchased by our parents a little more than 70 years ago. As a next-door neighbor to 1017 South DuPont Boulevard, I strongly oppose the proposed change of zone to C3. The change of zoning to allow a commercial use on this neighboring property will significantly affect our land and house and not in a good way.*

*Currently, our neighbors to both the north and south along the east side of South DuPont Boulevard are primarily single-family homes, like ours. Other nearby neighbors to the north - - a church and an insurance office - - are not out of place or disruptive to the neighborhood. But a commercial use on our neighboring lot will begin to change our neighborhood forever. Instead of traffic passing by our house on DuPont Blvd, as happens now, a commercial use on the neighboring lot will result in cars and trucks braking and turning from a busy highway in front of our house, where traffic now moves by at high speed. Noise, trash, annoying artificial light, signage, a parking lot, a business with evening hours - - this can all be a result of a commercial use on our neighboring property, completely out of character for our current row of residential homes along South DuPont Boulevard.*

*I ask that the City Council not approve this proposed zoning change and not change the character of our residential neighborhood by adding a commercial property - - a property which has single family homes on either side. The current zoning which allows an office use of the property is appropriate and not disruptive for residential neighbors. The nearby commercial area with the Redner's store offers commercial space for development in our neighborhood with plenty of parking space. Don't begin to change the residential properties along South DuPont Boulevard into a highway commercial strip.*

*Unfortunately, I did not learn about the proposed zoning change prior to the December 17th Planning Commission hearing, and I was not able to submit a comment for that meeting. I regret that I am not able to attend the City Council meeting on January 27th, but I hope that the Council members will seriously consider this request from a next-door neighbor to 1017 South DuPont Boulevard, and the enormous and potentially harmful effect which this proposed zoning change can have on my property and house, and on the other homes in our neighborhood.*

*Robert Briggs  
1019 South DuPont Blvd  
Milford, DE 19963*

Mr. Pierce added that the Planning Commission recommended approval of the Change of Zone application at its December 17<sup>th</sup> meeting upon unanimous vote. No one was there to speak either for or against the application, other than the applicant's representatives.

It was confirmed that all residents were notified and this is the only response received.

When asked if this is the same area that was previously addressed during a public hearing in which many residents attended and voiced their concerns, Mr. Pierce explained this is approximately 3,500 feet south of the Seabury Avenue Intersection which is where the last change of zone application was. He confirmed this is on the same side of Route 113, but approximately 1/2 mile south and closer to Milford Ponds.

Councilmember Peel asked if both sides of this parcel are surrounded by residential, Mr. Pierce explained there is a church and insurance business in the area as well.

Councilmember Culotta said this area is not just residential and asked the zoning of those businesses; Mr. Pierce said they are still zoned residential though this property is zoned OB1. He reiterated that the Comprehensive Plan did designate the area as a transitioning commercial corridor and gave property owners the opportunity to seek a change of zone. It was the intent to put highway commercial on the arterial roads.

When asked the location, Councilmember Culotta confirmed this parcel is in front of Milford Ponds.

Mr. Pierce then referred to the map stating that Milford Ponds is on the southern part of the map, Redners and Seabury Avenue, the site of the two billboards. This site is just south of the billboard on the east side of Route 113.

Councilmember Marabello asked what is on either side of the property, north and south; Mr. Pierce responded there is one single family home on either side. The property to the east is the proposed Simpson Crossing Subdivision that will contain townhouses abutting this parcel.

Mr. Pierce also believes this lot is seven lots south of the State Farm parcel, which is directly across from the billboards. Everything between is zoned residential though one parcel contains a church.

It was confirmed that Simpson Crossing is to the rear of this property and varying types of residential uses.

Mr. Pierce then provided the future land use exhibit from the City's Comprehensive Plan. He noted that the red shows commercial future land use and the hatching was a transition designation that got the City out of having to rezone the properties within 18 months of the Comp Plan adoption. Instead, it allows the owners to request commercial zoning along the corridor.

Councilmember Peel asked if Mr. Pierce is encouraging the current residents with residential properties to convert their zoning to commercial and move from the area; Mr. Pierce explained that we are not encouraging that, but if someone purchased a couple of homes, they could transition a larger area into a commercial setting.

Councilmember Boyle asked if this does not artificially inflate the cost of the property by changing the zoning, noting that it is already commercial property. Councilmember Culotta said the people that own it may want to sell it and take advantage of the commercial zone.

When asked about the comp plan, Mr. Pierce said if Council does not want to rezone this parcel to one of the seven categories, the comp plan will need to be amended to be compliant in this area. Councilmember Culotta asked if Council does not follow the comp plan, is it putting the City at risk; Solicitor Rutt explained the comp plan and the map have the effect of law and almost a statute. The comp plan has been designated by City Council as future commercial. He continued by stating that the people who live there, can continue to happen and nothing is going to happen. However, in the future, if someone comes along and wants to purchase some of those parcels, they would have the opportunity to ask for a change of zone to one of the seven commercial designations.

Councilmember Peel asked the time expectation for executing the comp plan and Mr. Pierce said there is a need to come into compliance within eighteen months. Placing a transition tag on this area provides longer than eighteen months and instead, more of a long term.

Councilmember Peel believes that when an area is seemingly residential and becoming more residential and Council continues to hear more and more complaints about speeding and people coming off the highway at Seabury Avenue as though it is an off ramp, there is already a lot of concern. There have been some intentional steps taken to help pedestrians and residents with these concerns.

Mr. Rutt then stated that Council is now talking about the merits of the application and the applicant has not yet been heard, in addition to the public. That information can then be taken under consideration and these issues raised at that point.

Mayor Campbell asked for the applicant to come forth. No one responded.

Mr. Pierce confirmed the applicant received copies of the public notice dates and times. He said that in the past, if the applicant is a no-show, it is put on the next agenda one time.

A discussion followed about the location of the commercial parcel in relation to the residential parcels. Councilman Culotta pointed out it is normal to have a residential development in one spot and the commercial accessible via the highway.

Solicitor Rutt stated that under the planning commission rules, if the applicant does not appear, they are put on the following agenda and are noticed they have to appear. If not, the application is automatically declined. To be consistent, he suggests postponing the application until the next public hearing and provide correspondence stating they are required to appear and if not, it will be denied.

Councilmember Boyle moved to postpone this hearing until the following meeting, and that the applicant be notified they are required to attend, seconded by Councilmember Wilson. Motion carried.

#### *Ordinance 2019-42*

*Feebs Distilling Co on behalf of S & P Holdings LLC for a Conditional Use on 2.02 +/- acres for a craft distillery in an I-1 Zoning District. Property is located along the east side of McColley Street between Delaware Avenue and McCoy Street, addressed as 733 McColley Street., Milford, Delaware. Present use: Distillery Proposed Use: Same with retail sales. Tax Map: 3-30-11.09-015.00*

Mr. Pierce reviewed the application stating the applicant is seeking a distillery with retail sales. The applicant has been operating since February 14, 2019, in a 12,500 square foot building located at 733 McColley Street. Chapter 230-

16(C)(4) states “craft distillery and microbrewery establishments” are considered a conditional use within the I-1 Limited Industrial zoning district and are subject to specific requirements outlined in the Zoning code.

The packet includes an evaluation based on the criteria found under Chapter 230-48 Conditional Uses and 230-16(C)(4) related to microbreweries and distilling facilities.

Also included in the packet is a minor renovation plan for outside the building to provide some customer parking and access to the building, which need to be approved by the building inspector.

No tasting room is proposed at this time nor outdoor seating. Things of that nature would need to be approved by the Planning Commission and City Council as an expansion of the application.

The application was reviewed by the Planning Commission at the December 17, 2019 meeting, who recommended approval of the conditional use by unanimous vote. The public notice was advertised in the Milford Beacon on November 27, 2019 and notices mailed to property owners of lands within 200 feet of the subject site.

Applicants Stacy Arnold of 5 Big Pond Drive, Milford and Eric Fiebelkorn of 191 Doctor Smith Road, Harrington were present.

Mr. Fiebelkorn explained there are three parking spots and one handicapped, which meets the City Code based on number of employees and square footage of retail space. The design will be similar to Arena’s with the ability to open the garage door. All products are on display behind the bar which will allow for customers to have samples.

Ms. Arnold added that ultimately, they would like to expand, and allow outdoor seating, which would require additional permitting through the State of Delaware OABCC. Once that was obtained, they would come back to the City to acquire further approval from the City.

The couple does all the work themselves nights and weekends, using paychecks from day jobs to support the fledgling brewery. They confirmed it is in a ready position and are anxious to get started.

Councilman Culotta pointed out there is another distillery in Milford that is creating a product that is being sold in other establishments as well. Ms. Arnold confirmed they already have distribution and are an old’ school distillery. They are getting fruits directly from Pfeiffer’s Orchard and the grain comes from Laurel. They are the fifth distillery in the State of Delaware.

They are doing a local product and getting into six local establishments.

Single bottles of 375 or 750 ml can be purchased. ABC has authorized on and off-premise consumption. Samples are permitted for a fee.

Mayor Campbell then opened the floor to public comment. No one spoke for or against the application. The floor was closed.

Councilmember Culotta moved to adopt Ordinance 2019-42, seconded by Councilmember Peel. Motion carried by the following unanimous roll call vote:

Marabello-yes based on the Planning Commissions’ recommendation, in addition to having a good review the last time this was discussed. He does foresee a negative impact on the area.

Boyle-yes, the application is in accordance with the City of Milford’s Code, Chapter 230-48 and 230-16.

Peel-yes, the use is appropriate for the area and she supports small business in the City.

Culotta-yes, this is a unique concept and another small business starting in Milford and has the ability to reach out side of Milford and he is excited for the new business.

Brooks-yes, for the reasons given.

Morrow-yes, for the reasons previously stated.

James-yes, this is an appropriate location for a business per the City's Comprehensive Plan which designated this area for an industrial use.

Wilson-yes based on the Planning Commission's recommendation and the City Planner's recommendation.

*Ordinance 2020-01*

*TJA LLC for a Conditional Use to allow a billboard on 1.1 +/- acres in a C3 Zoning District. Property is located along the east side of Bay Road (US Route 113/SR1) approximately 225 feet north of the New Wharf Road intersection addressed as 466 Bay Road, Milford, Delaware 19963. Present use: Commercial/Retail; Proposed Use: Same with Billboard. Tax Map: MD-16-163.00-01-03.00*

*Ordinance 2020-02*

*TJA LLC for a Conditional Use to allow a billboard on 1.1 +/- acres in a C3 Zoning District. Property is located along the east side of Bay Road (US Route 113/SR1) approximately 400 feet north of the New Wharf Road intersection addressed as 466 Bay Road, Milford, Delaware 19963. Present use: Commercial/Retail; Proposed Use: Same with Billboard. Tax Map: MD-16-163.00-01-04.00*

Planning Director Pierce reported the Conditional Use application for billboards was received on November 27, 2019, after the adoption of the Sign Code update on November 25, 2019 that effectively prohibited billboards within the City of Milford. The ordinance that adopted the sign code revision had an effective date of December 5, 2019 and staff proceeded with the processing of the application.

Solicitor Rutt noted that when this was reviewed by the Planning Commission, Planning Commission Chairman Marvin Sharp and he reviewed this. According to Mr. Rutt, these applications are not proper applications. He referenced a pending ordinance doctrine that states once a zoning ordinance is pending, with pending defined as either an ordinance that has been introduced to the City Council, or after City Council adopts a resolution. After that a contravention application of the ordinance that has been either pending, or has been introduced.

In this situation, the ordinance had already been adopted with the ten-day effective date, which means the public has a period of time in which they can bring themselves into compliance. Therefore, the City is not going to enforce an ordinance immediately. The fact the City had already adopted the sign ordinance on November 25, 2019, that prohibited any type of subsequent application in contravention of the ordinance. The sign ordinance prohibits billboards in this area.

Having reviewed the application, Solicitor Rutt said he spoke with the applicant's representative Ring Lardner, and it is his opinion that neither application (Ordinance 2020-01 and 2020-02) would be valid applications the City could adopt. If the process proceeded, anyone could come along and file to have the adoption or resolutions on the two ordinances invalidated.

As a result, it is Mr. Rutt's opinion that City Council should not hear either matter.

Councilman Culotta followed by stating it was his understanding the applicant was told they had the grace period to submit. Secondly, the ordinance was passed with the caveat there were two items in the ordinance that were subject to amendment, of which has not yet been addressed. This is one of those items.

Councilman Culotta said he is unaware of what was said in the Planning Commission meeting, but it was not made clear there is still a pending amendment, in relation to billboards that has yet to be determined. He is unsure and did not go to the meeting.

Solicitor Rutt said he understands, but the fact is the application, regardless, is not a valid application. There is a pending amendment that will go through the process and based on the amendment, it become a proper place to put a billboard of this nature, they can reapply.

Councilman Culotta reiterated that the City, whether it was Mr. Pierce or someone else, it was ok to submit the application under the old rules prior to going into effect on December 5, 2019 because it still fell under the old rules which allowed billboards. He said this was communicated to the applicant and if he is present, he can speak to that as well.

Solicitor Rutt responded stating that Councilman Culotta should not have been talking to the applicant about the application prior to the public hearing. Councilman Culotta said if people want to do things in Milford, they are going to talk with the Councilmembers even though they will not ask them to vote in a certain way. He asked how it is a problem to be approached by a resident or business that wants to do something and they discuss it with their Councilmember.

Solicitor Rutt explained that is a whole different question/issue. The fact of the matter is, this application is what is called 'void ab initio', which means it was void the minute it was filed because it was after the ordinance had been adopted. There is no reason to move forward with it.

Mr. Pierce explained that staff will refund the applicant's fees associated with the \$700 conditional use, and they can use that if and when amendments are made to the billboard language in the sign code in a couple of months.

Mayor Campbell asked how long before the applicant can reapply; Solicitor Rutt clarified that once the ordinance amendment is effective, the applicant can reapply. He reiterated that Mr. Pierce had already indicated he would refund their application fee.

Someone was speaking from the audience (in distinguishable) which Solicitor Rutt responded by staying there is nothing that can be discussed and no action can be taken.

He also confirmed that no motions are needed because both applications are void.

#### *Ordinance 2020-03*

*200 NW Front Street LLC on behalf of 200 Front Street LLC for a Final Major Subdivision of 0.63 +/- acres into an eight-unit subdivision consisting of eight townhouse units in an R3 Zoning District. Property is located along the north side of NW Front Street between N Church Street and West Street addressed as 106 North Church Street and 201, 205, 207, 209, and 211 NW Front Street, Milford, Delaware. Present Use: Vacant Land, Single Family, and Duplex; Proposed Use: Townhouses. Tax Map: MD-16-183.10-02-059.01; -077.00; -079.00; -080.00; -081.00; -082.00*

Solicitor Rutt recused himself due to previously representing Applicants Dan Bond and John Ditomasso/200 Front Street LLC.

Mr. Pierce reported the following:

Approval from City Council was received on December 10, 2018. The applicant proposes to demolish two existing dwellings and consolidate the six parcels in order to subdivide the property into eight townhouse lots.

The application required several variance approvals from Chapter 230 which were approved by the Board of Adjustment on August 9, 2018 prior to their preliminary major subdivision authorization. A copy of the variance approval letter is included in the packet.

The applicant will discuss some of the revisions that have been made since the preliminary which would have resulted in less variances being requested, resulting in a better overall design.

Also included in the Council Packet, is DeIDOT's letter of no objection, along with authorization letters from Kent Conservation District, State Fire Marshal Office, and the City Engineer for utilities and site improvements.

The application was reviewed by the Planning Commission at the January 21st meeting and recommended approval of the final major subdivision by unanimous vote.

The public notice was advertised in the Milford Beacon on December 26, 2019 and all property owners with properties within 200 feet were mailed copies.

Ring Lardner, PE of Davis, Bowen and Friedel, Milford Delaware, asked that Mr. Pierce's comments be included in the official record as part of his testimony.

He explained the plan is significantly different than what Council had seen approximately 15 months ago. He referenced the location of proposed entrance at that time. He also referenced a small parking lot on the map and a larger parking lot.

After further discussion with Mr. Bond and the architect, it was determined a better solution to provide rear access (referenced on map as concrete driveways) for seven of the eight parcels. The eighth parcel cannot have rear access considering its proximity to the neighbor's (Davis-Western) property. As a result, their designated parking was moved to an off-street parking area (referenced on the map).

Mr. Lardner confirmed this meets the 2.5 parking spaces per house, in addition to some overflow (as referenced on the map).

During a review of the utility process, Mr. Lardner explained the intent was to reuse most of the existing utilities along Route 14. After discussing this with City staff and considering some utility concerns regarding the transit pipe, some revisions were made 1) to move to the rear and connect on North Street and 2) reuse a couple existing services as part of the City's project to change out the transit pipe to PVC pipe, at which time normal services will be connected.

The two existing driveways on SR 14 will be removed to prevent access off that roadway, which provides safer entry/exit.

He noted that the Westerns are present this evening and informed Council that at the Planning Commission, they commented about the opportunity to park next to their home. Mr. Bond has committed to work with them during construction to make the ramp flush with the pavement to allow better access.

The project meets the City Code and Mr. Bond is excited to get his newest project started, which is part of the Downtown Development District project and was awarded related grant funding.

Councilman James commented that research has been done to ensure the development on this property will not cause a drainage problem, in particular for the Western property. According to Mr. Lardner, the plan has made drainage much better. Referring to the map and the highest point of the property, he stated that everything will drain to SR and the parking lot is porous pavement, which will recapture all the runoff from the parking lot and from the northern property, which will then infiltrate into the ground. In addition, there are a series of catch basins along the rear of the houses which will capture the runoff from the parking lot and the houses, that will connect to a drainage pipe on SR 14.

Mr. Lardner confirmed there will still be some slight drainage from the front of the house, but much better than what current exists today over top of the sidewalks.

Councilmember Wilson added that she is very pleased to know the developer is working with the neighbors and that this will enhance their access. Her concern from the beginning was the parking issue.

Mr. Lardner added this new plan is much better than the original design.

Councilman Culotta asked if there were a lot of changes considering this is a final approval, adding that this can be used as we refine our process to allow quicker development by eliminating this step.

Director Pierce feels that when it comes to subdivisions, more discussion is needed at the Planning Commission and City Council level. He recommends subdivisions come back for a final approval because of the many details that are worked

out in between. In addition, this design did change significantly since the original plan was submitted, which involved parking and driveways.

Even if he was able to approve it administratively, he would have brought the plan back for final approval because of the substantial design changes.

Inaudible conversation relating to previous conversation.

Mayor Campbell opened the floor to public comment.

Latricia Davis-Western of 104 North Church Avenue stated that whatever she says will not make any difference. However, she feels this is too many units in her opinion and in relation to her home.

Ms. Davis-Western said they had to agree to this, otherwise they were going to take their sidewalk way. That is why they had to trade with them and indicated by hand gestures the potential locations of the units.

She reiterated that is why they had to agree to give them a small portion of their property in order to get their sidewalk back, which she had never heard of before. She feels everyone needs a sidewalk to walk on.

Ms. Davis-Western concluded by stating that as long as there is a parking area they can use, and as long as they do not rent these units and instead sell them. She emphasized she does not want them rented because that will be a problem with the neighbors and she will keep an eye on them.

Councilmember Wilson asked if Ms. Davis-Western agrees this will enhance the neighborhood; Ms. Davis-Western stated that she is sure it will. She continued by explaining it is horrible in that area now.

Paul Western said his wife has lived in this home for forty years and they were married and he moved there approximately ten years ago.

He explained that they had a strange shaped property that extended into this development, which was approximately 5 x 15 feet. At one time, there was a building that was seized by neighbors and then a pipe was found that impinged on their property about five feet and took away their sidewalk. In addition, there was an old property line fence that agreed with another pipe. He did not feel like paying to have the whole block surveyed and to go into a legal bout with neighbors.

Mr. Western felt it was more beneficial to be used by them, and they wanted to keep their sidewalk, which is what Ms. Davis-Western was referring to.

In addition, Mr. Western previously had done some land surveying and he is always looking at elevations and noticed a pretty steady incline though he agrees the developers have been working on the runoff, though he is somewhat leery of water coming from the parking lot from the north to their side of the house which has eight-feet of ground between their foundation and the northern property line. He may feel more secure if the developer agreed to add a berm though he has not seen the recent plan.

Most recently, he reported there was a gully washer in which North Church Street could have easily carried a canoe without scraping bottom. Though not enough to wash cars away, there was several inches of rain on the street.

As he has stated before to City Council and the developer, Mr. Western pointed out it is the details that count. He will be keeping an eye on it, should there be a problem and certainly hopes this developer will correct any problem quickly should one occur.

When asked if any water damage was experienced during the gully washer, Mr. Western confirmed they did not have a problem though at that time, the impervious area north of them did not exist. He believes this will put their property at a higher risk. He concluded by stating that road handles a lot of water.

Mr. Western also recalled that though this seems like high-density, he noted there was always high density there over the past hundred or so years.

When asked about buffers, Mr. Pierce reported there is a planned fence around the rear portion of the project that will screen their house from the parking area.

Inaudible conversation occurring related to elevation and surveying.

Mr. Lardner was asked to address the run off, stating the contours do not do the plan justice. There is a reverse ridge line (inverted "V") and no runoff is going onto his house and instead will stay on the parking lot which is porous pavement. The water will go into the pavement, to a gravel bed and into the ground. The drainage area captured is everything above it that goes there now. They have accounted for that in the calculations and Kent County drainage has reviewed the calculations and approved the plan recognizing the drainage issues will be handled on site.

Councilman Marabello moved to adopt Ordinance 2020-03 on behalf of 200 NW Front Street LLC for a Final Major Subdivision of 0.63 +/- acres into an eight-unit subdivision consisting of eight townhouse units in an R3 Zoning District, seconded by Councilmember James, which carried by the following 8-0 roll call vote:

Marabello-yes because the applicant has fulfilled their obligations and it will enhance that area on SR 14 and new, nicer housing is needed.

Boyle-yes, the application is consistent with Chapter 230 Zoning and Chapter 200 Subdivision and he agrees it will enhance the streetscape of the City and is a compliment to the people involved. He has been following it and has observed a lot of coordination, a lot of working with the neighborhood and compromise to achieve a nice product and one that will function well for the City.

Peel-yes, based on the reasons already stated and the fact that it is an enhancement to the City.

Culotta-yes and he is excited about the new development, especially because it is a very visible part of town when coming into the downtown area of Milford, which will be very valuable to the development in downtown and bringing more residents there. He appreciates the comments the neighbors made and appreciates them feeling encroached up or built around, but he does think this project has been a very good one of everyone working together, and not just that spot, but what it will do for the overall town downtown. He wants to thank Dan Bond for everything he does for Milford period, but this is another big improvement.

Brooks-yes, it is an improvement that is needed.

Morrow-yes based on all the other comments.

James-yes, it definitely will be an enhancement to one of the corridors into our City and there is a lot of traffic that uses SR 14. That area has deteriorated over time and this will be a definite enhancement and a good opportunity for home ownership to some residents with very nice housing. He thinks it will enhance the value of the properties that surround this area.

Wilson-yes, based on the need for housing and a lot of those individuals that live in Milford that want to go to the next level of becoming a homeowner. This is a perfect opportunity and she believes it will be a good project. She, also appreciates Mr. Bond and his effort of always trying to make our City better.

## COMMUNICATIONS & CORRESPONDENCE

Mayor Campbell reviewed the related correspondence in the packet.

Councilman James announced that Mayor Campbell was recently reinstated as a member of the Delaware League of Local Government Executive Committee.

### *Council Quorum Opinion*

Solicitor Rutt recalled that this question was posed to his law partner Everett Moore who attended the last meeting on Mr. Rutt's behalf.

Solicitor Rutt explained the real issue has to do with FOIA, quorum and perception. When a committee is seated, it has its own quorum, rules and procedures. If a Councilperson comes into the configuration, sits in their Council sheet,

potentially changes the quorum. Suddenly, the committee meeting is a council meeting because of the number of Councilmembers in attendance. It has the ability to create an assumption that a Council meeting is being held that has not been properly noticed. As a result, that is a violation of FOIA and specifically Section 100004(e)(2) of the statute, because it has not been noticed as a Council Meeting, which also requires a 7-day notice, etc.

When asked if this is a perception or actual violation, Solicitor Rutt said realistically it is both. Once the non-committee Councilmember sits down and joins in the conversation, creates a problem with the manner in which the meeting was posted, etc.

Councilman Brooks said he was always told Council could come in and sit down, but could not participate or vote.

Solicitor Rutt said there is not a specific Attorney General decision on this matter, but there is a Superior Court decision that states Council should not engage in any conduct that raises a suspicion to the public that it is engaging in conduct that violates the public trust.

As a result, it is Solicitor Rutt's recommendation, that non-committee Councilmembers that enter the Council Chambers, should sit in the public area and not comment on the matter(s) being discussed. However, it would be more appropriate Council did not enter the chambers until the committee meeting has concluded. But at a minimum, Councilmembers should not sit in their designated seat until the committee meeting concludes.

Councilmember James noted that the Council page on the City website almost encourages this type of participation, and recommends that be changed.

Solicitor Rutt suggested that Mayor Campbell follow that procedure as well.

Councilmember Culotta said he has always attended the committee meetings and has commented though he has not voted. He asked if the policy can be changed to allow this; Solicitor Rutt said there are Council rules and procedures and he recommends adding this council conduct/participation prohibition to those rules.

Mr. Rutt explained there are more and more FOIA complaints all the time.

Councilmember Wilson noted that after the conclusion of the committee member, the regular Council meeting starts. She recommends that the Committee inform the full Council of what had occurred during the committee meeting. Mr. Rutt agreed, emphasizing that at that time, the non-committee members can then discuss the issue during the regular Council meeting.

Councilmember Wilson also recalled that the entire Council used to be encouraged to attend the Committee meetings.

Councilmember James then read from the City website which states:  
"The Mayor and other Councilmembers are welcome to attend and participate in the meetings of any committee; however, only committee members shall be permitted to vote on those items before the committee".

He agrees that needs to be changed.

Councilmember Culotta said he is confused because that is what is permitted; Solicitor Rutt responded by stating that is incorrect and needs to be changed. Councilmember Brooks asked who approved that and Mr. Rutt said it must be changed.

Councilmember Culotta said the committee meeting are advertised seven days in advance, which is the same time the Council meetings are advertised.

Solicitor Rutt reiterated they are posted as committee meetings, not Council meetings. The agenda has to be specific.

Councilmember Boyle recommends the Interim City Manager, Solicitor and the City Clerk work together and create new language to address that in the Council procedures and on the website.

## UNFINISHED BUSINESS

*Acceptance/City of Milford Fiscal Year 2018-2019 Audit*

Finance Committee Chairman James said he has met several times with Finance Staff Jeff Portmann and Sandra Peck. He explained that in addition to Council being charged with accepting the annual audit, but also charged with reviewing it. In addition, the City Clerk has reached out to other Finance Committee members if there were any questions concerning the audit.

Receiving none, and with the thorough review and changes to the statements after the year-end report this Council is receiving, all items have been examined and reexamined, and nothing came to his attention that would prevent Council from accepting the audit as is presented.

Finance Chair James moved the Annual Audit for Fiscal Year 2018-2019 be accepted, seconded by Councilmember Peel. Motion carried with no one opposed.

## NEW BUSINESS

*Alcohol Waiver/Chapter 77/Riverwalk Freedom Festival*

Chamber of Commerce/Riverwalk Chairperson Angela Dorey presented the following information:

*The Chamber of Commerce for Greater Milford is excited to host the 20th Anniversary Riverwalk "Freedom" Festival scheduled for Saturday, September 19, 2020. As we did in the past, we will hold the event all on one day, with the vendor and children's activities beginning at 9 am on Saturday, ending with fireworks after dark that evening. The enclosed area in Bi Centennial Park known as the Red, White and Brew Garden continues to be a hit. We are trying to plan something special for the anniversary in 2020 and we request your permission to host the Brew Garden in Bicentennial Park in advance, so that we can begin soliciting sponsorships and advertising once your permission is granted.*

*We will use the same layout that worked so well for the last three (3) years. We will have a fenced in area in a small section of the park with a view of the stage. We will be checking identifications and hand stamping those twenty-one (21) years old or older. This will allow them to purchase alcoholic beverages during the festival in the designated area only. As the Delaware Alcoholic Beverage Control regulations permit, the designated area will be family friendly, so all ages will be permitted to enter the area. We will have the entrance/exit clearly marked with eyelevel signage that no alcoholic beverages are permitted beyond the designated area. We will have crowd monitors to assure no one will leave the area with alcohol. We will have a portable restroom in the enclosed area, as well as multiple trash bins. We plan to have cornhole and food vendor(s) in the area as well. We will provide several open tents to provide shade, cover and in the evening the area will be well lit. All Delaware Alcoholic Beverage Control regulations regarding alcohol service, including obtaining a "Gathering License" will be observed and adhered to.*

*The Brew Garden would open at 12 noon on Saturday, September 19th and will close at 10:30 pm. All alcoholic beverage sales will end promptly at 10:00 pm. In the event of extreme severe weather such as hurricane, tropical storm, or nor'easter the entire festival reschedule date will be September 20, 2020, including but not limited to just the brew garden. We are requesting your approval to waive the restrictions against alcohol in the park from 11 am until 11 pm on this date (or the rain date).*

Councilmember Culotta moved to authorize the Alcohol Waiver for the Riverwalk Freedom Festival, seconded by Councilmember Peel. Motion carried.

*Adoption/Resolution 2020-07/First Baptist Church of Milford/Committee to Investigate Annexation Request*

Planning Director Pierce asked that the request from First Baptist Church be forwarded to the Annexation Committee for further review.

Mayor Campbell opened the floor to public comment. No one responded.

Councilmember Peel moved to adopt Resolution 2020-07, seconded by Councilman James:

*Annexation/Lands belonging to First Baptist Church of Milford Incorporated  
6044 Old Shawnee Road, Milford, DE 19963  
Tax Map 1-30-3.06-125.00  
1.14 +/- Acres  
Current Zone MR/Proposed Zone R-1*

**COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION**

*Whereas, a Petition, signed by the legal property owners and duly witnessed, requesting annexation into the City of Milford, all that certain lot, piece or parcel of land situate in Cedar Creek Hundred, Sussex County State of Delaware, in accordance with a recent survey prepared by R.B. Kemp, III, PLS 541, Adams Kemp Associates, Inc., Professional Land Surveyors, dated August 23, 2018, attached hereto as Exhibit A, more particularly described as follows, to wit:*

*BEGINNING for the same at a found iron pipe located at the southeast corner of the herein described property located at 6062 Old Shawnee Road, Tax Map 1-30-3.06 Parcel 125.00, Cedar Creek Hundred, Sussex County, State of Delaware. Point of beginning being located A) S 34° 30' 00" W a distance of 125.52' from Donovan Drive. Point of beginning also being the southwest corner of the land now or formerly of Lynn and Rachel Walsh (Deed Book 2330 page 251), and being in the Northerly line of Old Shawnee Road (Co. Rd. 619). Thence running and binding with said Old Shawnee Road (Co. Rd. 619), 1) S 34° 30' 00" W a distance of 173.39'; to a found concrete monument and to land now or formerly of First Baptist Church of Milford (Deed Book 1068 page 263). Thence with same for the two following courses and distances, 2) N 56°25'05" W a distance of 286.01'; to a found concrete monument, thence 3) N 33° 40' 23" E a distance of 172.33'; to a found concrete monument and to land now or formerly of William E. Tull Jr. (Deed Book 2864 Page 35). Thence with same and land of aforesaid Walsh, 4) S 56° 37' 24" E a distance of 288.52'; to the point of beginning. CONTAINING 1.140 acres, more or less.*

*BEING the same lands conveyed to Steven Deeney and Dianne Deeney by deed from Steven Deeney dated September 30, 1994 recorded in the Office of the Recorder of Deeds in Deed Book 2010, Page 203, has been submitted to the City Council of the City of Milford.*

*Now, Therefore, a Committee, composed of three (3) elected members of City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing the legally described property, said Committee to be comprised of Chair Owen Brooks, Councilmembers Daniel Marabello, Todd Culotta and Douglas Morrow, along with Planning Commission Chairman Marvin Sharp.*

*Be it Further Resolved, that said Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore, as well as a recommended zoning district for the property to be annexed.*

Motion carried.

*Adoption/Resolution 2020-08/Paynter & Joyce Lynch/Committee to Investigate De-Annexation Request*

Planner Pierce explained this involves a de-annexation request which will be forward to the Annexation Committee for further review. It involves an approximate one-acre piece of land conveyed in 2001 from the City of Milford to Paynter

and Joyce Lynch, near the Veterans Home. They were told it would be de-annexed, but that action was never taken due to the referendum process needed at the time. However, with the recent Charter rules made, the process is much simpler and they are ready to proceed.

Mayor Campbell opened the floor for public comment. No one responded.

Mr. Pierce confirmed the parcel is unimproved and un-assessed. The deed shows it combined with the remainder of the Lynch property, though it is currently split by the City boundaries. Until it is formally out, the County will not reassign a new tax parcel and officially combine it.

Motion made by Councilmember Peel, seconded by Councilmember Wilson, to adopt Resolution 2020-08:

De-Annexation/Lands belonging to Paynter A. Lynch and Joyce E. Lynch  
Canterbury Road, Milford, DE 19963  
Tax Map MD-16-173.00-01-02.01  
1.00 +/- Acres  
Current Zone OC1/Proposed Zone AR

#### COMMITTEE DIRECTED TO INVESTIGATE DE-ANNEXATION OF CITY LANDS

Whereas, a Petition, signed by the legal property owners and duly witnessed, to de-annex or remove from the corporate limits of the City of Milford, that certain parcel of land, lying and being situate in the City of Milford, Kent County, and the State of Delaware, being depicted on a survey prepared by Davis, Bowen & Friedel, Incorporated, dated January 2001, attached hereto as Exhibit A, fronting on the southerly right-of-way line of Private Road No. 2, adjoining lands, now or formally of Brett Elliott, et ux, of Lot 10, other lands of Paynter A. Lynch, et ux and residual lands of the City of Milford, being more particularly described as follows:

BEGINNING at an iron rod and cap set on line for Lot 12 in the subdivision known as Hollywood Acres, as filed with the office of the Recorder of Deeds, at Dover, Delaware in Plot Book 4 at page 21, and being the southwesterly corner for lands of Brett Elliott, distance South 02 degrees 29 minutes 20 seconds West 15.22 feet from a concrete monument found on the southerly right-of-way line of the easterly terminus of Private Road No. 2; thence proceeding with said Elliott lands, and lands of the City of Milford South 87 degrees 04 minutes 10 seconds East 220.54 feet to a point; thence continuing with said City lands the following two (2) courses and distances: (1) South 02 degrees 49 minutes 41 seconds West, 197.76 feet; and (2) North 87 degrees 07 minutes 56 seconds West 221.36 feet to a point on the line for Lot 10 in the above referenced subdivision; thence finally, running with Lot 10 and Lot 12 North 03 degrees 03 minutes 55 seconds East 198.01 feet to the place of beginning.

CONTAINING 1.004 acres of land, more or less.  
has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the removal or de-annexation of the legally described property, said Committee to be comprised of Chair Owen Brooks, Councilmembers Daniel Marabello, Todd Culotta and Douglas Morrow, along with Planning Commission Chairman Marvin Sharp.

Be it Further Resolved, that said Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed removal or de-annexation, both to the City of Milford and to the territory proposed for de-annexation or removal from the corporate limits of the City of Milford, and shall contain the recommendation of the Committee whether or not to proceed with the proposed de-annexation.

Motion carried.

*Adoption/Resolution 2020-09/Amending City Council Rules, Order of Business, and Procedures*

Solicitor Rutt explained this resolution amends the City Council rules and procedures. Though it is scheduled for adoption, Council just discussed the Committee issue. Though he was not involved in the preparation of this resolution, he has several questions regarding FOIA, in addition to the need for some additional language changes.

He recommends to postpone action, so that the Interim City Manager, City Clerk and Councilmember Marabello can meet with him to review it.

Councilmember James moved to postpone action on Resolution 2020-09, to allow proper review and modification, seconded by Councilmember Wilson.

*RESOLUTION 2020-09*

*Amending City Council Rules, Order of Business, and Procedures*

*WHEREAS, the government of the City may exercise any of its powers conferred by the Charter of the City of Milford and is vested in an elective body consisting of the Mayor and eight Councilpersons ("City Council"); and*

*WHEREAS, the Mayor and City Council has traditionally followed Robert's Rules of Order, with modifications, to provide structure for the conduct of business during its meetings; and*

*WHEREAS, Article IV, Section 4.08(b) of the Charter states that the City Council "shall determine its own rules and order of business"; and*

*WHEREAS, upon adoption, this Resolution replaces in its entirety Resolution 2018-01.*

*NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milford, Delaware that the Rules, Order of Business, and Procedures hereto attached, as 'Exhibit A', are hereby adopted.*

*IN WITNESS WHEREOF, I hereunto set my hand and caused the Seal of the City of Milford to be affixed this 27th day of January 2020.*

Motion carried.

*Acceptance/Parks & Recreation Advisory Board Recommendation/MOU with Delaware Nature Society for Riverwalk Activities*

Parks and Recreation Director Brad Denney recalled the Vinyard Shipyard Task Force who presented to City Council in December 2019. They provided a presentation outlining a plan for establishing a partnership between the Delaware Nature Society and the City of Milford that would result in the establishment of a Mispillion Riverwalk Nature Center as a non-profit activity operating in downtown Milford.

The Task Force suggested a Memorandum of Understand (MOU) whereby the City would grant access to the Delaware Nature Society to offer recreational programming in town on the river. The MOU would establish each parties' roles though, to be clear, Mr. Dennehy emphasized the MOU does not pertain to purchasing property.

On January 15<sup>th</sup>, the Parks and Recreation Advisory Board met to discuss the merits of entering into a MOU and identify benefits, including the programming the Delaware Nature Society could bring to Milford and programs that Parks and Recreation is not currently offering, nor likely to offer. The Delaware Nature Society has a broad depth of talent both in paid staff and volunteers and has a proven track record in offering quality programs and organizing well run events. Potentially there could be some real gains to the children and citizens of Milford in terms of new activities based around the river.

The Board voted at that meeting to recommend the City enter into a MOU with Delaware Nature Society.

When asked if Mr. Dennehy recommends a private/public partnership, he clarified it will be a partnership with the Delaware Nature Society, who is a nonprofit and more public/public. Solicitor Rutt confirmed Delaware Nature Society would not be consider a private entity because it is a nonprofit.

Councilmember Wilson asked who would be responsible for obtaining grants, Mr. Dennehy said those details have not been worked out. What he sees immediately, is providing them access to the City facilities, such as the Riverwalk, kayak docks, education pavilion, Goal Island, etc. They would provide alternative programs that cannot be offered by Parks and Recreation.

He has experienced first-hand the programs they provide, which are often instructed by certified and retired biology/science teachers.

Councilman Morrow asked for assurance the MOU would be reviewed by our Solicitor first. Mr. Rutt pointed out that the memo prepared by Mr. Dennehy states that the MOU would establish each parties' roles, would be mutually beneficial, and be reviewed by legal counsel prior to Council consideration. He agrees clarification would be needed in regard to maintenance, equipment, etc.

Councilmember Boyle agrees and recommends that Delaware Nature Society come before Council and provide their vision, as his concern is liability, the use of facilities, what areas will be used, scheduling, etc., prior to entering into a formal authorization.

Mr. Whitfield also noted that Delaware Nature Society is going to first hear about this on Friday. Their board has not yet been apprised of this potential. Thereby, there is a need by both parties before this can be pursued, which is the reason Mr. Dennehy brought it before Council, though there is some interest from Parks and Recreation, though many details need to be worked out.

*Acceptance/Parks & Recreation Advisory Board Recommendation/Grant Agreement ORPT 19-250T*

Director Dennehy recalled that in May 2019, the City submitted a pre-application for a matching fund grant in the amount of \$24,500 for design and of an extension of the Riverwalk between Memorial Park and the Chaney Wilmont Greenway, and through the Vinyard Shipyard.

The grant was approved by DNREC for \$24,500, pending an agreement or easement for use of the corridor, or pathway on the Vinyard property. Because of their concern was the result of the City not owning the property or possessing an easement, that would need to be secured prior to DNREC releasing the funds no later than June 1, 2021.

The Advisory Board decided not to recommend to City Council the City accept the grant until the ownership is resolved and an agreement or easement has been achieved.

The question is whether the Board wishes to recommend to City Council proceeding with the design and engineering without the agreement or easement in hand first, which could leave the City responsible for the entire funding. The current process requires the City to pay for all expenses related to the project and upon its completion, reimbursement is requested.

Councilmember James moved not to move forward with the pursuing the grant, due to the number of unknowns, including ownership and easement matters, seconded by Councilmember Culotta. Motion carried.

*Authorization/FY19-20 Budget Adjustment/Planning & Zoning Department/Legal Expense*

*The City budgeted \$20,000 for Planning & Zoning Legal expenses for FY20. The Department has been invoiced for legal services through December 16, 2019 and has \$225.00 remaining in the budget line.*

*The Department incurred \$22,665 in legal expenses in 2019, \$9,000 in 2018 and \$17,000 in 2017. The increase in legal expenses can be attributed to the sign code update, several development agreements, economic development initiatives/agreements, the preparation of Board of Adjustment Findings of Fact, and more development reviews by the Board of Adjustment and Planning Commission.*

Councilmember Boyle moved to authorize a budget adjustment in the amount of \$10,000 from General Fund Reserves to Planning & Zoning Legal Expenses, seconded by Councilmember Peel. Motion carried.

*Authorization/Purchase/Replacement Refuge Vehicle/Solid Waste Department*

Christie Murphy, Solid Waste Facilities Supervisor reported that the Solid Waste Staff is requesting City Council consider a recommendation to replace the existing 2011 International trash truck (SW-012) with a 2020 Mack low entry cab truck with a Heil multi-pack trash body.

The existing vehicle has approximately 77,105 miles, 12,438 hours, is nine years old, is in need of a new transmission with oil leaks throughout the engine, has severe body and frame rust, and has been used beyond its useful life expectancy. The replacement of the unit was identified in the 2019 and 2020 Capital Improvement Plan, however, due to lack of funds the purchase was delayed.

The proposed multi-pack truck will be utilized in areas the automated side loaders are unable to collect; approximately 15% of the City. This truck has the capability for dual collections by using an arm to collect curbside or using two tippers at the rear for rear collection. It also allows for bulk to be collected at the same time curbside ASL collections are being done. This truck will be used as a backup when the automated side loaders are down for maintenance and to assist with daily collections as the City trash routes continue to grow.

The purchase of this truck will be made through the Sourcewell/NJPA Contract. Specifications for the 2020 Mack low entry cab truck with a Heil multi-pack trash body are attached. The total price for the trash truck with complete fit out is \$366,200. Funds from the recently transferred monies from Water Reserves will be used for the purchase.

Staff recommends City Council authorize the purchase in the amount of \$366,200.00 to Mid-Atlantic Waste Systems of Denton, MD, in accordance with Sourcewell/NJPA Contract #091219-THC, with funding coming from Solid Waste Operating funds.

Mr. Whitfield confirmed the transfer of \$500,000 was authorized by City Council at the previous Council meeting, in accordance with the recommendation in the Cost of Services Study. There has been a need for this truck, and the transfer of funds will permit that.

Generally, Mr. Whitfield explained that a truck typically has an eight to ten-year life. This truck has a great deal of engine hours and the reliability of the truck right now is next to nil, as it spends more time in the garage than on the road. Currently, the City does not have a backup truck with dual capabilities. Therefore, any interim truck requires three employees which puts a cramp on the department's operations.

In addition, this truck can be used in areas of the City where a rear loader is required to collect trash and recycling.

Councilmember Boyle moved to authorize the truck purchase, in the amount of \$366,200.00 to Mid-Atlantic Waste Systems of Denton, MD, in accordance with Sourcewell/NJPA Contract #091219-THC, to be funded from the Solid Waste Operating fund, seconded by Councilmember Culotta. Motion carried.

*Authorization/DLLG & SCAT Meetings/Guest Authorization/Council Expense*

Councilman Culotta added this includes any meeting in which City Council is invited to, including DEMEC meetings.

Councilmember James said he is neutral on this, and has always brought his wife now and currently pays for her attendance, and will continue to do so, regardless of the outcome of this motion.

Councilmember Culotta pointed out that the time Council puts into their duties with the community, in addition to the long Council Meetings, the dinners are important and do take away from their personal lives. He believes spouses should be included as a result, because it makes Councilmembers more productive.

Mayor Campbell added that it is important for City Council members to attend, due to the networking opportunities, as well as connections that are made with others League and SCAT members.

Councilman Culotta agrees noting there are often educational topics being discussed which are valuable information.

Council then talked about the many advantages of attending the various dinner meetings.

Councilmember Culotta moved to authorize the City paying for spouses to attend as guests at the various events they are invited to, seconded by Councilmember Morrow. Motion carried by a vote of 5-1-2, with Councilmember Peel voting no and Councilmembers Boyle and James abstaining.

Councilmember Wilson votes in favor of the City paying for spouses to attend, as was always done prior to 2016.

*Adoption/Resolution 2020-10/Appointment/Kent County Sewer Advisory Board)*

Interim City Manager Whitfield explained that this resolution will add the City Engineer as a new alternate member. Nothing else has changed.

Councilmember Wilson moved to adopt Resolution 2020-10, seconded by Councilmember Culotta:

Appointment of Regional Sewer Advisory Board  
of Kent County Members

WHEREAS, there exists a Regional Sewer Advisory Board of Kent County (“Board”) whose purpose is to advise the Levy Court of Kent County, Delaware, in providing orderly and desirable operation and development of the Kent County Regional Sewer Systems; and

WHEREAS, the membership of the Board is comprised of one voting member from each of the seven Levy Court districts, plus one voting member and one alternate voting member from each municipality, from DAFB, and from DNREC; and

WHEREAS, the City of Milford is located in Kent County and therefore is a voting member with an alternate voting member of the Board.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Milford:

- (1) The Public Works Director shall serve as the voting member representing the City of Milford on the Regional Sewer Advisory Board of Kent County.
- (2) The City Engineer shall serve as an alternate voting member in the absence of the Director.
- (3) In the absence of the Director, the alternate member shall have full power and authority to act on the City of Milford’s behalf.
- (4) This resolution was duly adopted on the 27<sup>th</sup> day of January, 2020, in lawful session duly assembled.

Motion carried.

*Funding Authorization/Kent Economic Partnership/Rockport Analysis*

Planning and Economic Development Director Piece shared that the City of Milford has the opportunity to partner with the Kent Economic Partnership, the Town of Smyrna and City of Dover to update the 2018 Rockport Analytic Report prepared for the Greater Kent Committee.

As was presented previously, Mr. Pierce recalled the study, commissioned by the Greater Kent Committee, found that the biggest potential industries for growth in the county were business and legal services, logistics and warehousing and healthcare.

Most of the data utilized during the initial targeting analysis was for 2016. With two more years of data in the books since then, Rockport proposes to both update the original analysis and do a deeper dive into the target industries and communities within Kent County. We propose to take a deeper dive into the top ten (10) or so original county-wide target sectors and then focus on a set of communities within the county -Smyrna, Dover, and Milford. This work will include:

Analyzing the Kent County economy to determine opportunities for growth by key target clusters and industries. We will update and examine both the previously chosen targets and 5-10 other sectors that just missed the cut in 2018.

Apply the same targeting methodology to a set of 3 communities within the county -Smyrna, Dover, and Milford. Their specific circumstances will determine the best longer-term, larger employer targets. Community-level targets may or may not overlap with the chosen Kent-wide target sectors.

Support the update/expansion of the Smyrna Economic Development Strategic Plan with these results and research/analysis into workforce, regulatory, and infrastructure/space issues and opportunities.

The total cost for the combined report is \$25,500; KEP is contributing \$15,000 with balance coming from Smyrna, Dover and Milford in the amount of \$3,500 each for their part of the study. Independently studying with Rockport Analytics individually, the Target Sector Study along would cost more than \$12,000.

Mr. Pierce believes the cost of doing business comparisons was approximately \$3,000 by itself, as are outlined in the proposal.

Mr. Pierce is seeking the appropriation of \$3,500 from the Economic Development fund to pay for Milford's portion of the updated Rockport Report. He then provided information on the ways KEP assists the Milford with economic development.

When asked why Harrington is no longer involved, Mr. Pierce stated that Dover, Smyrna and Milford were the three municipalities that showed interest in the information gather from the report. He shared that Smyrna is committed to giving more money for an additional component of the report, that is outside the scope outlined in the packet.

Mr. Pierce said that when this report was discussed with Council, both he and Former City Manager Norenberg were interested in participating.

It was confirmed that the report is unrelated to Councilmember Boyle sitting on the KEP board.

A discussion followed regarding the value of the report, in addition to the \$30,000 contribution already provided. It was agreed that the deliverables from this report should be included in the services provided from the contribution that has already been made.

Councilmember Culotta asked if this is part of the value of KEP in general and wonders if this makes sense to fund the report. Essentially it is a request from their members to fund it.

Councilmember James' opinion is this should be part of the deliverables for the \$30,000 already committed.

According to Mr. Pierce, the City will still benefit from the cost of doing business comparison on the regional level, if the additional \$3,500 is not authorized by City Council. However, Rockport would not dive into Milford's specific information.

He agrees we do receive leads from potential businesses from KEP, who are focusing on the three target areas already discussed.

When asked about the Delaware Prosperity Partnership, Mr. Pierce said they may get more leads because of being at the state level, KEP and their municipalities are working together and constantly have economic development meetings to coordinate our efforts.

Mr. Pierce believed there was some interest from the Chamber of Commerce in the past to have a study done solely on the City of Milford, that would cost more than \$12,000. However, he agrees there is a benefit for spending \$3,500 for the additional information for Milford.

When discussing whether to consider deducting the \$3,500 from the \$30,000, Councilmember Peel pointed out the contract is conditional based on what is being provided throughout the year.

Councilman James feels that because the City of Milford has already expressed from reluctance with funding, he would hope that KEP, as a show of good will, should allow Milford to participate in this study at no additional cost, considering the \$30,000 that has been allocated.

Mr. Pierce said he will make KEP Executive Director Linda Parkowski aware of that.

#### EXECUTIVE SESSION

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

*Personnel-Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.*

*Property Sale/Lease-Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property.*

Motion carried.

Mayor Campbell recessed the Council Meeting at 9:26 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

#### *Return to Open Session*

Councilmember Peel moved to return to Open Session, seconded by Councilmember Wilson. Motion carried.

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

#### *Employment Contract*

Councilmember Wilson questioned the automatic increase, noting that previously, increases were based upon the results of a performance evaluation.

It was noted that Mr. Whitfield is handling dual duties and Councilman Morrow added if he is still Interim Acting City Manager a year from now, the increase needs to be doubled. Councilman Brooks said that Dick Carmean handled all those duties for many years.

Councilmember Culotta pointed out that if Mr. Whitfield was terminated from both positions, three-month severance would be provided and asked if that was enough, because previous City Managers received more.

Solicitor Rutt said if he were terminated as Interim City Manager, he would retain his Public Works Director Position, unless the act involved something illegal and immoral, at which time he would be terminated from both positions.

Councilmember Wilson moved to adopt the Interim City Manager Contract, subject to striking first sentence in Section 3(d), seconded by Councilmember Peel. Motion carried.

*Vinyard Purchase*

No action required.

ADJOURNMENT

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

The Council Meeting adjourned at 10:17 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Transcriber