

CITY OF MILFORD
COUNCIL MEETING MINUTES
November 28, 2022

The City Council of the City of Milford met in Regular Session on Monday, November 28, 2022.

PRESIDING: Mayor Arthur Campbell

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

STAFF: City Manager Mark Whitfield, Acting Chief Edward Huey, and City Clerk Terr Hudson

COUNSEL: Solicitor David Rutt, Esquire

Per the Limited Public Health Emergency Declaration issued by Governor John Carney on March 1, 2022, and the virtual meeting provisions provided in Senate Bill 94, Milford City Council Meetings and Workshops are being held in the Council Chambers at City Hall, with attendees also participating virtually.

CALL TO ORDER

Mayor Campbell called the Council meeting to order at 6:02 p.m.

INVOCATION AND PLEDGE

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

PUBLIC HEARINGS/PUBLIC COMMENTS

*Community Development Block Grant Program
Kent & Sussex County Housing Presentations
Adoption/Resolutions 2022-14, 2022-15, 2022-16, 2022-17, 2022-18*

Sussex County's Community Development and Housing Department Director Brandy Nauman was in attendance, along with Kent County's Representative Kain Johnson. Their offices apply for and administer the Community Development Block Grant program, or CDBG on behalf of municipalities and rural communities.

CDBG funding comes from the US Department of Housing and Urban Development (HUD) and is allocated to Sussex and Kent Counties through the Delaware State Housing Authority.

Approximately \$2 million that will be awarded to Kent and Sussex Counties this year on a competitive basis. One requirement of the program is to hold a public hearing to explain the program and provide an annual update. Most importantly, it gives citizens and local leaders a chance to have input on the upcoming application.

Delaware State Housing Authority governs the grant process, and through their consolidated plan, lists the activities that are eligible for funding. Eligible activities include housing, rehabilitation, sewer and water hookups, demolition, and infrastructure projects. For infrastructure projects, the project or street that benefits, must be predominantly contain low to moderate income households which must be accomplished through a door-to-door survey. To qualify, low and moderate incomes mean at or below eighty percent of the area immediate income. As an example, the annual income for two individuals in Sussex County must be below \$53,800 for the household and is slightly lower in Kent County.

Historically, most of the funding is used for owner-occupied housing rehabilitation. Rehabs include roofing doors, windows, electrical and plumbing upgrades, as well as energy upgrades.

To qualify, the home must be owner-occupied by the primary residents. The household must be low to moderate income; the home insured or insurable, and county taxes and utilities must be current. When a rehab is done, a lien is required to protect

the funding. For less than \$15,000, there is a five-year zero interest prorated lien. Fifteen to \$40,000 is a ten-year zero interest per rate lien. At the end of those terms, it is consider satisfied.

This prevents the homeowner from turning around and flipping the property for a profit. If some reason the house is sold, they reuse that funding for another homeowner in need.

In the last five years, Milford has received \$420,000 in CDBG funding for the Sussex County side, though \$525,000 was requested. With this funding, about eighteen households were assisted, and another four to five properties are anticipated this fiscal year.

They also can help households with emergency repairs by using funds provided by Sussex County Council for smaller repairs like no water, no heat, severe roof leaks, busted pipes, and handicap accessibility.

Currently, they have exhausted all the names on the Sussex side of Milford and are hoping for assistance from the code officials and other staff to help locate individuals in need.

Potential applicants can contact Sussex County at 302-855-7777 or at 302-744-2580 in Kent County. A preapplication will be sent to them so that they can be placed on their waiting list.

To apply for funding, they need to demonstrate the necessity in the city with at least four names on their waiting list at the time of application, though six or more are preferred. The information is needed by the first week of January to comply with the grant deadlines.

To assist with that, advertisements are being placed in local newspaper throughout the county, to incentivize folks to call and get on their waiting list.

They are happy to provide any additional information or brochures, flyers, or anything similar that can be placed on the city website.

Councilmembers James asked if the program is exclusively for, or primarily for rehabilitation, and what qualifies for the funding; Ms. Nauman stated that historically, the city has applied for housing rehabilitation. The funding can be used for small infrastructure projects like sidewalks, or water, sewer, infrastructure. However, those projects typically require a lot of planning and engineering along with a match from the city.

Ms. Nauman said that there is most likely not enough time to turn around an infrastructure plan by February.

Councilman James clarified that it would be more feasible to work on an infrastructure project now for next year's funding.

He also asked who applies and Ms. Nauman stated that both counties apply on behalf of the city, with minimum involvement needed from the town. Both their offices handle the paperwork, contractors, inspections, etc.

When asked if this funding has been used for demolition purposes in the past, Ms. Nauman again that is another activity that could be considered, but that sufficient demand is needed for the funding. If the city had some select properties under consideration, they would be willing to discuss that.

Ms. Nauman stated they also providing funding for water and sewer hookups, though that is typically done in the unincorporate areas when connecting to county utilities. Though an eligible property within the city could apply for that purpose.

She noted that because Milford has historically used the CDBG funding for housing rehab, they will plan to do that again.

This year's application is due on or before February 23, 2023.

She has already provided the packet information to Mrs. Hudson and will need those documents signed and returned.

Director Nauman thanked the city for allowing this public hearing, adding that she appreciates the partnership.

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

Councilmember Boyle moved to adopt Resolution 2022-14, 2022-15, 2022-16, 2022-17, and 2022-18, seconded by Councilmember Wilson:

RESOLUTION 2022-14
Sussex County

Councilmember BOYLE submitted to the Council the following Proposed Resolution:

ENDORISING PROJECT TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AUTHORIZING TODD F. LAWSON, SUSSEX COUNTY ADMINISTRATOR TO SUBMIT APPLICATION.

WHEREAS, the City of Milford resolves to apply for Community Development funds from the Delaware State Housing Authority in accordance with appropriate regulations governing Community Development Block Grants State of Delaware Program for Block Grants as contained in Sections 570.488-499 24 CFR U.S. Department of Housing and Urban Development; and

WHEREAS, the City of Milford has met the application requirements of (Attachment E Delaware Community Block Grant Program Policies and Procedures) Citizen Participation requirements; and

WHEREAS, Sussex County plans on accomplishing the requested projects with CDBG funds; and

WHEREAS, the City of Milford hereby agrees to allow Sussex County to accomplish the projects in the targeted areas of Milford; and

WHEREAS, the City of Milford and Sussex County are in agreement with this activity.

NOW, THEREFORE, BE IT RESOLVED by the City of Milford and Sussex County that they endorse and grant permission for the following activity:

APPLICATION: Rehabilitation/Infrastructure/Demolition

Total Infrastructure project cost is \$ _____, total CDBG grant request is \$ _____.
Matching funds in the amount of \$ _____ will be provided by the City of Milford general funds.

NOTE: To be used for Infrastructure projects only.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF A RESOLUTION PASSED BY THE CITY OF MILFORD, SUSSEX COUNTY, ON THE 28th DAY OF NOVEMBER 2022.

WE GIVE MAYOR AUTHORIZATION TO SIGN RESOLUTION:

Councilmembers

Daniel Marabello
Mike Boyle
Andrew Fulton
Todd Culotta
Brian Baer
Nirmala Samaroo
Jason James Sr.
Katrina Wilson

s/ Arthur J. Campbell
Mayor

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION ADOPTED BY THE CITY OF MILFORD IS THE SAME TITLE OF RESOLUTION NO. 2022-14 ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE 28th DAY OF NOVEMBER 2022.

s/Clerk of Sussex County Council

Resolution 2022-15
CITIZEN PARTICIPATION
CERTIFICATE OF ASSURANCE
Sussex County

It is hereby assured and certified to the Delaware State Housing Authority that Sussex County, Delaware, has met application requirements of (Attachment E Delaware Community Development Block Grant Program Policies and procedures) citizen participation requirements, and that Sussex County has:

- 1) made available information concerning the amount of funds that may be applied for;
- 2) made known the range of activities that may be undertaken with these funds;
- 3) made known the fact that more applications will be submitted to the State of Delaware than can be funded;
- 4) outlined the processes to be followed in soliciting and responding to the views and proposals of citizens, communities, nonprofit agencies and others in a timely manner; and
- 5) provided a summary of other important program requirements.

The City of Milford has held a Public Hearing on November 28, 2022 with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals.

The City of Milford has by resolution and following a Public Hearing, endorsed this application.

RESOLUTION 2022-16
AFFIRMATIVELY FURTHERING FAIR HOUSING
Sussex County

WHEREAS, City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to ensure that no person shall, on the grounds of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability be discriminated against or denied a fair and equal opportunity to housing.

AND BE IT FURTHER RESOLVED that the City of Milford take meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.

AND BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

The Resolution was adopted by a vote of the Councilmembers of the City of Milford on November 28, 2022.

RESOLUTION 2022-17
Authorizes Levy Court of Kent County to Submit Application

The City Council of Milford, Delaware, hereby authorizes Mayor Arthur J. Campbell, to submit the Fiscal Year 2023 Community Development Block Grant (CDBG) application and all understandings and assurances therein contained, and furthermore authorizes the Levy Court of Kent County to Act as the official representative of the City of Milford in connection with the submission of the Fiscal Year 2023 CDBG applicant and to provide such additional information as may be required. In the event the City of Milford’s application is funded, the Levy Court of Kent County is hereby authorized to administer the funded application on behalf of the City of Milford.

This resolution was adopted by a majority of the Council of the City of Milford on November 28, 2022.

RESOLUTION 2022-18
AFFIRMATIVELY FURTHERING FAIR HOUSING
Kent County

WHEREAS, City of Milford recognizes the importance of fair housing for the citizens of Milford; and

WHEREAS, the City of Milford supports the goals of the Federal Fair Housing Law.

NOW THEREFORE, BE IT RESOLVED, that the City of Milford heartily encourages all parties involved in the renting, selling or financing of housing in the City of Milford to ensure that no person shall, on the grounds of race, color, national origin, religion, creed, sex, marital status, familial status, age, sexual orientation or disability be discriminated against or denied a fair and equal opportunity to housing.

AND BE IT FURTHER RESOLVED, that the City of Milford take meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws; and

AND BE IT FURTHER RESOLVED, that the City of Milford, when acting as administrator of a Community Block Grant, is hereby authorized to take such actions as deemed necessary to affirmatively further fair housing in connection with the said Community Development Block Grant.

The Resolution was passed by a vote of the Councilmembers of the City of Milford on November 28, 2022.

Motion carried with no one opposed.

*Adoption/Ordinance 2022-41
Application of 27 South Walnut QOZB, LLC on behalf of Avery Properties, LLC
0.15 +/- acres of land located at the northeast corner of SE Front Street
and S. Walnut Street Address: 27 S. Walnut Street
Comprehensive Plan Designation: Commercial
Zoning District: C-2 (Central Business District)
Present Use: Retail – Single Occupancy
Proposed Use: Commercial – Multiple Occupancy
Tax Parcel: 3-30-6.20-002.00*

Solicitor Rutt reviewed the public hearing process before deferring to Planning Director Pierce.

Director Pierce reviewed the conditional use application, as stated above. He read the staff report, included in the packet, then referenced the various maps and zoning code chapters.

The public notice was advertised in the Delaware State News on October 28, 2022, and property owners within 200 feet of the parcel mailed notices. A public notice sign was also posted on the property.

The Planning Commission reviewed the application at their November 15, 2022 meeting and recommended approval by a vote of 6 to zero.

Zach King of 8256 Brick Granary Road, Lincoln, stated that a couple months ago, he had the opportunity to purchase this property from the Parker Group. They had a plan in places to renovate the building with retail downstairs and residential upstairs. After considering that option, they decided to go with all commercial, mainly because of the cost to bring new water lines, sewer lines and upgraded electrical services to the building for residential uses.

They also have office tenants in the Penney Square building that will be relocated into the upstairs of this building. That will open retail space on the ground floor which is appropriate for the downtown by bringing more retail.

Tenants have also acquired for the upstairs offices.

Mr. King noted that their focus is to bring retail to Main Street/Walnut Street, with the ability for direct walk-ins, purchases, and walkouts, which is important to growth. They have a food service business going into this building and a couple retail-type businesses.

When questioned about the tenant on the second floor in the large office; Mr. King explained it will be leased to one tenant who currently runs a medical billing office in the Penney Square Building. Her moving into this space will free up 1,500 square feet in the Penney building which is planned for three to four smaller retail spaces. Two perspective tenants are already in place.

The Fondue Restaurant in the Penney Building will open the end of January/early February 2023. The remaining space will be dedicated to retail including two different boutique stores, a new salon and more retail spaces planned.

Four to five non-retail tenants have been turned away as they continue to focus on bringing business to the downtown area.

This building should be completed by spring to early summer. The biggest hurdle is the Historic Preservation Office. The other agencies seem to work very quickly.

He continued stating the downstairs offices will have four separate entrances. When asked if the four entrances will change the historical look as it currently exists, Mr. King stated the Federal Historic Preservation Office, who the previous owners (Parker Group) used to get approvals, for their façade design, also approved the additional entrances.

They have already approved two additional entrances and have been asked for the third entrance. If declined, they instead will have a vestibule area and a split inside.

The storefront doors and windows will be kept as simple as possible, but with a historic touch.

When asked the operating hours, Mr. King noted that the Village is a café with a smaller event space in the back and patio. That will cater more towards like kids' parties and smaller corporate events and will be open five to six day a week.

A charcuterie business is also interested that will be open three to five days a week.

They are assisting two of the businesses with starting and operating a business, and from a financial standpoint. They will be doing a lot of buildouts which makes it possible to bring these smaller businesses to Milford.

He stated the Fondue Restaurant will be open Thursday, Friday, and Saturday to start. They are encouraging these businesses to be open those days to create more activity in the downtown, particularly on key weekend days which will allow these businesses to naturally grow. With that in mind, he hopes they will choose to open more days each week.

Councilmember Baer asked about the regulations regarding bathrooms for the apartments, and if the additional water and sewer lines were not required, would they have done the apartments; Mr. King explained that the biggest cost for the building was the suppression system. Doing commercial over commercial, they were able to get away with the two-layer barrier between the two floors. He shared this was a \$500,000 construction budget would have increased to \$1 million by adding apartments. Of that, \$250,000 was for fire suppression alone.

He would have loved to have apartments on the second floor, and the Penney Square Apartments do well, with short term tenants that bring business and money to the town. But it didn't make sense for the additional costs and would have extended the timeline by four to five months and anticipates this being completed by spring/summer.

The floor was then open to public comment. No one responded and the floor was closed for public comment.

Councilmember James moved to adopt Ordinance 2022-41, seconded by Councilmember Baer. Motion carried by the following unanimous roll call vote:

Marabello-votes yes as it complies to the Zoning Code 230(48) and the planning board vote of six to zero, and thanks Mr. King for enhancing this retail business. Approaching this critical mass that he is starting could result in a downtown boom in the next couple of years.

Boyle-votes yes in support of this application and on the unanimous support of the Planning Commission and meets Chapter 230(48) for a conditional use.

Culotta-votes yes stating that Zack and Marissa have been a very important part of our business community for a while, and to see them bring their investment and their desire to improve the downtown is important to Milford, and this is a big deal. He votes yes.

Fulton-votes yes, this is a fine addition to the downtown, and Zach is doing great work with the Historic Preservation Society. Samaroo-votes yes based on the Planning Commission recommendation of six to zero, and it's great for the downtown and especially the retail business.

Baer-votes yes based on Planning's support for the project, and thinks it will be great bringing new businesses downtown.

James-votes yes. This project and projects like this really add fuel to the efforts of economic development for the City of Milford and specifically downtown. And the opportunity to have more foot traffic downtown during the weekend, when some of the businesses are currently closed, would be a great way to spur activity in the downtown area.

Wilson-votes yes based on Planning and Zoning, as well as helping this company to help Milford come alive through retail which is much needed.

Adoption/Ordinance 2022-42

*Application of 1st State Self Storage OZ, LLC
for a Preliminary Conditional Use*

*9.0 +/- acres of land located along the east side of S. Dupont Boulevard
approximately 350 feet south of the Route 14 intersection*

Comprehensive Plan Designation: Commercial

Zoning District: C-3 (Highway/Commercial District)

Present use: Vacant Proposed Use: Self Storage

Tax Parcel: MD-16-183.09-01-58.00

Director Pierce referred to the packet materials, reviewed the application, then read various portions of the staff report. The property is located along the east side of South Dupont Boulevard, approximately three hundred and fifty feet south of Route 14 intersection. The application was seen by the Planning Commission a couple of years ago and approved though has since expired. Some modifications were made to the plan which also required another review as well.

A variance was granted by the Board of Adjustment for an encroachment into the wetland buffer to allow some regrading of a steep slope on the southern end of the site. That allows the stormwater outfall to be kept as part of this application.

The site plan meets the minimum requirements and plans reviewed for compliance with the city's construction manual.

He also referred to a few plan review comments in the packet that the applicant will review prior to its final site plan that will be handled by administratively by Director Pierce.

Several maps included in the packet, along with agency comments, were also referenced.

The public notice was published in the Delaware State News on October 28th and property owners within 200 feet of the parcel mailed copies. A public notice sign was also posted at the site.

The Planning Commission reviewed the application at their November 15th meeting and voted to recommend approval by a vote of six to zero with the following conditions:

- * The site has a continuous security border around the improvements
- * The landscape buffer shown on the preliminary plans would be maintained through the final approval.
- * The applicant would provide directional lighting to limit any lighting of adjacent properties which will be reviewed as part of the final site plan.
- * The applicant shall maintain the visual screening as indicated on the plans to the property to the east, which is the only abutting residential property.

An error in the ordinance notice referenced a medical building will be removed and corrected.

When asked about the variance that was approved in September 2020, Councilman Boyle asked if there is a sunset clause and if it remains with the owner/land if transferred; Director Pierce said he did place a limitation on how long a variance would be valid.

When asked if that applies to the Board of Adjustment, Planner Pierce stated they would concur with the approval granted by Council and proceed until it expires.

Also asked the changes from the last time this was before Council until now, Planner Pierce said the applicant will review the updated plans.

Representing First State Self-Storage, OZ, LLC on behalf of Milford Self Storage LLC was Attorney David Hutt of Morris, James LLP's Georgetown Office.

Also in attendance is Greg Cerino, part of the ownership of the development group, and Professional Engineer Kent Usab and Gary Morris both of Morris and Richie Associates at 8 West Market Street, Georgetown.

Attorney Hutt reviewed the request for a conditional use application to allow a ninety thousand square foot, two-story self-storage building six 2,400 square feet self-storage buildings, and two 2,250 square foot buildings on the undeveloped property, situated along 113 south of the railroad tracks by the Walgreens at the intersection of Routes 113 and 14.

The northern boundary of the property is the railroad tracks that are adjacent to the Walgreens property. The western boundary of the property is Route 113 and on east side of Route 113 is Silver Lake. On the west side is Haven Lake, and the southern boundary of the property is the Mispillion River connection between Silver Lake and Haven Lake. The eastern boundary of the property is a residential parcel that has two dwellings on it.

The property is zoned C3 highway commercial whose purpose is for larger scale commercial uses that may require large amounts of parking spaces or have a high traffic impact. These uses generally require locations on major arterial routes and serve both local and regional customers. Permitted uses in the C3 district include things like supermarkets, warehouses, and fast-food restaurants.

Traveling a little bit north on 113, there are shopping centers that epitomize all those features of the C3 district, like Starbucks, Chick Fil-A, Applebee's and all those types of businesses that fit the C3 zone and are appropriate for the Route 113 area.

In Milford's Zoning Code, as well as in the City's Comprehensive Plan, the C3 highway commercial district represents some of the busiest commercial areas for the town. While this is a large building, it has the opposite characteristics of many of those types of businesses he listed that exist along Route 113. This has a very small impact on things like parking associated with a self-storage facility.

This applicant was before Council in 2020 with a very similar application for self-storage facility. That application was like tonight's application for a conditional use for a self-storage facility, consisting of a little more than 72,000 square feet of storage area spread throughout five buildings.

In addition to the five buildings, there was a 1,200 square foot manager's office or residence that was part of the application. This application no longer involves a manager's residence, and one of the differences from the prior application.

As the final engineering was being done on the conditional use from 2020, it became apparent that the site had some challenges with soils in a section of the property. There used to be a building partially located in that area that was impacted by the soil in that area.

The owner of the property and developer then went back to the drawing board to see how the site could be reconfigured. An attractive alternative was designed which is part of the application tonight.

Mr. Hutt shared the new plan that includes a building along Route 113 frontage and contains approximately 90,000 square feet. Behind the building there are eight single story buildings, consisting of six 2,400 square foot buildings and two 2,250 square foot buildings. Those buildings will be difficult to see from Route 113 because of the natural buffers and the larger building that fronts Route 113.

While the square footage has increased in size, the overall footprints of the buildings is 8,400 square feet less because of the two-story building along Route 113. It will have climate-controlled storage as opposed to the roll up garage doors that is subject to temperature changes.

Because of the topography that exists on the site, one of the design features took advantage of it and required a variance because of the steep slope. By Sussex County standards, there is quite a bit of change in the height of the property. Because of that, both levels of this building essentially will be ground floor with the first floor of the building sunk into the ground and both treated as a single-story building.

From the roadway, it will look like a one to one and a half story building to someone traveling along Route 113.

The rendering shows what that will look like from a person driving in either direction on Route 113, with a typical commercial appearance, as other businesses have along Route 113.

The overall result of the redesign of the site resulted in a more attractive streetscape and he hope that Council agrees.

With no manager's office, they suggested that the tentative hours of operation, when someone will be on site to deal with customers who want to lease a unit or close out a unit, would be from 9am to 5pm Monday through Friday and 9am to 1pm on Saturdays. Access to this facility is 24/7 to owners who have keys.

Mr. Hutt then reviewed the conditional use criteria expressing that a self-storage facility is not a permitted in the C3 zone and requires the conditional use. There are broad concepts for a conditional use and one of the overriding thoughts is that a business or commercial industrial use does not adversely affect the neighboring properties.

The purpose of the conditional use is a tool to allow the town to maintain a measure of control over uses that have an impact on the entire community. Because of its nature, it requires a certain amount of exercise of planning judgment as its location.

They believe that with the revised plan, this is an excellent location and site arrangement.

He also reviewed the six criteria the Planning Commission used which was discussed in the Planner's report included in the packet.

They think that a conditional use is appropriate for this application and assures there is neither an adverse impact upon adjoining properties, nor the creation of any type of public nuisance to those properties

Mr. Usab the addressed Council stating that with the original site plan, the frontage of the project had three large structures masked along the front. Due to the soil conditions and the refinement of the design that were made, they have combined the first and second building together, leaving open space that allowed a pond amenity in along the Route 113 frontage increasing and enhancing the streetscape.

Access will be secured by a fence boundary will either be connected by the buildings or a fence around the parking lot.

The office at the front corner is in an area that is obvious to the people that are entering. The dumpster for the original approved plan was towards the back of the site. The planning staff and consultant recommended it be moved closer to the front of the building and further away from the residential property to the east and tucked inside the enclosure of the fence.

While this is a large commercial business, there will be very little demand on the water and sewer infrastructure keeping that available for other businesses that may come to the commercial area in the area.

Adequate loading and access for fire rescue vehicles is also provided.

There is an existing high voltage line that runs across the front of the property which is a public utility line without an easement record. The setback of a minimum of forty feet has been kept from the front property line which allows room for a shared use path required by DelDOT. That was not included in the earlier application and allows better landscape buffering along the front.

When asking about the fencing on the left side, Mr. Hutt said that in addition to the natural screening of trees, there will be a fence added to the eastern boundary line, to knock down any light created by the headlights of a car pulling in.

Councilman Marabello asked if any shrubbery will be added to allow additional screening from the two adjacent houses. Mr. Usab stated that some shrubs already exist there. On the easterly side of the project is the lower one-story building and not the massive two-story building which is located closer to Route 113.

It was confirmed a stormwater management facility will be located closer to the front.

Mr. Usab confirmed there will be trees along the front of the building and approaching the site from the south, there are trees on the corner near the pond and an enhancement to the site.

Mr. Hutt said the Planning Commission addressed those concerns. One condition was to keep the visual screening to the east though there are some shrubbery and smaller trees there. Other conditions were that the landscaping, shown on these plans, be maintained through the final site plan approval process.

Councilman Fulton asked if there will be outside trailers and RVs permitted as part of the original plan. Mr. Hutt said there is no outside storage of boats or RV's. The only storage is within the main building or the eight building behind it.

Councilman James noted that on the other portion, there seems to be more landscaping. Mr. Usab explained the spiky feature represent evergreen trees. One thing they must be conscious of is the landscaping in the front by the power line. As a result, tall vegetation would be inappropriate.

He also noted that the developer is also investing a significant amount of money into the front of the architecture of the building, so it is aesthetically pleasing and comparable to other facilities in this area.

When asked if the rendering is accurate, or a similar look, Mr. Hutt said that is the intention of what it will look like, or as close as possible.

Mr. Usab then discussed how someone pulling into the site would get to the second floor and compared it to walk-out houses. The whole first story will be completely buried below grade. As ones drive down further, a little more of the first floor will be exposed. Coming into the entrance brings you into the lower level, with vehicular access and overhead doors to load and unload directly into the building, or thru the inside.

The road that comes around will slope up to an upper level and the back of the building facing the surrounding properties and will only be one story high with a garage door access on the top.

Looking from the roadway, essentially only a one-story building is seen, that becomes a one and a half story by the time you get down to the front corner where the office is located.

It was again confirmed there will be a six-foot chain link fence around the property, though it will not start until you pass the front office area. The fence wraps around and provides a secure perimeter. The area to the east will contain a six-foot vinyl fence.

When it was again asked the number of storage units, Gregory Cerino of 230 Cartland Way, Forest Hill, Maryland, of Acquisitions and Developments for the Bernie Sheet Group, stated they are the contract purchaser of this project.

He stated the main two-story facility, will have approximately 815 climate-controlled units. Climate controlled storage is very hard to find in Milford and within an eight-mile radius. He did an on-foot survey of the storage in the area in June. He received a call last week that a ten by twenty-unit, climate controlled, was available. It took approximately six months to find one.

With the emphasis is on climate control, they also provide the drive-up units. There will be 88 drive-up units on the outside, which are the back buildings with 815 in the main facility.

He also shared the types of storage with different demographics. Women are the primary users of climate control storage. They want somewhere that's safe, clean, and feels secure. Men primarily use the drive-up units.

The floor was open for public comment. No one responded and the public comment session was closed.

Planner Pierce reported that one email was submitted from Tom Passwaters prior to the Planning Commission meeting, which he read into the record:

This email states my concerns. With the new application are, does the applicant still agree with the previous application that was approved in 2020, and those conditions where the site shall include unobtrusive lighting, security fencing should be provided around the entire perimeter, customer security gate access hours are limited from 630 am to 900 pm, buildings are one story, a fifteen-foot landscape buffer shall be maintained between the subject parcel and the residential parcel to the east owned by Thomas Passwaters, who submitted the email and lives on Northwest Front Street.

It was confirmed that access would be available to those with keys 24/7. The hours of operation are specific, but access would be available to those with units at any time.

Though that was a previous condition in 2020, Planning Director Pierce emphasized that there was no recommendation to place an operating time limit on the owner's application by the Planning Commission.

Councilmember Marabello moved to adopt Ordinance 2022-42, regarding the application of First State Self Storage OZ, LLC for preliminary conditional use with the conditional requirements recommended by the Planning Commission, and to correct section one of the ordinance mentioning a health campus and changing to a self-storage facility, seconded by Councilmember James.

Motion carried by the unanimous roll call vote:

Marabello-votes yes based on the Planning Board approval and vote of six to one, and it complies with all the requirements for the conditional use for this project.

Boyle-votes yes based on the variance granted by the Board of Adjustment. The plan does meet Chapter 230 Zoning and Chapter 200 Subdivision of Land.

Culotta-votes yes, it is a very attractive uh building. Self-storage places sometimes get a bad rap, but this looks like a higher end that will add to Milford's business community and is a nice trade off because it is on a commercial corridor and should be there. And the residences close by will be minimally impacted even with the 24-hour access.

Fulton-votes yes, it meets Chapter 230 and agree with all the conditions set forth.

Samaroo-votes yes, it meets Chapter 230 Zoning Code and thinks it will be good for businesses and residents that are moving here who need the storage space. Especially those businesses with distribution and retailers.

Baer-votes yes and agree with the six to zero support from Planning and thinks it will be a nice addition to have the climate-controlled environment as well.

James-votes yes, it complies with the conditions of the Milford Code and is satisfying a need within the city, and he anticipates it will be used by the additional residents moving here, and because the neighboring residential properties are protected by the fence and natural screening.

Wilson, votes yes, based on Planning and Zoning Commission, and is needed by the citizens of Milford. This is something that has been needed for a long time, and people don't really talk about it until they need it.

Adoption/Ordinance 2022-43

Electric Tariff Amendment

Appendix B of the City of Milford Code

Section 24-13 Net Metering Service

Electric Director Tony Chipola said he is here tonight to talk about the recent adoption of Senate Bill 298 signed into law in July and in reconciliation with our current Milford Electric Tariff. Language is being added to the electric tariff and some language is being removed.

The bulk of Senate Bill 298 has three major portions. The first is there is no longer reimbursement for excess generation, and the second no longer allows the rollover from year to year. The third standardizes the cap calculation across all utilities through an increase of five to eight percent.

He said essentially this boils down to the intent of Title 26 of the Delaware Code. The net metering section was intended to discourage these residential installations from being treated as wholesale generation.

Milford currently has just under 200 installations and over fifty percent do not have an accumulated balance from inception. He believes there are only a couple customers who request the annualized payments. As a result, the bulk will have minimal, if any impact.

Director Chipola shared there is small six percent that accumulated balances over \$500, but that is from inception of all solar installations.

An action plan was created to adopt the new senate bill into the code. It was agreed to end the annualized period on April 30th which would correspond with the April reading cycle with payouts in May for any kind of remaining balances. That would make all the solar customers whole and transition into the new norm.

There were questions related to the Indian River Plant impact and whether this had anything to do with the increasing monthly customer charge. It was noted that neither were related to this tariff change, and this was based solely on the State Law that was in effect.

Director Vitola then talked about the customer charge per month for all customers that increased from \$4.00 to \$19.00 to \$20.00 and then to \$21.00 this FY23. That increase is completely independent of this measure and more to do with the rate study that is currently underway.

Director Chipola explained that the purpose of the net program is not to make money, but to offset your load and usage.

When Councilmember Culotta said this is taking away an incentive to opt solar, Director Chipola said had the system been sized correctly, there would not be anything to take away. Councilmember Culotta commented that the code should say what size it should be. Director Chipola shared this information is included in Title 26 and is supposed to be within ten percent of the customer's usage. The usage is an average based on what has been used historically for the past two years, though it can always fluctuate as with anything else.

The main problem for electric utilities is that when the system is installed, it is based on the size of the house, a family with children, an electric car, etc. However, that home may be later sold to an individual or a couple who uses much less electric. In that case they become a generator instead of a consumer.

He also noted that on the city side, there is a need to determine what to do with the excess generation which creates a lot of work and wear on our equipment. The regulators at the substation operate more frequently with large generation on the system creating an unbalance, and other things including power quality conditions for other customers.

Mayor Campbell opened the floor to public comment, no one responded. The floor was closed to public comments.

For the record, it was noted that no one in attendance was from the public.

Councilmember James moved to adopt Ordinance 2022-43, as presented, seconded by Councilmember Wilson. Motion carried by a 7-1 vote, with Councilmember Baer casting the sole dissent vote.

COMMUNICATIONS & CORRESPONDENCE

Communication items in the packet included the December SCAT dinner and two open houses hosted by the city. The Holiday Stroll will be December 3, 2022, and the City Holiday Party on December 16, 2022, though RSVPs are required.

Councilmember James commended the Electric and Parks and Recreation crews for the work accomplished to decorate the city for the holidays. He also noted that the Holiday Stroll this past Saturday was well attended.

Mayor Campbell noted that the new Miss Milford Kristen Greenly attended, as well as Councilmembers James, Culotta, and City Clerk Hudson.

Also noted was the enthusiasm of the Parks and Recreation crew, who has devoted a great deal of time to the holiday decorating by handling all lighting and decorating at the street and building level. They also accompanied the volunteers on the weekend who assisted with the decorating and baskets added to the electric poles.

Councilmember Culotta also mentioned the recent landscaping that has taken place at Parson Thorne Apartments. Council agreed the new fence and signage has really enhanced the property.

Councilmember Marabello mentioned that tickets are still available for upcoming Ebenezer Scrooge play at the Second Street Players theater.

MONTHLY FINANCE REPORT

Finance Director Vitola reported the city's cash funds are strong and increased almost \$2 million in October. That occurred in the operating the funds. Of that, approximately three-quarters in the general fund is related to spill over from the September 30th tax due date.

Otherwise, there were cash changes with \$300,000 paid from ARPA, and roughly \$300,000 received in other non- operating areas.

With respect to the P&L, first quarter results were discussed last month. The general fund was behind first quarter last year and behind the budget, though utilities were ahead. Changes versus prior years occurred all year, but versus the budget, Director Vitola expected them to normalize, though that did not occur. General Fund went from bad to worse, and utilities went from good to better.

On the expense side for both general funds and enterprise funds, there is an issue with the budget seasonalization. Being in the second quarter of that, there may have been bad timing or estimates. Director Vitola will use them to help with year-end projections though it is inappropriate to change the seasonalization to match what is actually occurring.

If an error is found, he will report those pages next month.

On the revenue side, the utilities are strong, despite shorter periods of usage. On the general side in the past, one-twelfth was taken and placed into the general fund monthly revenue. Now, water and electric transfers are being used, and real estate transfer taxes for the police. Otherwise, they sit until such time they are needed.

He somewhat dabbled in that last year for the first time, with the \$105,000 that was budgeted from economic development funds. But taking one-twelfth every month, would have consumed that funding from economic development. Instead, he waited to see if it was necessary to fund the budget and found it wasn't.

The \$105,000 budgeted for FY22 from economic development was never transferred and was available again to budget for FY23.

Director Vitola likes that practice and prefers to only use the reserves as necessary. It may not be necessary this year thanks to all the grant funding opportunities which has lessened the demand on general fund reserves.

He will update Council on what has been paid in property taxes for FY23.

Councilmember James applauded the Director noting that the finance reports are being reviewed by Council two weeks earlier so the information is more current than in the past.

Councilmember James moved to accept the October 2022 Finance Report, seconded by Councilmember Boyle. Motion carried.

UNFINISHED BUSINESS

Update/City of Milford FY2021 Audit

Finance Director Vitola said he could argue that the Financial Statement themselves were in sufficient condition in March 2022 and in their final state for approximately three weeks, but in the auditor's hands for the past two weeks.

The auditors have committed to being here via zoom on December 12th meeting for final review and approval. They have the draft single audit, which is the audit of our federal loan and grant funding. They also provided their report on internal controls. There were notations particularly about the lateness in general. The auditor's signal to Director Vitola as early as July or August, was at a minimum, there would be an internal control comment related to the lateness of the audit. They also cited things like reconciliation and the closing process and related delays.

They still have three tasks to complete. One is the audit letter for the financial statement audit, and the other two items are the attorney letter updates.

The audit will then be presented on December 12th.

Director Vitola added that for FY22, a third-party consultant was hired to assist with the production of the financials with the audit process. He anticipates something much smoother in future, not only because of the additional help, but because of the one year's experience with this firm and understanding their needs.

It was confirmed the AP error was reconciled, which Director Vitola explained was a prior period adjustment, along with the GASB 84 prior period adjustment.

Councilman James confirmed that Council will have a full audit report by December 12th to vote on, that will include the auditor’s opinion. He asked Council to be given sufficient time to review prior to that anticipated date of acceptance.

Director Vitola said he prefers to provide the financial statements now or tomorrow, in some form. That could mean an early publication of the December 12th packet or its distribution via email through the City Clerk’s Office by December 9th. That will include everything but the two-page letter at the front.

Councilman James recommends that what is currently available be presented to Council via email. He also encouraged all Councilmembers be on the lookout for the email from the City Clerk. Any questions or concerns should be presented to the Finance Director no later than Monday. That will allow sufficient time to prepare for acceptance of the FY21 audit.

The Finance Director noted that there is a deadline of December 31st, unless a special meeting of Council is required to act solely on the audit.

NEW BUSINESS

Bid Award/Parks & Recreation/Handrail Lighting Upgrade Project

Parks & Recreation Director Brad Dennehy referenced the related materials in the packet for the Riverwalk lighting, and handrail upgrade. This project was identified in the CIP plan and funded in part by electric reserves.

The design documents are completed, engineering approvals obtained, and the project has been successfully bid. The recommendation of the design engineer, Duffield Associates, was included in the packet:

On November 15, 2022, one sealed bid was received for the above referenced project. The bid opening was conducted at 1:30 PM at City Hall. Terri Hudson, City of Milford City Clerk and Trisha Sawicki, ASLA, Senior Designer, Duffield Associates oversaw the bid opening.

The results of the bid opening are summarized in the table below:

Name of Bidder	Addenda	Subs List	Non-Collusion Statement	Delaware Business License	Testing Affidavit	Base Bid
Thompson & Sons Construction, Inc.	included	included	included	included	included	\$301,534.00

The apparent low bidder is Thompson & Sons Contracting, Incorporated. The bids, bid forms, bid bonds, and the other required forms have been reviewed and there appears to be a discrepancy between the total bid tabulated by Unit Cost on Sheet BF-2 of \$301,504.00 (see attached Bid Tab) and the total lump sum amount entered at the bottom of sheet BF-1 of \$301,534.00.

Additionally, the final estimate of probable construction costs was \$303,185. Accordingly, the recommendation is to award the base bid contract to Thompson & Sons Contracting, Incorporated for \$301,504.00.

Once City Council reviews the bids and makes an official recommendation in writing to award the base bid to Thompson & Sons, Inc., the required payment and materials bonds and certificates of insurance will be obtained from the contractor. We will then prepare the Owner - Contactors Agreement (AIA form A-101.) and the city and contractor can negotiate a schedule for the construction.

Due to small discrepancy, as corrected, Councilmember Boyle authorized the contract be awarded for the Riverwalk Lighting and Handrail Upgrade to Thompson and Sons Construction, Incorporated in the amount of in the amount of \$305,000, representing the bid of \$301,504, with a contingency allowance, plus \$87,500 in estimated engineering and design costs, funded with a combination of \$75,000 in electric fund reserves, \$75,000 in ORPT matching funds, and the balance of \$242,500 from CRF funds, seconded by Councilmember James. Motion carried with no one opposed.

Contract Award/Becker Morgan Group/TIS Milford Corporate Center

Director Pierce spoke about hiring Becker Morgan Group to prepare a traffic impact study. He then reviewed each step that has occurred since the project began last year, noting that additional contracts have been executed with Becker Morgan Group for other work related to this project. The information is included in the memo in the Council packet.

Councilmember James moved to authorize Mayor Campbell execute the engineering agreement with Becker Morgan Group in the amount of \$28,000 for the preparation of a Traffic Impact Study for the Milford Corporate Center to be funded with General Fund Reserves. Any grant proceeds received will be reimbursed into the reserves fund from which the initial funding originated and any funds unable to be offset with grant funding will be incorporated into the improved cost of the corporate center and reimbursed on a pro rata basis, seconded by Councilmember Fulton. Motion carried with no one opposed.

Contract Award/Closed Circuit TV/Sewer Camera Equipment

City Engineer James Puddicombe presented on behalf of Public Works a proposal for the purchase of CCTV (closed caption television), with video cameras that inspect underground sewer and other pipelines. Currently, these services are being bid out to third party contractors.

Over the past twelve months, approximately \$67,394 has been spent on CCTV services just on the I&I (infiltration and inflow) investigation. Public Works Director Mike Svaby and Streets and Utilities Supervisor Charles Nordberg have met with different companies to consider various options to bring the CCTV capabilities in house. It was determined the CUES Mark III system would best suit the city's needs.

The purchase of this system will be made through use of the Houston Galveston Area Council (HGAC) Contract. Assuming the pace of inspections continues, this unit would pay itself back in two years, though it can be used to troubleshoot other utilities problems, while aiding in the construction of utility systems to measure deflection, pipe slope and similar requirements including emergency repairs.

The purchase price in HGAC of \$123,000 requires additional funding in the amount of \$3,000. The addition \$3,000 would be paid through available operating funding.

Councilmember James pointed out that even if it takes more than two years for the payback, there is such a long term benefit it is worth doing.

City Engineer Puddicombe believes there is a five-year warranty with the equipment, which includes direct trade out, which means they would provide the equipment during the time ours would need any repair.

Councilmember James moved to authorize the purchase of a CUES Mark III CCTV sewer inspection camera system in the amount of \$123,000.00 in accordance with the HGAC contract submitted to be funded as budgeted in the FY23 Capital Improvement Plan and sewer operating funds, seconded by Councilmember Baer. Motion carried with no one opposed.

Adoption/Resolution 2022-19/Intent to Submit Application/Community Facilities/Direct Loan Program

Finance Director Vitola stated that the USDA financing has been considering as an alternative to issuing a public debt for the new police facility. However, no formal approval from the governing body was ever obtained with a resolution. That is a requirement of the USDA application.

As such, Councilmember James moved to adopt Resolution 2022-19 as follows, seconded by Councilmember Culotta:

Declaration of Intent to Apply to United States Department of Agriculture
Community Facilities Direct Loan Program

WHEREAS, the City of Milford (the “City”) expects to issue a maximum of \$20,000,000.00 principal amount of its general obligation bonds or notes (the “Bonds”) to finance the design, construction and equipping of a police station and to complete other necessary infrastructure improvements in connection therewith as well as other miscellaneous capital projects (the “Capital Project”); and

WHEREAS, the City Council of the City of Milford, Delaware (“Council”) approved Resolution 2020-30 on October 12, 2020, authorizing the maximum principal amount, interest rate and general terms of the Bonds (“the Financing Terms”), and scheduling a public hearing on the proposed borrowing for December 14, 2020; and

WHEREAS, Council approved Resolution 2020-41 on December 14, 2020, proposing the Financing Terms unto the electors of the City and authorizing a Special Election (the “Referendum”) to be held on January 26, 2021; and

WHEREAS, the Referendum was authorized by the electors of the City on January 26, 2021; and

WHEREAS, the Capital Project is being financed through the design and construction phases with the City’s 2021 Bond Anticipation Note (the “BAN”) placed directly with PNC Bank, N.A. in April 2021; and

WHEREAS, the Capital Project is expected to be financed on a long-term basis through the issuance of the City of Milford General Obligations Bonds, in one or more series or subseries (the “Bonds”); and

WHEREAS, the USDA offers competitive long-term financing and other funding alternatives unavailable in traditional debt markets through its Community Facilities Direct Loan Program; and

WHEREAS, this Resolution is intended to constitute the intent of Council to apply to the USDA Community Facilities Direct Loan Program to finance all or any portion of the project costs on a long-term basis.

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

1. The City finds and determines that the foregoing recitals are true and correct.
2. The City hereby declares the intent to apply to the USDA Community Facilities Direct Loan Program to finance all or any portion of the Capital Project pursuant to the existing terms established by Council and approved by the electors of the City.
3. Council hereby authorizes the City Manager to effectuate all application requirements, including any public notice requirements, specified by the USDA to meet eligibility requirements of the Community Facilities Direct Loan Program.
4. The Mayor of the City is directed to execute any forms related to the USDA Community Facilities Direct Loan Program in the name and on behalf of the City, as is required by the City Charter.
5. Resolution 2022-19 is hereby approved and adopted by Milford City Council this 28th day of November 2022.

Motion carried with no one opposed.

EXECUTIVE SESSION

Councilmember Wilson moved to go into Executive Session reference the below statutes, seconded by Councilmember Culotta:

Property Sale/Lease:

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

Legal:

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 8:26 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Wilson moved to return to open session, seconded by Councilmember James. Motion carried.

Council returned to Open Session at 9:16 p.m.

Personnel Issue

Councilmember Wilson moved to interview the top five candidates for the Chief of Police position, seconded by Councilmember James. Motion carried with no one opposed.

Legal Issue & Property Matter

No action required.

ADJOURNMENT

Councilmember James moved to adjourn the meeting, seconded by Councilmember Culotta. Motion carried.

The Council Meeting adjourned at 9:17 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder