

CITY OF MILFORD
COUNCIL WORKSHOP MINUTES
December 13, 2021

The City Council of the City of Milford convened in a Workshop Session on Monday, December 13, 2021, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:02 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Todd Culotta, Brian Baer, Nirmala Samaroo, Jason James Sr., and Katrina Wilson

STAFF: City Manager Mark Whitfield, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

Per the Declaration of a Public Health Emergency issued by Governor Carney on July 13, 2021 and the virtual meeting provisions as provided in Senate Bill 94, Milford City Council met in a hybrid format.

Zoning Code/Right-of-Way Ordinance

Mayor Campbell turned the workshop over to City Manager Whitfield.

Mr. Whitfield said they are presenting two items tonight to get feedback from Council. One is a wireless facility ordinance. One thing the City has no control of is wireless facilities within our rights of way. There are some communities that have been dealing with undesirable structures that have been placed within the rights of way when there are no regulations and how wireless facilities are installed and where they can be installed. In addition, this will include some proposals of income that can come back to the city for the use of our right-of-way for these wireless facilities.

The other item is the City's street ordinance amendment, which is an upgrade.

Our IIMC Fellow Melody Barger is going to go over those items, several things that also include regulations within the right of ways. This would involve a permitting system for people using rights-of-way, such as a gas company or other utility that may want to come in. The intent is not to create restrictions, but to aid in their control and aesthetics.

The other item is the occupancy of the right-of-way. We often have requests that may cause damage to the street and having some type of occupancy permit will allow us to know who is in the rights-of-way.

Planning Director Rob Pierce then reviewed each item included in the packet.

He said that currently, there are no provisions in the zoning code for the allowance of wireless communication facilities within city limits that could be on private property or in the public right-of-way. When looking at our ordinance, it was determined there is nothing for stand-alone towers or antennas on existing structures and buildings.

The proposed revisions that are in your packet would allow for the construction of tower-based and non-tower wireless communication facilities, and it would also allow for the installation of small wireless facilities within the public right-of-way.

Tower-based facilities are what you traditionally think of the old-time old-fashioned cell towers their structures, you support one or more antennas. That includes self-supporting lattice towers, guide towers, and monopoles. None tower wireless facilities are antenna facilities that are not supported by towers and not considered small wireless communication facilities and could be placed on top of a water tower or multi-floor building with excessive height.

The small wireless facilities would include antenna and support structures that are generally 50 feet in height or less.

The draft ordinance provides procedures and standards for the three categories.

What is proposed is the tower-base facilities would be allowed by conditional use within the business park, highway commercial, both industrial zones, and the institutional service district.

The height would be set at a maximum of 150 feet and the minimum distance from the base of the tower to the property line would be at 110% of the tower heights.

The ordinance provides additional standards for security lighting, fences for security purposes and screening, and accessory structures for visual appearance.

New towers could be denied, and the intent is the applicants try to utilize existing towers in the area, so they need to make a good faith effort to try to co-locate on something that might be nearby as opposed to a whole new structure.

For non-tower wireless communication facilities, we currently have an antenna on top of a water tower or on a taller structure such as the Bayhealth Hospital.

These would be allowed in all zoning districts and within the public right-of-way. They would not be permitted to be attached to residential dwellings and the height would have to stay at or below the zoning requirements for that district.

If a commercial zone only allows 35 feet in height, it would not be allowed to extend above that.

The small cell wireless communication facilities are usually deployed on existing utility poles or set on new pole structures within the right of way. There is a size limitation to these and are lower frequency communication devices. They do not meet the same standards as the traditional antennas.

Allowing them in all zoning districts, and when on private property they can be on the tower-based facilities as well. When in the public right-of-way, the height of the facility cannot be more than 10% taller than the tallest utility pole or 50 feet, whichever is greater.

There would be a design manual that would accompany the ordinance that would be used to administer the design component of the wireless communication facilities when the right-of-way to help guide certain aspects of aesthetics, screening, stealth technology to shield it from the public view or minimize its appearance.

Wireless communication facilities would be added to the planning department fee schedule and treated like commercial building permit applications. That is usually how antenna adjustments are handled that occur on tower facilities.

The wireless communication facilities are placed within the right-of-way would be assessed an annual licensing fee which is proposed at \$270 a structure.

The draft zoning ordinance was reviewed with the Planning Commission last fall. They had concerns related to the screening and making sure the fencing wasn't unsightly. They had a similar presentation as is being given to Council and went line by line in-depth with the proposed ordinance.

After this workshop is wrapped up, any feedback from Council will be added to the final zoning portion of the code amendments and then hold public hearings to adopt the ordinance.

Planning Director Pierce said that concludes the component related to the zoning ordinance.

When asked if there are any current towers that do not meet these requirements; Planning Director Pierce said he is unaware of any. This would only apply to new towers.

When talked about the tower issue in Dewey Beach and most are being removed, Councilman Culotta said the only problem there is their residents complain because they don't want to see them on the dunes. However, they will be first complaining when they can't get cell service while they are at the beach.

Solicitor Rutt added that one of the cell companies installed them where they wanted because there was no process in place.

Councilman Culotta asked if farmland would have to be rezoned to install a standalone tower, Director Pierce confirmed it would have to be zoned BP, C3, I1, I2, or IS, though a conditional use would need approval from City Council. Those tend to be the areas where the towers are located, and they would not be placed in the middle of a residential zone or a neighborhood commercial. This covers the larger, more intense zoning categories.

The Director further explained that farmland would have to be zoned because the City does not have a farmland zone. For example, it could be zoned highway commercial and make sure the tower is no higher than 150 feet and the property lines are 165 feet. Councilman Culotta asked why it is necessary for it to be so far away, Director Pierce said that is from a safety standpoint if anything were ever to happen to the structure.

Director Pierce confirmed this mirrors the City of Dover's ordinance that was adopted approximately eight years ago.

When asked the timeline, Director Pierce said he wants to wrap up any discussion by the end of this month, his intent was to present it to Council in February.

City Manager Whitfield added that this is occurring in all communities, particularly in the larger communities. He wants this in place before it becomes an urgency, and before the next request is received.

Councilman Culotta said Director Pierce stated earlier he prefers to steer service providers to existing towers to co-locate. He asked if there will be any conflict of interest because many of the towers in Milford are water towers and we have the advantage of owning them and get good pretty good revenue from those.

Director Pierce reiterated that right now, there are no provisions that allow them, and they are already on our water towers. Putting the rules in place allows others to participate and build the structures. The cellular providers will more than likely want to co-locate on something existing versus the added expense of building another tower.

Councilman Culotta said he is talking about a property owner that is not permitted to put a sign there and now wants to add a tower. He thinks there is a need to provide quality cellular service. City Manager Whitfield explained the demand will not be on the tall towers and instead on the data collector towers you see on the streetlight poles. There are several nodes on top of streetlight poles that are basically data collectors. Those data collectors are interconnected with fiber optic cable, which means tearing up streets to install fiber optic cable.

When asked if a moratorium could be put in place until the ordinance was adopted, Solicitor Rutt said that most of this is controlled by the FCC (Federal Communication Commission). They have regulations in place and do not apply to the land use issues such as availability of communication and those preventing those types of things. If a moratorium was passed, the City would end up being contrary to federal regulations.

Director Pierce said plans to have the ordinance ready for February with the information that is being presented to Council this evening. It would then go to the Planning Commission and Council again. The portion that covers Chapter 197 will accompany the Zoning Code amendment but will not have to go to the Planning Commission.

Councilman Baer questioned the water tower by the City Dog Park, Director Pierce said that is one of the nonconforming towers by the old spoon mill. It would continue to have the same number of antennas that already exists. If any need to be repaired or swapped, that could be done, but any additional capacity would be subject to the zoning ordinance.

Director Pierce also clarified that the \$275 fee is a license fee to allow it within the public right-of-way. Any small facilities attached to a utility pole or monopole in the City's right of way, but a charge to occupy our right of way. There would not be a charge on privately owned buildings or towers.

Councilman Baer also pointed out there is nothing in the proposed ordinance to maintain certain integrity of the looks, or the quality of the water towers, adding that a particular water tower needs to be repainted.

Maintenance for the actual wireless communication facility tower is addressed in the proposed language according to Director Pierce. But Councilman Baer is referring to a privately owned water tower. If it becomes detrimental to the structure, then yes, the City could address that through property maintenance. But needing paint does not fall under the jurisdiction of the Code Department.

Councilman Baer said it appears to be rusting so it could be impacting the quality of the water.

Director Pierce said he will assess that tower for any violations.

Local Government Management Fellow Melody Barger then referred to the draft revision of Chapter 197 Streets and Sidewalks, whose title will be changed to Streets, Sidewalks, Storm Sewers, and other Public Places.

She shared the current ordinance does not regulate the right of way a whole lot and does not regulate storm sewers or other similar areas. After reviewing it, it was agreed to scrap the entire ordinance and start new. Other cities like Dover and Newark have a right-of-way ordinance with regulations, and there is a need in Milford as well.

Ms. Barger then reviewed each article of the ordinance.

Article 1: General Provisions

- Temporary occupation of the right-of-way requires approval of the City Manager and permanent occupation of the right-of-way is not permitted except for proper access to buildings (with approval of the City Manager)
- All construction or placement of utilities with the right-of-way requires a permit and licensing fee and excavation in ROW requires 100% bond
- Property owners are responsible for sidewalk maintenance, repair, and obstruction removal (including snow and ice removal).
- The City will repair ADA curb ramps at intersections but will not take responsibility for snow and ice removal at ADA curb ramps. Snow and ice must be removed within 12 hours of daylight after cessation of precipitation
- Playing games in the street is prohibited; devices like soccer goals and hockey nets may not be placed in the ROW

Article 2: Streets and ROW

- Street construction must be in accordance with Chapter 200 Subdivision of Land and the City Standard Construction Specifications
- Process for changing street names
- The City has the authority to create, accept and abandon streets

Article 3: Curb Cuts

- Curb cuts require a permit
- Entrances must comply with Chapter 230 Zoning and the City Standard Construction Specification

Article 4: Sidewalks

- Builders and developers are required to construct sidewalks in all new construction sites and subdivisions
- Existing residences and commercial establishments that want sidewalks may petition the City Engineer for permission to install sidewalks at the property owner's expense.
- The City may install curb and gutter with discretion at the City's expense.
- City Council may order installation of sidewalks at the property owner's expense, which must be completed within 365 days.
- The property owner may finance their improvements and may apply for financial assistance from the City
- Owners who fail to complete payments within 90 days will be subject to legal action and/or a lien on the property

- Responsibility for the repair of sidewalks rests with the property owner □ If the property owner fails to repair their sidewalks, the City must wait 90 days and provide proper notice to the landlord before repairing the sidewalks at the property owner's expense
- Property owners must obtain a permit for construction or reconstruction of sidewalk

Article 5: Storm Sewers

- Public sewers may not be tapped without a permit
- Citizens may not discharge articles, objects or substances into the storm sewer that may be dangerous or injure the storm sewer
- The City may enter any private property as reasonably necessary to inspect, convey or remove materials, or improve/repair storms sewers

Article 6: Excavations

- Traffic conditions must remain as close to normal as possible during excavations of the ROW
- Streets and sidewalks excavations must include a suitable barrier to protect against injury of pedestrians and vehicles
- Excavations must be repaired by the person making the excavation
- The City may make inspections to enforce proper use of excavation

Article 7: Wireless Facilities within the ROW

- A permit is required to locate a WCF in the ROW
- An annual fee of \$270 will be assessed per WCF located in the ROW as provided in the Planning Department Fee Schedule

Article 8: Public Utilities

- Placement of utilities in the ROW requires a permit (either underground or aboveground)
- Public utilities are subject to a franchise agreement as approved by City Council
- No attachment may be made to any Milford Electric Division facilities without a license agreement

It was confirmed the prohibition of sports being allowed within the streets is an existing provision of the Street and Sidewalk Ordinance.

Personnel Policy Update/Medical Marijuana/Weapons

City Manager said there are two personnel issues being presented to Council. One is the use of medical marijuana and HR Administrator Jamesha Williams will talk about hurdles encountered when evaluating whether the use of marijuana can be done within the City and have come to the conclusion they cannot.

The other item is weapons in the workplace and we have a proposal to restrict the carrying of weapons while on duty in the workplace and the number of related items.

HR Administrator Williams commented on the following memorandum:

Purpose

The purpose of this memorandum is to outline the recent review of the City's personnel policies and regulations and recommend a change to Section 12.5, Alcohol & Drug Free Workplace and the addition of Section 16.2, Weapons-Free Workplace.

Background: Section 12.5 Alcohol & Drug Free Workplace

The Chief of Police, Kenneth Brown reached out to the Human Resources Director, Jamesha Williams and City Manager, Mark Whitfield to seek clarification on the City's policy related to the use of a Delaware Medical Marijuana Registry Identification Card.

Title 16 Chapter 49A of The Delaware Medical Marijuana Act (the “Act”) authorizes the use of a medical marijuana registry card for qualifying medical conditions to include but not limited to cancer, terminal illness, and glaucoma.

The Act prohibits an employer from discriminating against an individual on the basis of being a medical-marijuana cardholder unless doing so would cause the employer to lose a monetary or licensing-related benefit under federal law or regulations.

Additionally, the federal Department of Transportation does not provide for exemptions for marijuana use based on state law. Consequently, any City employee who is required to hold a Commercial Driver’s License does not qualify for the protections of the Act.

Finally, the Delaware State Police prohibits employees and applicants from using marijuana, even if such use is lawful under the Act.

Recommendation

The management team of Directors and the Chief of Police recommend prohibiting all City employees and applicants from using marijuana, even if the individual has a Delaware Medical Marijuana Registry Identification Card because permitting employees to use marijuana, even if such use would be lawful under state law, would cause the City to lose federal funding.

Background: Section 12.6 Weapons-Free Workplace

City employees reached out to the Human Resources Director, Jamesha Williams to seek clarification on the City’s policy related to carrying concealed deadly weapons. After further research, the Human Resources Director determined that the City did not have a clear, defined policy or ordinance on weapons in the workplace which prompted several discussions with the management team of Directors and Chief of Police.

Gun control is a controversial, complicated and delicate topic; however, it is critical for the City to have a clear, workplace violence policy that addresses weapons as well as broader safety issues.

In 2019, a longtime City employee shot and killed 12 people and injured at least 4 others after opening fire in the Public Works building at the Virginia Beach Municipal Center. According to the Bureau of Labor Statistics Census of Fatal Occupational Injuries (CFOI), of the 5,333 fatal workplace injuries that occurred in the United States in 2019, 761 were cases of intentional injury by another person. The Gun Violence Archive counted 225 shootings in the United States in 2021 as of May 28, 2021 and more than 17,000 people in the United States have died so far in 2021 from gun-related violence. However, it manifests itself, workplace violence is a major concern for employers and employees nationwide as 2 million people become victims of workplace violence annually.

Other Cities/Towns

<u>Municipality</u>	<u>Policy</u>
Seaford	<i>Weapons-Free, Concealed Carry is not specifically addressed in the policy.</i>
Middletown	<i>No formal policy</i>
Smyrna	<i>Weapons-Free</i>
Newark	<i>Banned-Open Carry, Allowed-Concealed Carry</i>
Wilmington	<i>Weapons-Free</i>
Rehoboth	<i>No formal policy</i>
Lewes	<i>No formal policy</i>
Dover	<i>Banned-Open Carry, Allowed-Concealed Carry</i>
Kent County	<i>Weapons-Free, Allowed-Concealed Carry</i>

Recommendation

After several meetings and email discussions related to weapons in the workplace, the management team of Directors recommends prohibiting the possession or use of weapons in the workplace, at City-sponsored functions, in or on City-owned, rented or leased property, or in City-owned, rented or leased vehicles for all employees (excluding law enforcement) regardless of any license or permit that an employee may have which would otherwise authorize the employee to carry firearms or weapons for the following reasons:

- 1. Safer work environment.*
- 2. The ability to maintain control over City facilities.*
- 3. City employees perform work near/on the premises of the Milford School District and Greater Milford Boys & Girls Club which have strict policies that prohibit firearms on their premises.*
- 4. The Boys & Girls Club is governed by the Department of Education which has specific rules pertaining to running a daycare facility which state: a licensee shall ensure firearms or ammunition are not within the center's premises. The Parks and Recreation Department is required to apply to the Department of Education to obtain a permit for their Summer Camp Program.*
- 5. The Delaware Criminal Code, Section 1457 prohibits the possession of a weapon in a Safe School and Recreation Zone. A Safe School and Recreation Zone is defined as any building or structure owned, operated, leased or rented by any county or municipality, or by the State, or by any board, agency, commission, department, corporation or other entity thereof, or by any private organization, which is utilized as a recreation center, athletic field or sports stadium. Based on the definition, the Parks and Recreation Department is considered a Safe School and Recreation Zone.*

12.5 ALCOHOL & DRUG-FREE WORKPLACE

The goal of this policy is to maintain a safe and healthy work environment. The successful implementation of this policy will also enable the City to provide quality service to the public by maintaining efficiency and productivity. The use of illegal drugs and/or the misuse of alcohol or legal drugs are inconsistent with this goal.

12.5.A PROHIBITED ACTIVITIES

Employees are prohibited from engaging in the following activities:

- 1. Using, possessing, buying, selling, manufacturing or dispensing an illegal drug (to include possession of drug paraphernalia).*
- 2. Being under the influence of alcohol or illegal drugs while on duty.*
- 3. The operation of any City vehicle in violation of the guidelines set forth in this policy.*
- 4. The refusal to submit to an alcohol or drug test as defined and required by this policy.*
- 5. Use of a medical marijuana registry identification card as an allowance for testing positive for marijuana (THC).*

The appropriate law enforcement agency will be notified of any sale, distribution or possession of any illegal substance by an employee at any time. While use of medically prescribed or some other legal medications and drugs is not a violation of this policy, when such drug use adversely affects job performance, the employee will be required to use sick leave or take a leave of absence. Failing to notify an employee's supervisor before beginning work, when taking medications or drugs which may interfere with the safe and effective performance of duties by a City employee, may result in disciplinary action up to and including termination. Such actions will constitute violation of the City of Milford's Employee Policy Manual. When an employee's driver's license is suspended due to alcohol or drug use and driving is required by the employee's job description, the employee is subject to disciplinary action as described in Section 11.1.

12.5.B TESTING

12.5.B.1 PRE-EMPLOYMENT

Each individual who has been conditionally offered employment with the City of Milford will be required to take a drug test as a condition of employment. The offer of employment may be withdrawn from any individual whose test reveals the presence of a controlled substance

12.5.B.2 RANDOM

Each employee who is assigned to a position which requires the possession of a CDL shall be part of the CDL random testing pool. All other employees shall be placed in the non-CDL pool for random testing for alcohol and for the use of

controlled substances. Such test shall be conducted on a random, unannounced quarterly basis and in accordance with this policy.

12.5.B.3 REASONABLE SUSPICION

The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor. These observations may include indications of the chronic and withdrawal effects of controlled substances as defined by the Federal Motor Carrier Safety Administration (FMCSA). Two trained supervisors must witness the conduct and be trained in the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

12.5.B.4 POST-ACCIDENT

Each employee who operated a City vehicle while it was involved in a traffic accident which resulted in the loss of human life, disabling damage to any motor vehicle requiring tow away, ambulance service at the scene, or the issuance of a traffic citation shall be tested for alcohol content and for the use of controlled substances.

12.5.C TESTING PROCEDURES

All testing required by this policy will be conducted in accordance with the Omnibus Transportation Employee Testing Act of 1991. The testing will only be conducted by certified, qualified individuals who are either employed by a contractor hired by the City for this purpose or are sworn, law enforcement personnel. To ensure accuracy, employees must be tested immediately following reasonable suspicion or post-accident as described above.

Testing will be done for the following substances, however not limited to:

- Alcohol*
- Marijuana (THC)*
- Cocaine*
- Amphetamines and methamphetamine*
- Opioids*
- Phencyclidine (PCP)*

Refusal by an employee to cooperate or submit immediately to alcohol and/or drug test when requested by management will constitute insubordination and is cause for disciplinary action in accordance with 11.1 of this manual.

12.5.D PAYMENT

The City shall pay the cost of testing for alcohol and controlled substances. The employee shall pay the cost of any confirmation test requested by the employee to deny the use of a controlled substance if the results of the initial test are positive. If the results of the confirmation test are negative, the City shall pay the cost of the confirmation test. The City shall not pay the cost of evaluating, counseling or rehabilitation which may be required by the Omnibus Transportation Employee Testing Act of 1991.

12.5.E POSITIVE TESTS

Confirmation of drug or alcohol use or abuse will result in disciplinary action in accordance with Section 11.1 of this manual. Two disciplinary actions relating to drug or alcohol use may be cause for termination.

Discipline for being under the influence of alcohol or nonprescribed controlled substances during non-job-related activities will be based on the employee's work history, previous disciplinary actions and previous identification of substance use problems. Employees who test positive, or otherwise violate this policy, will be subject to discipline, up to and including termination. Depending on the circumstances, the employee's work history/record and any state law requirements, the City of Milford may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis pursuant to mutually agreeable terms, which could include follow-up alcohol and drug testing at times and frequencies established by the City. These follow-up tests will be determined by the Human Resources Administrator and Department Head and will take place for a minimum of one year but not more than two years. A waiver of the right to contest any termination resulting from a subsequent positive test will also be provided. If the employee either does not complete the rehabilitation program or tests positive after completing the rehabilitation program, the employee will be immediately discharged from employment.

Councilman Fulton asked for documentation that shows the City could lose federal funding by allowing employees to use medical marijuana. He understands the loss of funding in the police department but stated that standard employees have the right, just like they have the right to take Percocet or cough medication with codeine or any other type of pain reliever or some type of analgesic which will cause them some other type of symptoms, or some other type of symptom or condition. Some of these people have nothing else to turn to, and a medical doctor, not a state agency, has said this is what you need to take for your MS, cancer, or some other condition. And they are not going to be told they are no longer allowed to be employed in Milford because they can't have the card and be employed here.

Councilman Fulton said in his opinion that is not correct and Councilman Culotta agreed.

City Manager Whitfield explained the city gets funding from the Federal Government and has to attest the city has a policy in place that prohibits this. He shares the sentiments but has looked at this with our attorneys and this was their recommendation.

A discussion followed with specific situations. Councilman Fulton pointed out there are people on methadone, not because they are heroin addicts, but because of the pain they experience day-to-day. They are taking methadone and when that shows up, they are considered an addict. He explained it is a pain treatment and he does not believe the federal government has tied the hands of government agencies and that the entire bank of city employees is prohibited, by federal mandate, to have a medical marijuana card. He wants to see written documentation before he approves something like this.

He understands the prohibition for the police department and Chief Brown agreed with him.

Councilman Fulton said this is a serious issue for the police department because it is against federal law and the police have to uphold, not only the State of Delaware laws but federal laws as well. Chief Brown said when we sign the grant paperwork, some of the grants have fourteen pages and he must go through and initial each page because it is tacking on all these things they have to comply with. Complying with federal law is one of those things that is heavily looked at and it often requires two or three signatures that they comply. He feels that all the laws are not cohesive yet with states and local and the feds.

Chief Brown thinks we are way behind the curve on the medical marijuana issue, but he does have to sign that he is in compliance with federal law.

Councilman Fulton said he understands the police. Chief Brown said the police are not separate from the City of Milford. City Manager Whitfield confirmed the money does not go to Milford Police Department. Instead, it goes to the City of Milford and that is one of the problems.

Manager Whitfield said it puts the city in a crux in that we may lose funding if we don't have this in place.

It was confirmed that a city employee cannot have the card. Mayor Campbell suggested only prohibiting it during work hours. HR Manager Williams explained that all the employees are in the random drug testing pool and what will happen is when they are selected, they will test positive for marijuana even if not consumed during work hours.

Councilman Fulton argued that if employees take certain medications, they will test positive for different levels of narcotics when a urinalysis is done. Then the employee is asked for documentation for why the sample is dirty. The doctor then has to provide the prescription which is then ok'd. The federal government has said it is ok for Big Pharma to give you that narcotic while at work is ok, then everything is good, but because the federal government has not given the approval for medical marijuana. Councilman Culotta agreed that if a doctor prescribed a narcotic, how can that be different than a prescription for medical marijuana. It seems like a double standard in his opinion.

Ms. Williams said until the federal regulation changes, the City's hands are tied. Councilman Culotta said that until the feds say the City is not going to get their funding and he would rather explore that before this is put in place.

It was suggested that this needs to be broken into two different policies---one for police and one for non-police employees.

Ms. Williams explained that in that situation, we would run afoul with police and the CDL drivers, who are public works employees. In addition, if an employee has a work accident and they are sent for post-accident testing, and they test positive

for marijuana, becomes an issue when another employee is under the influence of marijuana even if it is for health-related issues because of the federal law.

Councilman Fulton said or any other prescribed substance they may be under from a doctor's care.

Ms. Williams confirmed that when an employee goes to the lab for any testing, they do provide any prescription information upfront. That prevents any issues should the reading come back positive. It will state positive, but the cover sheet will provide verification of the prescription, so it is mitigated. The only problem is when there is a positive reading with no prescription to validate the reason for the substance.

Mr. Whitfield explained that a CDL driver who is on any narcotic for whatever reason is required to inform their employer ahead of time. If they fail to do that, they can be terminated.

Councilmen Fulton and Culotta asked why that cannot be done with medical marijuana. City Manager Whitfield explained that the problem with medical marijuana is the only test is THC. The problem with that test is there is no way to determine if it was consumed two weeks ago or two hours before. The THC is simply in the blood and the only test for that at this time.

There is currently a case involving Kraft Foods and a forklift operator who ended up testing positive but had a medical marijuana card and that is still pending in court.

Ms. Williams explained that when the employer terminated him for having marijuana in his system, they could not prove it was taken during work.

Councilman Fulton explained that when they first started testing in the military, they had different levels. They had a very high tolerance at first because they figured a lot of people were on marijuana. Then they scaled it back so it was lower levels and basically less THC in your system now than less acceptable because there should be zero tolerance. They scaled it back until it became zero-tolerance though it began very high.

Ms. Williams confirmed it will only provide a negative or positive result and no levels. She also added that if the policy only applied to police officers and CDL holders, the City still has police dispatchers that have very responsible for being coherent and be able to deal with various types of calls and situations. Right now, federal law deems marijuana an illegal substance even though there are different state laws.

Councilman Boyle suggested contacting the Attorney General's office for guidance on a statewide basis. Another solution could be to put the onus on the person with the prescription that they are responsible for their actions should something occur or have an accident.

Councilman Baer commented on Section 12.5.b.4 labeled post-accident. He found the language somewhat strange at the end of the sentence that states 'or the issuance of a traffic citation shall be tested for alcohol content and for the use of a controlled substance'. He questioned tying in the loss of human life and a traffic citation to force someone to be tested. He thought it should be changed to 'maybe tested' and up to the City's discretion.

Ms. Williams explained that provision falls under the Department of Transportation guidelines for when an employer can test post-accident. If they got a ticket or there is a loss of life, they are required to have post-accident testing. It also must involve a motor vehicle accident whereby the employee received a citation.

There are also guidelines for reasonable suspicion that the employer must follow which is included in the policy. There is also training for reasonable suspicion and must meet certain protocols to prevent any type of litigation. In addition, the supervisor takes the employee for the testing.

Councilman Fulton concluded by stating we need to look at this as a wider issue than taking medical treatment away from some of the employees. He understands the federal funding issue, but he cannot in good conscience say this is a great idea to remove treatment and there are different paths of treatment for different people.

Councilman James concurred with Councilman Fulton and believes it is sensitive and important enough to get some additional information so it can be addressed properly.

City Manager Whitfield added this is something staff has been wrestling with for months. It was brought to him by another department head and it was looked into very deeply and what other communities and government agencies were doing. He knows people that have suffered and have gotten relief using this, but unfortunately, until there's some change in the federal law, the City remains caught in a crux here.

Councilman James suggests Council get the education it desires. He said some of the Council are employed in industries where there are regulations and people get hurt. He knows a lot about this, but he does not have the time to go into a conversation because the meeting will last until midnight.

He also suggests that the documentation that Councilman Fulton requested be shared with Council as well. They hear it and do not disbelieve, but to see it in writing will help.

HR Administrator then reviewed the Weapons Free Workplace which will be a new section to the employee policy:

12.6 WEAPONS-FREE WORKPLACE

To ensure that the City of Milford maintains a workplace safe and free of violence for all employees, the City of Milford prohibits the possession or use of weapons in the workplace, at City-sponsored functions, in or on City-owned, rented or leased property, or in City-owned, rented or leased vehicles for all employees regardless of any license or permit that an employee may have which would otherwise authorize the employee to carry firearms or weapons. The City adopts this policy in recognition of the danger presented to the health, safety, and welfare of employees and members of the public by the introduction of weapons into the workplace, particularly in light of the ongoing threat of terrorism.

The term "weapons" includes, without limitation, firearms of all types and sizes, whether loaded or not; air guns, BB-guns, pellet guns, and the like; simulated weapons; knives, swords, switchblades, razors, and the like – other than small pocket knives, utility knives, and the like with a blade of less than three inches in length; clubs, bludgeons, batons, bats, and the like; incendiary or explosive devices of any sort whatsoever; martial arts weapons, including num-chuks, throwing stars, and the like; and any item carried with the intent to go armed, or used to threaten or intimidate another. The term "weapons" shall not include the lawful possession of personal security devices, intended for use by members of the general public, including without limitation, pepper spray, mace, and such other personal defense sprays. Exemptions: Tools used on the job in accordance with employment requirements are exempt from this policy.

Exemptions:

- 1. Possession of firearms, components of firearms, and ammunition or explosives by law enforcement officers;*
- 2. Law enforcement agencies receiving shipments or delivery of firearms, components of firearms, ammunition or explosives;*
- 3. Law enforcement agencies conducting firearms safety and training programs;*
- 4. Law enforcement agencies conducting firearm or ammunition public safety programs, donation, amnesty, or any other similar programs in police stations or municipal buildings;*

Any employee who believes in good faith that any person is in possession of a weapon in violation of this policy or otherwise poses an imminent threat is required to report the matter as soon as possible to any supervisor, Department Director or the Human Resources Director without regard to the chain of command. Retaliation against any employee for reporting a violation of this policy or participating in an investigation is strictly prohibited.

Ms. Williams explained that the issue came from City staff to inquire on our policy as it relates to weapons in a workplace and concealed carry. After some research into the employee policy manual and the City ordinance, she found there is nothing that addresses weapons in a workplace in terms of allowing or prohibiting them by employees or the general public.

The City Management team did recommend a weapons-free workplace. As is noted in her memo, gun control is a controversial and delicate topic. However, the recommendation for the weapons-free workplace included a safer work environment and the ability to maintain control over our City facilities.

They also took a look at what the Milford School District had and what the Greater Milford Boys & Girls Club had because our City employees are on those premises often and both prohibit firearms on their premises.

In addition, our parks and recreation department would be defined as a safe school and recreation zone, because they do have programs for children in their athletic fields. That is how staff came to the determination to have a weapons-free workplace and wanted to get feedback from Council since the item is not addressed in any policy within our policies.

Councilman Culotta said he has an issue with some of the recommendations and statements. He does see that of the municipalities listed, Smyrna is the only weapons-free municipality. The rest either don't have a policy or allow concealed carry. It is his belief that an individual has a right to protect themselves. If they so choose to do that with a concealed carry permit, then it should be allowed. He does not believe we need to have a policy because there isn't one. To argue the safe for the work environment, anytime weapons are prohibited in a public setting or any setting that becomes a gun-free zone, most mass shootings happen in gun-free zones.

The Councilman stated that from 1993 to 2015, almost 93% of mass shootings happened in a gun-free zone. In the time that you would need to defend yourself from a threat, is seconds. While the police do a great job, they take minutes to arrive. That is something that needs to be considered versus having a blanket policy and no weapons.

He stated that if someone is not familiar with Delaware's concealed carry law, an individual has to take a class on proper firearm safety and concealed carry rules and regulations, fire 100 rounds and demonstrate they can properly operate the weapon. They are required to have an FBI background check that passes, have five references from people in their county to vouch for them. Announce their desire to get a weapon permit in the newspaper and pay for an ad in the paper and then pay a fee to the State to get that permit.

Councilman Culotta says the state does a pretty good job of vetting who can carry a concealed weapon and he does not agree the City needs to go above that. He has no problem with banning open carry but prohibiting concealed carry is too much.

Mayor Campbell agrees and if someone goes through the concealed carry instruction and classes and are completely scrutinized before a concealed carry permit is issued, that should qualify that person to carry as they wish.

Councilmember Boyle said he will take exception to both and does not believe a workplace is a place for a gun in any circumstance. He finds it confusing that in some weapons-free zone, they allow a concealed weapon. A person either has a gun or they don't, concealed or not. He believes it intimidates some people and you do not know what the spark would be to set somebody off. It could be in a free zone where they come back with a gun. But that does not excuse walking around with a gun because there are too many people intimidated by it and he would vote against it.

Councilman Fulton feels that the CCW is not about everyone knowing or not knowing someone has a gun. If they know you have a gun, you have violated your CCW permit already. That would be brandishing and showing, and the police would take it. It is for the person's own personal protection, and it is not talked about and is kept away. The only time it would come out is for that person's own personal protection. Delaware is a state where the first method is escaping and is not to pull your weapon out and start shooting bullets at everything that moves. The first rule is to look for an escape route and avoid conflict.

Then only if necessary, according to Councilman Fulton, would you then pull your weapon out and try to defend yourself if you have no escape path possible. Worrying about who has a weapon and who does not, is not a factor. It is required to be on your person that no one knows about.

Councilman James stated his overall concern is the rights of individuals. He does not like tampering with constitutional rights. But at the same time, he must respect the concern of the individuals. There is fear on the other side is what he is saying. If there is someone in the workplace with a gun, there is a legitimate fear.

Councilman James asked if there is a way to have a policy, a reporting mechanism to someone intimidating or brandishing causing reasonable suspicion that someone is a little tilted or off. That can be reported and addressed, and the police can then come and take the gun. Perhaps that can be policy-written.

He comes from a family of in-laws who has been in law enforcement, and he has been around guns, and infringing upon those rights is a slippery slope and he wants to be careful whatever is done.

Councilman James is not opposed to a reasonable policy that accompanied a concealed carry allowance that would be optimal, though he is unsure if that is possible. However, he does understand the concerns of those in the workplace even if the person has a concealed carry permit. On the other side, there is a lot of violence that takes place with co-workers. He does not know if they are legitimate carriers that have gone through the certification process. But you can someone lose it at any time. There is no protection against a criminal or someone that is going to go off regardless of if they have a concealed carry permit or not.

Councilman Culotta asked that Solicitor Rutt review Title 22 Municipalities in Delaware law and specifically section 111 limitation on firearm regulations and see how that aligns with the proposal before Council.

Solicitor Rutt said that there is a provision in Title 22 that says municipalities may not regulate firearms in their charter. The City has nothing in the Charter. There is an exception for existing ordinances though the City does not have that either.

He will look at the concealed carry prohibition in the workplace under Title 22 and Home Rule as it relates to ordinances versus charter.

Councilman Culotta said that though he does not need the permission of the police, because the Constitution gives him the right to keep and bear arms, he would like to hear the Police Chief's opinion.

Chief Brown stated that he has been for the right of good people to be able to carry firearms because he believes and, he knows, that bad people carry them. He agrees that someone has the right to protect themselves. When in a government facility, a person should still have that right. If the bad guy or a person intends to go in and kill people, he does not care about the ordinance or the law and instead is going in to accomplish what he set out to do. The only thing that will stop him is a good person inside with a firearm. He will be done shooting by the time the police can get there unless they happen to be there. Chances are that will not happen.

He agrees with Councilman Culotta that these gun-free zones are easy targets. A person is actually putting themselves out there and saying they are just going to lay there and take whatever that person brings.

Chief Brown is for the victims, and we need to stop being victims.

Councilman Culotta also thinks that with the size of our City, we do not have arms. If he goes to Family Court in Georgetown, he is unable to carry his firearms in, but there are armed guards and armed police officers there. We do not have that in all our City facilities and he does not want someone meeting him at the door of City Hall or having to go through a metal detector. Because of that, we are very vulnerable in many senses. The risk of accidental discharge, which is the fear of somebody carrying or being intimidated at a workplace. If someone feels intimidated by somebody who's concealed carrying, they have already violated that concealed carry license and their work agreement which is a bigger problem.

City Manager Whitfield said his only argument, and this came from the City department heads and/or supervisors when you are rendering discipline on an employee, you have no idea if that employee is carrying a gun or not, or what may snap with the employee when you're rendering that discipline. He has been in this business for 42 years and he has never felt the need to carry a gun.

Councilman Culotta said that is fine, but the right to defend oneself is a constitutional right.

City Manager Whitfield said with all due respect, he does not believe that more guns is the answer to those that were involved in the Virginia Beach shooting or other similar situation.

Councilman Culotta said that is where there is a distinct difference of opinion.

Councilman Boyle said he spent his career in the military and was also around guns most of his life. But never in his life did he believe a gun other than exercising duties and preparing for other things. But he has never owned one and never wanted one and he does not see the need.

Mayor Campbell noted that because Delaware is an open-carry state. He has been in Walmart where he has witnessed a man carrying a gun. He is sure the police department gets calls all the time because many people do not understand the firearms law. He thinks the person has the right to carry a concealed weapon and he is aware of many officials who carry for their own protection.

Councilman James reiterated that if we do draft policy, it is coupled with the concealed carry laws. That already covers a lot of things that cannot do and there are regulations at places that are going to be gun-free zones anyway including federal buildings, schools, and courts.

It was noted that state law requires a person not to be within so many feet of a playground or school with a weapon period, including concealed carry. One of the City's concerns is that we have employees that are within those dimensions almost every single day.

Anyone with a CCW permit is aware of those laws and is not supposed to be within that boundary line. That person is violating their CCW and can be held accountable.

Mr. Whitfield again reminded Council that this request came from the department directors and was a very strong concern with them and he hears and understands the different opinions.

It was agreed this needs to be discussed at another time.

Councilman Culotta asked if this should be discussed in a separate workshop or in a Council meeting. He would like to have public comment which is not normally done in a workshop. He prefers to hear from the industry experts.

Public Works Director Mike Svaby then stated he believes this originated in the public works building and whether it was public works personnel or others that work in the building. When this was first discussed, he contacted the Attorney General's office to get a little background. He is not a weapon owner and knows there is a process for concealed carry and if a person wants to open carry, that is permitted without CCW training and a permit.

His concern is that it puts people closer to the edge of making a decision that they might not otherwise make. As a department manager, he feels responsible for the safety of my employees. Both from people driving up to any city building, with some egregious thought at hand and whether they think it's legitimate or not.

Director Svaby also has concerns about the safety within our ranks. What can start out as a beef about a parking space, which is something that could typically happen and have two twenty-plus year professionals swearing at each other over a parking space. That is an example of how things can escalate very quickly. Unfortunately, that is a real example, and it did not escalate to anything physical. But if someone is carrying a weapon, it gives both parties other options.

He asked the Attorney General representative if he wanted to be made aware of just who was walking around with a concealed carry permit, how could he do that. He would like to know if people within our ranks are walking around with a pistol under their jacket.

Councilman Culotta pointed out that as part of the CCW process, it is announced in the newspaper, so it is public information. Director Svaby said he did follow up and found out that is only required in the very beginning and when you renew the notice is no longer required.

He has had to deal with employees who are already under a lot of stress due to Covid and being short-handed and overworked, and he is about to tell that employee they are going to have two days at home without pay because of their behavior or choices. When a person feels like they have nothing to lose, their decisions are always drastic and overbearing,

he is very concerned. His thought was how does he know if this person he is about to confront is walking around with a gun on his hip.

There was also an example of a customer who is really ticked about his utility being turned off and he is coming in with a shotgun and an employee with a CCW stops him and neutralizes the threat before the police arrive and saves that employee and other's lives.

Director Svaby doesn't disagree but only wants to be made aware, or is it private information, of a person with a CCW permit.

It was again agreed that another workshop would be advantageous before any policy is put into effect.

Ms. Williams confirmed that the municipality does not have the right to know who has a CCW permit. She did ask our attorneys if the City could maintain a list of who has a CCW permit, and their first response was that a list of employees would violate their first amendment rights. She is willing to circle back, but she did initially ask if the City could have our employees self-report and that was her initial response.

Parks and Recreation Director Dennehy then agreed this is a sticky subject. He agrees that all employees have the right to come to a safe workplace. He has been here for almost eighteen years. In the last eighteen months, with Covid mental health is really on edge. He believes there are a lot of short fuses across the board right now. He has been on the receiving end within his department, of having threats of violence from former employees making threats to current employees. This got to the point he had employees who were afraid to come to work. And he will throw himself into that same bracket.

He thinks he has made some good inroads since those things occurred with putting in cameras and security systems. He also had extra patrols from the police department. But we hear about these different workplace incidents in other places, but it is hopefully not a question of when it will happen in Milford. But what has happened with Covid, and people being pinned up, he will reiterate what the City Manager said. When you are a supervisor, and at the moment anytime you need to talk to someone, tempers can become frayed pretty easily.

He also knows that Ms. Williams has been bombarded by employees coming to her wanting a decision made by the City and want clarification. He does not think this is something the City can shy away from.

There are always two sides to every story, and he could talk all night about where he comes from in New Zealand and gun ownership and how the police are not armed, but we have the biggest gun ownership per head of population in the world.

He asked that Council give a lot of thought to this because there is a lot more to the reason this is being presented for consideration and he will come back from his perspective of employee safety and employees wanting to feel safe when they come to work.

City Manager Whitfield said this will be discussed when they are able to provide some answers to many of the questions that have been asked and will schedule this and the other item at a future workshop.

The Workshop Session concluded at 7:32 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

CITY OF MILFORD
COUNCIL MEETING MINUTES
December 13, 2021

The City Council of the City of Milford met in Regular Session on Monday, December 13, 2021, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Andrew Fulton, Todd Culotta, Brian Baer, Nirmala Samaroo, Jason James Sr., and Katrina Wilson

STAFF: City Manager Mark Whitfield, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

Per the Declaration of a Public Health Emergency issued by Governor Carney on July 13, 2021 and the virtual meeting provisions as provided in Senate Bill 94, Milford City Council met in a hybrid format.

CALL TO ORDER

Mayor Campbell called the meeting to order at 7:40 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Included in the packet were minutes from the May 24, 2021, June 14, 2021, and June 28, 2021 Council Meetings and June 28, 2021 Council Workshop. Motion made to approve by Councilmember Fulton, seconded by Councilmember Wilson. Motion carried.

RECOGNITION

Introduction/New City Employees

Introduced was Ashley Waller who began employment in November as the City's Permit Technician II with the Planning Department. She comes from the Town of Smyrna where she worked part-time as a Permit Technician I. Ashley was present and addressed Council stating she looks forward to a long career in Milford.

Earlier in November, Ryan Evans was hired to fill the Second-Class Electric Line Technician vacancy in the Public Works Department. He comes from Rock Creek Line Construction.

We also welcome First-Class Electric Line Technician Stephen Porter who was formerly employed with the Town of Middletown as a Journeyman Lineman.

2021 Excellence Award Winners

HR Administrator reviewed the submissions of the four Award Winners for 2021:

February - Deputy City Clerk Katrina White for the many extra hours she put into preparing and mailing approximately 2,400 letters for the police borrowing referendum on January 26th fielding election questions, handling non-stop voter registrations and absentee ballots until 5:00 pm the night before, in addition to overseeing the complete set-up of the polling

place and assuring that all required documents were prepared and delivered to Public Works. All of this was handled before 7:00 am on the day of the election.

June - Victoria Love, Billing Clerk for her untiring efforts in the Customer Service Department, was recognized for going above and beyond to help to assist a controller of the developer and property management company for a new apartment project, Windward on the River, in Milford. She was proactive and effective in communication by making sure everything was properly set up which made life easier for everyone.

September - Senior Accountant Sandra Peck in the Finance Department. Sandra was recognized for her hard work in the execution of the FY22 Capital Improvement Plan and Operating Budget. Both were approved unanimously by City Council and attest to the importance of Sandra's role in the process. She demonstrated excellence in teamwork and internal customer service.

October - Denham Dodd was recognized for exhibiting performance excellence, teamwork, productivity, and efficiency by assisting the Customer Service Division with software system outages, billing outages, firewall, and FTP site interruptions/failures and much more.

MONTHLY STAFF REPORTS:

Police Department

Monthly Stats:

A total of 328 arrests were made by the Milford Police Department during December 2021. Of these arrests, 133 were for criminal offenses and 195 for traffic violations. Criminal offenses consisted of 28 felony and 105 misdemeanors. Traffic violations consisted of 33 Special Duty Radar, 8 Drunk-Driving charges, 154 others.

Police officers investigated 51 accidents during the month and issued 55 written reprimands. In addition, they responded to 1035 various complaints including city requests and other agency assistance.

Monthly Activities:

Throughout the month of December, participated in numerous conference calls and virtual meetings including the monthly State, Kent and Sussex Chiefs meetings, DPCC Meeting, City Council and Workshop meetings, and the bi-weekly City Manager's Meeting with Department Heads.

Attended a meeting with the City Solicitor and HR in reference to an on-going personnel matter held at Milford City Hall on December 1, 2021.

Met with Amy Kevis with Partners in Public Safety Solutions, Inc. reference to Opioid Funding via Zoom held on December 2, 2021.

Attended the Monthly Rural Subcommittee Diversion /Co-Responder Workgroup held via Zoom on December 2, 2021.

Participated in the Delaware COPS Christmas Blue Light Vigil held at Law Enforcement Memorial in Dover on December 5, 2021.

Attended the 2021 Delaware Federal Delegation Grant Seminar held via Zoom on December 6, 2021.

Attended the City of Milford Citizens Advisory Council meeting held at Milford City Hall on December 6, 2021.

Attended the Special Law Enforcement Assistance Fund (SLEAF) Meeting held at Dover Police Department Assembly Room on December 7, 2021.

Met with City of Milford IT Director in reference technology for the new police facility on December 8, 2021.

Attended Milford Senior Center Board Meeting held at the Senior Center on December 8, 2021.

Met with concerned citizen on December 9, 2021, in reference to motorists not stopping for school busses when red lights are flashing.

Met with Attorney in reference to on-going litigation via teleconference on December 13, 2021.

Attended DE Police Chief's Council Board meeting and Christmas Luncheon held at the DE State Troopers Association on December 14, 2021.

Met with Attorney in reference to an on-going personnel matter held via Zoom on December 14, 2021.

Met with Attorney in reference to an on-going investigation via teleconference on December 15, 2021.

Met with Becker Morgan Group in reference to Landscape design for the new police facility held at the department on December 15, 2021.

Attended a course in Negligent Hiring Liability for Law Enforcement held via webinar on December 20, 2021.

Met with concerned citizen in reference to a personal issue on December 22, 2021.

Training –

All training courses for department personnel during the month of December 2021 were performed via webinars.

Social Media Update –

December statistics are as follows. Our Nextdoor has 2177 members covering 1635 households. Our Facebook page has 11,763 followers. Posts during the month reached 49,062 people with 13,301 people actually engaging in our posts. On Twitter our Tweets made 6585 impressions and our followers are up to 1321. Our Instagram account is at 1682 followers and posts during the month we liked by 1272 people.

SRO –

With the assistance of events held by Take My Hand Ministry and Jordan Watson Motorsports we were able to help dozens of area families this holiday season through our toy drive. This year toys and gift cards were distributed to area families through our contacts in the Milford School District and the Delaware Division of Family Services.

S/Cpl. Bloodsworth attended a "Lights Parade" in Smyrna. Smyrna officials invited area law enforcement to participate in the parade with police cars.

S/Cpl. Bloodsworth attended a Special Olympics of Delaware event at Benjamin Banneker Elementary School and assisted with the awards ceremony following the event.

K9 Unit –

For the month of December 2021, K9-1 spent two weeks preparing for and then taking his Annual NPCA Certification Course. Proud to report that K9 Mason certified in all categories.

K9-1 (Mason)

- Building Search 1
- CP/Demo 1
- No Bite Apprehensions 1

When asked to provide an update to Council on the status of the Citizen Advisory Committee, Chief Brown stated they met December 6th.

Chief Brown said that Becker Morgan brought in three versions of the front of the building and the brick. They picked out the brick though there were only two choices a lighter and a darker one. They picked the darker brick which was his choice.

They then picked the color white for the front of the building and there is room for some type of emblem to go at the top of the front of the building that they will decide later on what to put there.

When asked if there will be a presentation to Council so that the Mayor and Council are able to see what the Advisory Committee is seeing. Mayor Campbell said that will be done in January.

Councilwoman Wilson agreed said she has been on Council a very long time and this is at the least the third attempt for a new building and never getting this far. As of this point, the plans have not been brought before Council and that Council is still part of the process.

Chief Brown said that everything that has been done only relates to permitting and he has been working with them on space needs. They have selected the type of desk and furniture and how much room each office will need. There have been no decisions on anything going in there.

Mayor said they are deciding where they will put the windows because most police agencies have higher windows to prevent the possibility of sniper attacks. He said the committee members are really providing some good information.

Councilwoman Wilson thinks it is very important that the elected officials be included and are aware of what is going on.

Councilman Fulton asked if there were changes to the locker room and a reduction in the number of offices needed, since the take home vehicles were approved. He recalled Chief Brown stating that the take-home vehicles would provide a cost savings in the building, including the size of the parking lot, locker room and offices, etc.

Chief Brown said that was part of his first proposal, but since that time the Councilmembers have advised him they did not want to take that out and to leave it the way it was. However, when they were notified of the \$2 million price increase a couple months ago, he had to cut some things. The locker room was shrunk at that time, though it is still adequate especially with the take home cars. When asked if some of the offices were removed as a result, Chief Brown said the number of offices were only for what they have now. There was nothing to cut but they did shrink some of them even the hallways, but only by inches.

When asked about the size of the parking lot, Chief Brown said they are condensing that now. But the community room had an angled wall which was expensive. They squared that up and saved a lot of money though it will seat over 100 people.

When asked about the vehicles, Chief Brown stated that the State Office of Management & Budget Office had stopped taking orders for Tahoes though that is the vehicle that has been used the last several years. He also got word that Dodge is also stopping manufacturing as of the 16th. However, he did order the Ford Hybrids which the engine runs when it charges the battery. There is a lot of time the engine is not running, and this should give them 23-25 miles per gallon. The projected savings is \$3,400 in gas per car per year.

Even though it is costing a lot of money, there are many benefits. He has hired two certified officers since he got the take-home car vehicles and that has now increased to three. There is another officer that was looking for another department, but he is now staying because of the take-home vehicles.

Councilman Fulton moved to accept the police report, seconded by Councilman James. Motion carried.

City Manager

City Manager Whitfield provided highlights from the following report:

- We welcomed Second Class Line Tech Ryan Evans and First Class Lineman Steven Porter to our electric crew this month. The new lineman has 17 years municipal experience with Middletown, and lives in Felton. We also have made an offer to a Third Class lineman who left City employment in May, but has asked to return to the City. With these two new additions, we are down one electric crew member, and the electric superintendent.
- We interviewed one candidate from Seaford and have a second interview next week for the electric superintendent position.
- We have hired Jon McDowell as a temporary employee that will be filling in for Jamesha while on maternity leave early next year. Jon is a retired HR instructor, and also worked for Bayhealth.

- DELDOT contractor painted crosswalks on SE 2nd Street this past week.
- Public Works crews continue to keep up with both refuse collection and leaf collection, despite the 4 vacancies. The new one-person operated leaf truck has made a tremendous difference in time of collection.
- The Council Chambers has been fitted with new TV screens and remote operated cameras. We are now able to live stream our meetings over a broad range of media outlets (YouTube, Facebook, etc). Cameras will be operated remotely from the IT offices in the basement. Kudos to Dale, Denham, and Garrett for bringing our Council Chambers into the 21st century.
- Lou and I attended the DEMEC Executive Board meeting. They informed us of a rate increase in January, primarily due to rising natural gas costs. We could see a 9% increase in January.
- Rob and I met with Brent and Mike Fannin regarding several development projects.
- Jamesha and I met with our labor attorney on several personnel issues.
- The Mayor, Brad and I attended the monthly WIIN meeting with Slaughter Beach.
- Sara, Jamesha and I met with a student interested in doing an internship, primarily producing short videos for both economic development as well as educational videos.
- Brad, Rob Pierce and I met regarding a contract for Landscape Architect services for the Deep Branch Greenway project.
- Brad, Mike, Jamesha and I met regarding the Arborist position as well as the facility maintenance position.
- Rob and I continue to negotiate an MOU for the Industrial Park.
- The Police Teamster Union ratified the tentative agreement for July 2021- June 2024.
- Key Properties have given me a time frame of paving/maintenance of streets in Hearthstone.
- R. J. Skinner from our Parks and Recreation Department placed 3rd in the DFIT Small Equipment Rodeo this past week.
- Southeast Second Street has been completed by DELDOT. Additionally, Mispillion Street, McColley Street and Marshall Street just north of SE Front Street has been completed. If you have not visited these areas, please do so – it is a HUGE improvement.
- I held monthly meetings with Planning Director Rob Pierce, ICMA Fellow Melody Barger, and Finance Director Lou Vitola
- Lou Vitola, Customer Services Supervisor Suzannah Frederick, City Engineer James Puddicombe, Mike Svaby, Melody Barger and I met to discuss the status of the sidewalk program, including future funding and low income options.
- I met with the Department of Justice on the Opioid Settlement case.
- Sara Pletcher has been working with DMI on a banner replacement program downtown.
- Sara and Rob met with a company that does hydroponic farming, who is interested in our Industrial Park. Milford is high on their list as a location to develop.

City Manager Whitfield also commended Deputy City Clerk Katrina White for the new decorations in City Hall. He also acknowledged our IT Staff who has updated the recording equipment and brought our standards up to the 21st Century. Dale Matthew, Denham Dodd and Garrett Anderson have worked hard to get this accomplished and he appreciates their efforts.

The Electric Crew spent approximately three weeks at City Hall decorating the outside. The decking of City Hall is done with a lot of pride and we have received a lot of compliments this year.

Parks and Recreation also did a lot of the holiday decorating on the buildings and shrubbery and took a special interest in making this year's decorations even better.

We are now only down one superintendent and one electric lineman in the electric department with all other positions filled and he is much more comfortable about keeping the lights on in Milford. It was a team effort from Human Resources to Public Works, in addition to Council's part in ensuring this department is fully staffed.

Public Works Department

Public Works Director Mike Svaby and City Engineer James Puddicombe provided information from the following report: The following input represents a high-level list of activities and accomplishments for the month of November 2021.

Director's Office

- Supported a PD Building Design charette dedicated to IT elements of design and prep for the CAC meeting.

- Led street light replacements specification ID and ordering process for delivery in mid-February and installation by first week in March.
- Met with DRWA on junior apprenticeship program with Milford High School

Engineering Division

- Continued revisions to the Standard Specifications
- Supervised construction startup at Simpsons Crossing phase 1B
- Supervised construction startup at Cypress Hall Phase 1
- Reviewed As-builts for Milford Ponds Phase 1.7
- Continued installation of watermain on NE Front Street in anticipation of TAP project to occur this spring.

Public Services Division

Streets/ Utilities/Solid Waste Section

1. Hydrant flush occurred in all 4 wards
2. Hydrants and other vertical features have been flagged for winter
3. Leaf collection continues
4. Street sweeping continues
5. Salt spreaders installed on trucks – now ready for inclement weather
6. Water Leak Repair on NW 2nd St

Water/Wastewater Section

1. Resolved Atlantic Concrete pressure issue
2. Pulled pump 1 at Truitt due to clogging.
3. New generator installed on Thursday 11/18. Also under capital improvements, wiring casing flex covering replaced for Same pump station to muffin Monster (Grinder) special thanks to Roy's Electric and Terry Webb Electric. Great job done.
4. Pump stations cleaned: Wendy's, Knotts Landing, Lighthouse, North Shore, and Watergate.

Electric/Tech Services Division

- **Traffic Signalization by DelDOT** – Continuing work through Mike Svaby on DelDOT signal takeover + responding with repair and troubleshooting, Solicited quote form Robynksi Engineering for signal cabinet documents, instructions for reset and troubleshooting.
- **Milford High School** – Primary meter was changed out during off hours and continued service was retained.
- **Christmas Lights** - during the month of November, installing/hanging Christmas lights during our staffing shortage was a time-consuming job and major undertaking.

New employees with the Department of Public Works



Ryan Evans (for Electric)

- Formerly employed by Rock Creek Construction
- Hired by Public Works and began employment with the City as Line Tech, Second Class - on November 1.
- Ryan lives in Greenwood, DE
- In his free time, enjoys fishing and the outdoors

Stephen Porter (for Electric)

- Formerly employed by Town of Middletown
- Hired by Public Works and began employment with the City as Line Tech, First Class - on November 1.
- Lives in Felton, DE.
- In his free time, enjoys hunting, fishing and driving on the beach.



City Engineer James Puddicombe confirmed that the Four-Way Stop remains under review by DelDOT. Once a decision is made, they will contact him.

Public Works Director then provided a brief update on some new concerns related to I&I. CE Puddicombe reported they just completed some work in the Truitt Avenue area and will be providing a report in the next few days. They are also about three-quarters of the way through the Washington Street pump station area, which appears may be the highest I&I problem area.

Planning & Zoning Department

Planning Director Rob Pierce provided highlights from the monthly report:

- Through the first eleven months of the 2021 calendar year, the City has issued 117 new residential construction permits and five permits for 120 apartment units. The total construction investment in Milford from January through the end of November based on issued building permits was \$38,825,482.
- The City of Milford has seen 108 projects with a committed investment of over \$24.4 million within the Downtown Development District (DDD) area since September 2016 (based on permit valuations from submitted applications). The State of Delaware has committed or awarded over \$2.62 million in grant funds for both large and small commercial and residential projects in Milford. The City has waived over \$501,000 in permit fees and taxes associated with these projects in accordance with Chapter 19 Economic Development and Redevelopment and DDD program guidelines.
- The Planning Commission will not meet during the month of December.
- The Board of Adjustment will review three applications in December. Two of the applications involve the construction of new single-family detached dwellings on infill lots. The third application is a lot coverage exceedance for a funeral home on North Street.
- Staff is preparing the 2022 Amendment to the 2018 Comprehensive Plan which will be presented for informational purposes at the January 10, 2022 workshop. The amendment includes several future land use map revisions and text amendments to the transportation chapter.
- The City approved a revision to the final construction plans for the Hickory Glen development.
- The City approved a revision to the Watergate final construction plans and added a utility easement to the record plan.
- The City provided plan review comments for the Cypress Hall Phase I & II Final Major Subdivision and Final Site Plan applications to the applicant and is awaiting resubmission.

- The City provided plan review comments for the Pest Pro Preliminary Site Plan application and is awaiting resubmission.
- The City received the resubmission for the Cypress Hall Phase III Preliminary Major Subdivision and revised Planned Unit Development applications.
- The City received the resubmission for the Helmick Milford, LLC Preliminary Site Plan to the applicant for a commercial building at the site of the former Wendy’s on N. Dupont Boulevard.
- The City received the resubmission for the Westwood Preliminary Major Subdivision and Planned Unit Development.
- The City received a preliminary site plan application for the renovation of the Buccaneer Carwash site on N. Dupont Boulevard.
- The City received a Utility Feasibility Study request for the McColley Farm between NE Front Street and NE Tenth Street for a apartment and townhouse development.
- Staff has prepared draft updates to the City’s building code which would adopt the 2018 version of the International Residential Code and International Building Code. A City Council workshop will be held on January 10, 2022 to discuss the proposed revisions and present information regarding residential domestic sprinkler systems.
- Code Enforcement Officials have completed several foot inspections of the town center area with more dates scheduled in December.
- The Department filled the newly created Permit Technician II position. Ashley Waller started on November 15, 2021.
- The Director coordinated the interviews for the vacant Board of Adjustment and Planning Commission positions. Positions were filled by City Council action on November 22, 2021
- The Director attended the 2021 American Planning Association (APA) Delaware Chapter Annual Meeting.
- Staff continues to work towards implementing the goals and objects of the 2018 Comprehensive Plan, SE Master Plan, Downtown Development District (DDD) application, Rivertown Rebirth Master Plan and Strategic Plan.

Case Activity:

	Total
New Cases	54
Closed Cases	31
Open Cases at Start of Period	374
Open Cases at End of Period	397

*188 open cases are related to annual grass violations.

Violation Activity:

New Violations Cited	Total
Abandoned Vehicle	10
Dangerous Tree	2
Furniture Violation	1
Generic Violation	6
Property Maintenance Violation	23
Rubbish & Garbage	4
Weeds & Grass	2
Zoning Use Violation	6
Total	54

Rental Licenses Issued: 14
 Vendor Licenses Issued: 0
 Contractors Licenses Issued: 10
 Business Licenses Issued: 10

Permits Issued by Type	Count
Commercial Demolition	1
Commercial Foundation	0
Commercial Building Permit	7
Construction Trailer	0
Residential Demolition	0
Residential Building New Construction	8
Residential Renovation/Accessory	7
Roof/Siding Permit	7
Sign Permit	1
Solar Panel Permit	6
Utility Permit	1
Total	38

Inspections Performed:

Inspections Performed by Type	Count
Footer	22
Foundation	16
Framing	16
Insulation	3
Final	29
Residential Rental	0
Total	86

Parks & Recreation Department

Highlights were provided from Director Dennehy:

- Covid-19 precautions continued with social distancing, mask wearing and enforcing non-vaccinated staff get weekly testing.
- Weekly trash pick-up continued through November of all municipal owned trash receptacles by Park staff.
- Grass cutting on all city owned facilities continued throughout the month of November as the grass cutting season came to an end.
- Petty vandalism occurred on Goat Island including a section of handrail which was torn down and thrown in the river, as well as some signs, trash can lids and a life ring. Staff were able to retrieve these items and reinstall them.
- Park staff prepped for the landing of the President of the United States on City owned property. This included cutting the sports fields and vacant lots prior to the helicopters landing, as well as a concentrated effort to remove roadside trash along Airport Road from Route 113 to Canterbury Road prior to his visit.
- Field markers were installed at Tony Silicato Memorial Park to make it easier to identify the outlines of the soccer fields for next season.
- All the seasonal flowers were removed from both the hanging baskets, flower beds and large planters on the bridges. The potting soil and water reservoirs were also removed from the hanging baskets.
- Bushes at City Hall and downtown were trimmed prior to Christmas lights being installed.
- Holiday garland was installed on 27 light poles downtown by Park staff on North Walnut Street and Front Street.
- At City Hall garland was installed on the Pillars, net lighting was installed on the bushes and two new six-foot holiday decorations were placed by Park Staff.
- Leaves were removed out of the park area where the farmers market is, in preparation for the downtown stroll.
- Aqua foam was installed in all the hanging baskets in preparation of the installation of winter greenery.
- On Sunday November 21, park staff assisted DMI volunteers with the winter greenery installation. This includes installing greenery in 72 half-moon planters, 7 planters on bridges and 5 railing planters. Staff assist by collecting and depositing the greenery for the volunteers and cleaning up after the event.

- Park staff spent 4 days installing holiday lights on the trees in the downtown area. The larger trees are hung by the Electric Department using bucket trucks, but all the smaller trees are hung by Park staff using step ladders. Lights were trouble shot by staff the Saturday of Thanksgiving to make sure everything was working for the tree lighting.
- Part time staff started installing the new Holiday banners with all new hardware. To date 50 new banners and hardware have been installed on light poles.
- Park Superintendent attended the monthly safety meeting in November and the Awards and Recognition committee meeting.
- Winter registration for recreation programs opened with numbers filling in quickly for indoor soccer, basketball, wrestling and taekwondo. New programs include a kid's dance party, Christmas painting, a bowling day, and a kid's "fun" day. For Adults a basketball open gym, bingo night, and a women's community club have been planned.
- As part of registration a winter brochure was created by staff in house and was delivered to schools for children to take home and was also displayed on Social media as part of our marketing and promotion. The Boys and Girls Club also allowed us to create and display a PowerPoint slide show at their facility to help promote our programs.
- Staff met with the Director of the Boys and Girls Club to update the agreement between the Club and the City of Milford. Staff worked on updating the agreement with minor changes and no increase in user fees to the City. Staff also finalized details for our usage of the gym for the winter season.
- New signs were designed and created for the sign boards to be displayed downtown.
- Staff also decorated the office to make it welcoming for staff and the public alike for the holidays.
- Director continued to participate in the weekly and monthly WIIN coalition meetings.
- Director continued to work on Capital improvement projects including working with DNREC on grant funding for the playground/pickleball project and enlisting the expertise of a design professional for that project and the lighted handrail project.

Human Resources

IT Administrator Williams provided highlights from her monthly report:

- Interviews were conducted for the positions of Payroll Coordinator, Technical Support Specialist, Electric Superintendent and Public Works Equipment Operator.
- Job offers were extended and accepted for the positions of Cash Operations Clerk I, Payroll Coordinator and Public Works Equipment Operator.
- Onboarded new hires for the positions of Electric Line Technician, First Class, Electric Line Technician, Second Class and Permit Technician II.
- The 2021 Pay & Job Classification Study was approved by Mayor & City Council. All salary increases are effective for the December 10, 2021 pay date.
- Finalized all details with the Reward & Recognition Committee for the 2021 Holiday Party at the Milford Senior Center on Friday, December 17, 2021.
- John Matthews, Senior Risk Control Consultant (PMA Companies) and Scott Stohrer, Risk Control Supervisor (PMA Companies) conducted a Security Vulnerability Assessment for all City buildings excluding Police. The action report will be provided to the City within the next 90 days.

2021 Excellence Award Winners:

Katrina White, Deputy City Clerk

Sandra Peck, Accountant

Victoria Love, Billing Clerk I

Denham Dodd, Network Technician

Economic Development & Community Engagement

Economic Development & Community Engagement Administrator provided highlights from the following report:

Economic Development

- Joined Gov. Carney on his veteran-owned business tour of Milford for National Small Business Week. He visited Euphoric Herbals, CNUFit and Lifecycle in Milford.
- Continuing to build out the new economic development website with a target launch date of mid-January.

- Joined Cookie's Paper Petals DE Black Chamber of Commerce Mixer and networked with many potential Milford business investors
- Attended Benchmark Physical Therapy ribbon cutting
- Showed new business potential space in Cypress Hall shopping center. She's very interested in and in negotiations with Capano Management for Unit 5.

Community Engagement

- Presented Milford Community Presentation to the Milford Rotary Club. 15 members attended and found it worthwhile and informative.
- Improved website calendar to be a Community Calendar and created an event submission form
- Implemented the new website ChatBot for easier community website navigation
- Attended revived monthly Community Conversation
- Coordinated holiday banner program in Downtown and on electric poles
- Planned and coordinated Annual City Hall Tree Lighting resulting in record turnout

Meetings/Trainings

- Met with Jen Vandervort from Chesapeake Utilities
- Attended Five Pillars of a Successful Key Accounts Program, Webinar 1 and 2 in the Advanced Key Accounts Webinar Series
- Met with Public Works staff for monthly Public Utility Working Group meeting. Topic: Solar Panel PSA
- Attended quarterly CCGM Joint Economic Task Force meeting
- Met with City Manager for monthly Manager Update
- Attended Recover Delaware Roundtable #6
- Attended WIIN monthly meeting
- Attended Public Works Lighting Replacement Planning meeting
- Attended DMI Economic Vitality Committee monthly meeting
- Met with MHS grad Madison Stalvey, City Manager and HR Director regarding a Videography/Photography Internship
- Attended Kent County Tourism Board Meeting
- Attended monthly SEDAC meeting
- Kicked off SeeClickFix app development
- Met with Key Account team

Social Media/Website

- November 2021 Insights:
 - City of Milford Facebook: 40 new likes (total: 2,341); 21,574 reached; 1,008 post engagement
 - Parks & Rec Facebook: 19 new likes (total: 2,513); 22,474 reached; 1,074 post engagement
 - Instagram: 59 new likes (total: 813); 893 accounts reached; 199 accounts engaged
 - Twitter: 4 tweets, 868 impressions, 743 profile visits, 1 mention, 1,330 followers
 - Website: 14,391 visits (16,256 last month); 25,635 pageviews (27,427 last month)
 - ChatBot: 97 self-service resolutions; 60.6% self-service resolution rate; \$485 cost savings

Email Campaigns

- Nov. utility newsletter to customers who receive e-bills (3,670): 39.2% open
- Nov. business newsletter (audience: business license holders, 608): 29.3% open
- Nov. business newsletter #2 (audience: business license holders, 608): 23.7% open

Press Releases & Coverage

- City of Milford Expresses Condolences for Former Gov. Minner (Nov. 5)
- Annual City Hall Tree Lighting set for Nov. 27 (Nov. 19)
 - Milford Live: Annual City Hall Tree Lighting set for Nov. 27 (Nov. 22)
- City of Milford welcomes Councilmember Samaroo (Nov. 19)
 - Delaware State News: Samaroo replaces Morrow to represent Milford's 3rd Ward (Nov. 24)

- Milford Live: Samaroo joins City Council (Dec. 3)

IT Department

Updates were provided by IT Director Dale Matthews:

IT open projects:

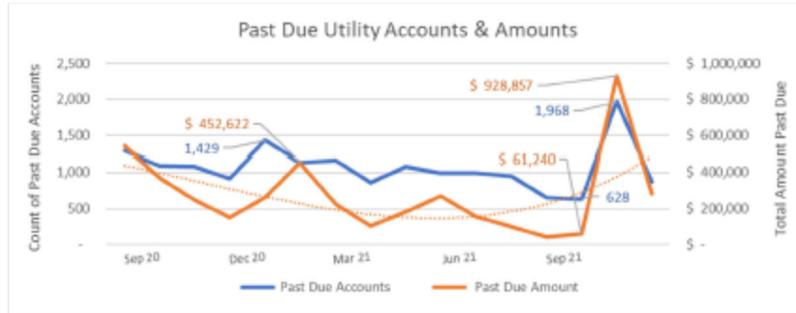
- *Security:*
- We are down to 14 people who still need to take the cybersecurity training. Completion of this training will be required to maintain access to City of Milford systems.
- We are still on track to implement improved authentication and access control practices and policies by the end of December. Two-factor authentication has been implemented early; related policies will be completed in December.
- M365 and Cloud:
- Due to vendor constraints, we had to delay migrating shared files to OneDrive. That migration will be completed 12/1/2021.
- *Council Chambers Upgrade:*
- The upgrade has been completed. We will work with Mark and Terri to determine next steps for Livestreaming.
- *Policies and Procedures:*
- Due to higher priority issues, we will push the completion of this task back to January 2022.
- *ERP Implementation:*
- We have begun planning activities with our project management vendor (Brandywine) and Tyler Technologies. The official kick-off will be in February.
- *Network:*
- We plan to upgrade the City Hall main (core) switch by mid-January. At that time, we will upgrade the internet connection to fiber for all locations. (Our internal network is fiber, but the internet connections are not.)

Finance Department

Finance Director Lou Vitola presented the following staff report:

- The Finance Report for the period ended 10/31/21 was distributed to Council
- Additional changes made for readability and convenience are highlighted in the report
- Training and other Improvement Efforts
- Sandra Peck continued her weekly participation in the Supervisors Academy
- Sandra Peck participated in the GFOA GAAP Update on November 4, 2021
- **Staffing**
- The Accountant III position was filled following a lengthy recruitment. Our new employee starts on Monday, December 13, 2021 and will be introduced to Council in January
- In the meantime, Sandra Peck continues to execute payroll processes, but the prolonged recruitment has significantly impacted the FY21 audit progress
- One open position remains in the Customer Service division; while a successful recruitment process is nearing the end with a strong candidate expected to start before the end of the year, another employee resigned, temporarily increasing our unfilled positions to two.
- **Police Facility Project – Planning and Design**
- The Bond Anticipation Note (BAN) successfully closed on November 30, 2021 and will provide the interim financing to construct the Police Facility through construction and until permanent financing is secured.
- **FY21 Audit Process**
- Sandra Peck and I met again with the new audit team to discuss timing, deliverables and schedules.
- Unfortunately, given the challenges in the Finance Department resulting from the loss of just one staff member (25% of 4 full-time team), we have fallen behind on the audit process and expect to present the City's financials at the second meeting of Council in February.
- **Billing & Customer Service Department**
- The City's print and mail vendor has recovered from the challenges precipitated in part by its recent merger and in part due to print center consolidation and staffing.

- Accordingly, our internal operations have returned to normal, including the generation of invoices and the dunning process for past due utility payments



- The graph below exhibits past due accounts and balances over the past year.
- The sharp reduction back to past due counts and amounts more consistent with averages reflects the speed with which an external force can disrupt operations, but also the ability for the customer service team to rebound
- A breakdown of property taxes outstanding follows below with differentiation between the current tax levy and previous tax levies.
- The past due amounts compare favorably to the past due amounts reported one year ago (graph unable to be transferred).

Councilman James complimented the new gentleman who was hired in Customer Service, noting that he is a very pleasant young man adding he was a great hire.

MONTHLY FINANCE REPORT

The Finance Director also reviewed the October 2021 Financial Reporting Package:

The Financial Reporting Package for October 2021 (FY22 YTD) is enclosed for your review. The following executive summary highlights this month's notable developments and recaps any changes to the report. The "Quick Reference" section of this memo recaps important financial highlights and modifications made in FY22 to help shorten the executive summaries.

YTD results continue to exceed budget expectations through October. Operating expenditures remain below even the seasonalized budget across funds for the fourth consecutive month, which is not surprising given our well-documented and indiscriminating staffing challenges. While understaffing results in unintended savings, we welcome what we hope is an end to that trend as we approach the halfway point of the fiscal year. Results in the electric and water funds, however, fall short of stronger performance through the same period last year, with the variance spread across operating lines somewhat evenly.

Cash balances have increased another \$1.3 million in total following last month's increase of \$2 million, each of which was driven almost entirely by the increase in general fund cash as the annual property tax bills were due on September 30. Capital spending has picked up pace with activity underway on NE & NW Front St, Second St, vehicle and equipment requisitions, and the conclusion of several building, road and utility projects.

Quick Reference for FY22 Financial Developments and Report Upgrades

Recap FY22 Financial Highlights

Summary of Modifications

- P.1 – Cash Roll forward
 - o New Solid Waste Reserves Acct created by FY22 Water Fund interfund loan forgiveness; new variance indicators
- P.2 – Restricted Cash Reserves Report
 - o The MSA and RTT reserves were combined into one shared summary to make room for Solid Waste Fund
 - o Lines 3 & 17 added to show additions & interest earnings in the capital reserve accounts
 - o Lines 12, 13, 24 & 25 feature updated MCR & ERR calculations for FY22 pursuant to cash reserve policy
- P.3 – The Enterprise Funds "P&L Style" Report features a new comparative column and four new rows
 - o The rightmost column compares current vs prior FYTD periods by revenue and expense lines and subtotals
 - o Rows 16 & 17 compare current & prior FYTD periods net surplus by fund
 - o Rows 18 & 19 compare actual surplus vs seasonalized budget surplus for the current FYTD period

- o Variance indicators added for quick reference to both P&L reports; refined in October 2021
- P.4 – The General Fund “P&L Style” Report was created to complement the existing Enterprise Funds P&L Report
 - o The new statement presents the same general fund financial performance available in the legacy Revenue and Expenditure Reports in a one-page consolidated executive summary
 - o The scaled, common-size columns at right match the prior year comparability goals featured in the Enterprise Fund version of the report, while also putting general fund revenues and expenses in context for the first time in the monthly financial reporting package
 - o Rows 19 & 20 allow for a comparison of the current and prior year FYTD periods by major function
 - o Rows 21-22 show comparison of actual surplus vs seasonalized budget surplus for the current FYTD period
- P.5 (prev p.10) – Planned Use of ARPA Funding by Category compared to Actual Spending added in Sept 2021
- P.6-10 – Revenue (p.6) & Expenditure/Inter-dept Reports (p.7-10) will be produced indefinitely as “legacy” reports.

When asked about the recent price hike in natural gas prices, Finance Director Vitola confirmed that DEMEC is working on increasing the renewables in the portfolio pursuant to the schedule that has been in place for a number of years. While the renewables are increasing pursuant to that plan, there are no plan to add renewables in an effort to mitigate that cost increase. Some of the renewable portfolio comes in higher than the existing cost of power, so it could have the opposite effect if they tried to quickly bring in new renewable sources of power.

Councilman James moved to accept the City Manager’s reports, including his staff reports, and the Monthly Finance Report, seconded by Councilwoman Wilson. Motion carried.

COMMITTEE & WARD REPORTS

Ward Two

Councilman Culotta reported an issue at 108 SE Second Street and he is again receiving complaints. Though Code Enforcement has addressed in the past, he is receiving complaints again.

He recalled that a traffic study was done on South Walnut Street, though he is continuing to receiving speeding complaints on that street, and an accident occurred there the other night when a parked car was hit and flipped. He asks that South Walnut be added to the study that DelDOT is already doing on Seabury, because it is a state-maintained roadway.

East Clarke Avenue

Councilman Fulton is receiving complaints about a business being conducted at a home on East Clarke Avenue. A sign was posted for 24/7 Bail Bondsman according to Councilman Culotta though the sign has been removed.

COMMUNICATION & CORRESPONDENCE

SCAT Dinner

Mayor Campbell reminded Council of the Milford-hosted SCAT dinner at Benvenuto’ Restaurant on Wednesday, January 5, 2021.

DEMEC Energy Rate Increase

City Manager Whitfield reported the City will be implementing a \$0.00396 per kilowatt-hour Power Cost Adjustment beginning in February. The PCA is a required pass-through of DEMEC’s wholesale power cost increase billed to all member cities effective January 1st through December 31st of 2022. DEMEC’s power cost increase is primarily due to the global increase in natural gas prices. The \$0.00396 increase will result in a 3.1 percent increase in electric bills for the average households and small business accounts in Milford.

This is the first PCA increase required in more than nine years. The City’s electric rate structure is unchanged.

Low Income Household Water & Sewer Assistance Program

The City Manager talked about an assistance program for low income persons with water and sewer fees, that is available through the State of Delaware Department of Health Human Services. Residents will need to apply through that agency and more information can be provided to those interested parties.

UNFINISHED BUSINESS

Adoption/Ordinance 2021-25/Chapter 63-Salaries & Compensation

City Manager Whitfield presented Ordinance 2021-25 for adoption this evening. The effective date would not occur until May of 2023.

Mayor Campbell asked if anyone from the public wished to comment on the ordinance. No one responded and the public comment period was closed.

Councilman Boyle raised a concern about Section 2 stating ‘the salary shall be modified annually based on the Consumer Price Index beginning January 1, 2023’. He has a problem with Council getting automatic increases, noting that Council approves every salary increase in the City and believes that should be the case with potential Council increases. He feels Council is escaping responsibility by allowing this increase to roll from year to year and he does not believe it looks good.

When asked what burden this puts on staff; City Manager Whitfield explained that staff would simply plug in the CIP that is published each year and because this is a policy, Council can make that decision to amend the ordinance.

A discussion followed regarding the six-month requirement. The conclusion was the salary impact would not occur until May 2023 to allow a six-month time frame prior to the enactment of the increase.

Councilman Boyle moved to amend the ordinance by removing Section 68-2(A)1 and Section 68-2(B)1 that states ‘The salary shall be modified annually based on the Consumer Price Index beginning on January 1, 2023’, seconded by Baer. Motion passed by a unanimous roll call vote.

Councilman Boyle moved to adopt the Ordinance 2021-25, as amended, seconded by Councilman James, as follows:

ORDINANCE 2021-25
CODE OF THE CITY OF MILFORD
PART I-ADMINISTRATIVE LEGISLATION
CHAPTER 63-SALARIES AND COMPENSATION
PART II – GENERAL LEGISLATION

WHEREAS, Article 4.03 of the City of Milford Charter states “The City Council may determine the annual salary of Councilmembers and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilmembers elected at the next regular election, provided that such election follows the adoption of such ordinance by at least 6 months. Councilmembers and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office, in accordance with a policy established by City Council by Resolution”, and

WHEREAS, Section 63-2 of the Code of the City of Milford establishes the salaries of Council and Mayor, and

WHEREAS, the Mayor and City Councilmembers of the City of Milford members provide a positive service that is invaluable to the continued progress of our City; and

WHEREAS, in recognition of the increased obligations in the positions of Mayor and City Council, there is a desire to modify the amount of compensation due to the Mayor and City Councilmembers; and

WHEREAS, from time to time, there is a need to adjust the salaries of those officials elected as Mayor and City Councilmembers; and

WHEREAS, it is appropriate those salaries be adjusted on an annual basis to align with rising costs; and

WHEREAS, the City Council's last adjustments to the salary compensation for the Mayor and City Councilmembers of the City of Milford occurred in January 1998; and

WHEREAS, City Council accepted public comment prior to adopting the Ordinance on December 13, 2021.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Section 63-2 of the Code of the City of Milford, entitled Salaries and Compensation, is hereby amended to read as follows, with strikeouts indicating matter stricken and underlined text as new matter:

- A. Each City Council member shall receive a salary of ~~\$50~~ \$100 per meeting.
- B. The Mayor shall receive a salary of ~~\$400~~ \$600 per month.

Section 2. Dates.

City Council Introduction: November 22, 2021

City Council Review & Final Determination: December 13, 2021

Section 3. This ordinance is effective May 1, 2023 as is required by Article 4.03 of the City of Milford Charter.

Motion carried by unanimous roll call vote.

Adoption/Ordinance 2021-26/Chapter 57-Planning Commission/Salaries

It was agreed to remove the provision related to the salary being modified annually based on the Consumer Price Index beginning on January 1, 2023.

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

Councilman Boyle moved to amend the ordinance by striking Section 2 in its entirety, relating to the Consumer Price Index increase, beginning on January 1, 2023', seconded by Fulton. Motion passed by a unanimous roll call vote.

Councilman Boyle moved to adopt the Ordinance 2021-25, as amended removing the language related to the Consume Price Index, seconded by Councilman James, to read as follows:

ORDINANCE 2021-26
CODE OF THE CITY OF MILFORD
PART I-ADMINISTRATIVE LEGISLATION
CHAPTER 57-PLANNING COMMISSION

WHEREAS, the City of Milford Planning Commission was created pursuant to 22 Del. C. § 701 et seq.; and
WHEREAS, the Planning Commission is a body of citizens that play a crucial role in shaping the future of the City and acts as an advisory group to City Council to develop plans and implement policies that affect the manner in which Milford changes in growth and development; and

WHEREAS, from time to time, there is a need to adjust the compensation of those that devote so much of their time to considering matters that require the review and evaluations of land use and development issues; and

WHEREAS, Chapter 57, §57.5, establishes salaries of the Planning Commission; and

WHEREAS, it is appropriate those salaries be adjusted on an annual basis to align with rising costs and increasing responsibilities; and

WHEREAS, City Council accepted public comment prior to adopting the Ordinance on Monday, December 13, 2021.

WHEREAS, Section 4.10 Effective Date, states 'Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten days after adoption, at any later date specified therein, or as provided by State law'.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. §57.5 Salaries and Compensation, is hereby amended to read as follows, with strikeouts indicating matter stricken and underlined text as new matter:

Each member of the Commission shall be paid ~~\$50.00~~ \$75.00 per regular or special meeting attended and may be reimbursed for actual expenses incurred in the connection with their official duties.

~~Section 2. The salary shall be modified annually based on the Consumer Price Index beginning on January 1, 2023.~~

Section ~~2~~ 2. Dates.

City Council Introduction: Monday, November 22, 2021

City Council Review & Final Determination: Monday, December 13, 2021

Section ~~4~~ 3. This ordinance is effective January 1, 2023 to coincide with the year Ordinance 2021-25 is effective.

Motion carried by unanimous roll call vote.

New Business

Authorization/Electric Funds/Forklift Purchase/Public Works

Public Works Director Mike Svaby reviewed the request for additional funding to replace the interior forklift for the warehouse. The FY22 CIP included a budget of \$12,000 for this replacement. An updated quote was recently obtained, and the cost has increased to \$15,480.

Pricing for this forklift was obtained through a competitive bidding process. Specifications and the updated quote for the Yale Forklift was included in the packet.

When questioned by Councilmember Samaroo, Director Svaby was unsure of the year of the forklift being replaced though it is well beyond its 12-year life span. Multiple bids are received on large equipment items, unless a better quote is found through the State of Delaware Procurement process or other consortiums the City uses.

Councilmember Boyle moved to authorize an increase in the amount of \$3,500 from Electric Reserves to complete the purchase of the replacement forklift for the warehouse, seconded by Councilmember Culotta. Motion carried with no one opposed.

Introduction/Ordinance 2021-28/Chapter 19-Economic Development & Redevelopment/Incentives

City Manager Whitfield introduced the following ordinance:

ORDINANCE 2021-28
Amending the Code of the City of Milford
Chapter 19 - ECONOMIC DEVELOPMENT AND REDEVELOPMENT
ARTICLE III - Specific Economic Development Incentive Programs

WHEREAS, the City desires to provide relief to participants of housing assistance programs in the form of impact and permit fee waivers that are cost-prohibitive to the completion of housing assistance projects; and

WHEREAS, Milford City Council has a goal of providing reasonable housing assistance for qualifying residents of the City of Milford; and

WHEREAS, certain construction requires and fees have proven prohibitive for homebuyers who obtain housing through housing assistance programs; and

WHEREAS, Article III of Chapter 19 of the Milford Municipal Code allows Specific Economic Development Incentive Programs (SEDIP) by waiving some or all impact and permit fees for economic development within the city limits of Milford; and

WHEREAS, there is a need to encourage the development of affordable housing by reducing or waiving these fees for qualifying projects; and

WHEREAS, public comment will be taken prior to the scheduled adoption by City Council on the meeting date noticed in Section 3.

NOW, THEREFORE, BE IT RESOLVED the City of Milford hereby ordains as follows:

Section 1.

Amends Chapter 19 by adding a new section entitled 19-11 Citywide Affordable Housing Assistance Program.

Section 2.

Section 19-11 will include subsections 19-11A Eligibility, 19-11B Target Area and 19-11C Development Incentives and paragraphs 19-11C(1) Impact Fee Waivers and 11C(2) Permit and Other Fee Waivers and subparagraphs 19-11C(1)(a) and 19-11C(2)a, 19-11C(2)(b) and 19-11C(2)(c), to read as follows:

§ 19-11 – Citywide Affordable Housing Assistance Program.

A. Eligibility. Eligible projects shall include any residential project done within the city limits that is part of an authorized citywide affordable housing program. Authorized citywide affordable housing program shall be defined as a program overseen by a non-profit or governmental agency that provides housing for low-income families for homeownership as defined by the U.S. Department of Housing and Urban Development. The incentive beneficiary shall provide the necessary documentation to prove participation in such a program. Eligible projects shall be limited to a maximum of two dwelling units per property.

B. Target Area – Citywide. The corporate limits of the City of Milford. A copy of the municipal boundary map shall be on file at City Hall, 201 S. Walnut Street, Milford, Delaware.

C. Development Incentives.

(1) Impact Fee Waivers.

(a) Incentive Beneficiaries shall qualify for a full waiver of impact fees.

(2) Permit and Other Fee Waivers.

(a) The City shall provide a one-time waiver of permits and fees identified under § 19-6(b)(1).

(b) The Incentive Beneficiary is responsible for obtaining all required local, State, County and Federal permits and approvals as may be required to complete the project.

(c) The Incentive Beneficiary shall be responsible for the Carlisle Enhancement Fee as outlined in the City of Milford Code.

Section 3. Dates.

City Council Introduction: Monday, December 13, 2021

City Council Public Comment & Council Review: Monday, January 10, 2022

Planning Director Pierce provided a synopsis of Ordinance 2021-28, stating this is an amendment to Chapter 19 Economic Development/Redevelopment Code of the City of Milford and will add a new city-wide affordable housing assistance program. It will provide some fee waiver breaks for one- or two-family dwelling units that are being constructed by nonprofit groups that provide affordable housing aid.

He added this will be back before Council on January 10th for final review, public comments, and adoption.

EXECUTIVE SESSION

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

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation

Motion carried.

Mayor Campbell recessed the Council Meeting at 9:00 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Fulton moved to go back into regular session, seconded by Councilmember Boyle. Motion carried.

Council returned to Open Session at 9:19 p.m.

Legal Matter

No action is needed as a result of the discussion in the Executive Session.

ADJOURNMENT

There being no further business, Councilmember Marabello moved to adjourn, seconded by Councilmember Baer. Motion carried.

The Council Meeting adjourned at 9:21 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder