

CITY OF MILFORD
COUNCIL MEETING MINUTES
September 11, 2023

The City Council of the City of Milford met in Regular Session on Monday, September 11, 2023, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Archie 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, Police Chief Cecilia Ashe, and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

PUBLIC COMMENT SESSION PRIOR TO MEETING

Robert Schuler of 18511 Thelma Lane expressed concerns about some recent incident at Mispillion Apartments. A helicopter was searching for a fugitive, gunshots are being heard, and a resident was taken into custody for drugs. In addition, two detectives came to his house to inform him about a sex offender living nearby and informed him there are cameras at the complex monitoring the activities that are occurring there.

He wanted Council to know that they moved to Milford to get away from crime.

He also noted that the internet issues he previously complained about has not gotten better, though his wife fortunately had DSL backup.

No other persons sign up to speak, and the Public Comment Session was closed.

CALL TO ORDER

Mayor Campbell called the meeting to order at 6:06 p.m., prior to the scheduled Public Comment period.

INVOCATION AND PLEDGE

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

A moment of silence was held in remembrance of the 9/11 terrorist attacks in New York.

APPROVAL OF PREVIOUS MINUTES

With one correction needed, Councilmember Boyle moved to approve the minutes of the June 5, 2023 Budget and Council Workshop and the June 12, 2023 Council Meeting, seconded by Councilmember Culotta. Motion carried.

RECOGNITION

Mayor Campbell presented the following two September proclamations:

*Proclamation 2022-18
Suicide Prevention Awareness Month*

Now, Therefore, I Arthur J. Campbell, Mayor of the City of Milford, do hereby proclaim September 2023 as Suicide Prevention Awareness Month in the City of Milford and ask our citizens to recognize that taking care of ourselves and others includes taking care of mental health; and encourage all residents to take the time to check-in with family, friends, neighbors, and coworkers regularly and to communicate their appreciation for their existence by any gesture they deem appropriate--a

simple phone call, message, handshake, or hug can go a long way towards helping someone realize that Suicide is not the answer.

*Proclamation 2023-19
National Preparedness Month*

Now, Therefore, Be It Proclaimed that I, Arthur J. Campbell, by virtue of the authority vested in me as Mayor of the City of Milford, Delaware, do hereby proclaim September 2023 as Preparedness Month in the City of Milford; and urge all Milford residents, businesses, and other property owners to increase their readiness and resilience against natural and human threats, and realize they are a critical part of the State's preparedness and emergency response team.

Mayor Campbell congratulated Martha Gerry for being a finalist for employee of the year.

MONTHLY STAFF REPORTS

Complete reports from each department were included in the council packet.

Police Report

Chief Ashe provided highlights of the officer's monthly statistics and shared several changes that have been made since she became Chief.

Councilmember Boyle moved to accept the monthly police report, seconded by Councilmember James. Motion carried.

City Clerk

City Clerk Hudson provided a synopsis of the monthly activities that have occurred during the month.

Councilmember Wilson moved to accept the City Clerk's report, seconded by Councilmember Baer. Motion carried.

Monthly City Manager Report

City Manager Whitfield reviewed several items in his report.

Electric Department

Electric Department Director Tony Chipola offered information related to his department.

Planning & Zoning Department

Director Rob Pierce provided a quick synopsis of what he has accomplished during March.

Parks & Recreation Department

Parks & Recreation Director Brad Dennehy was on leave and no report given as a result.

Human Resources

Human Resources Director Jamesha Williams provided HR highlights from the month.

Economic Development & Community Engagement

Administrator Sara Bluhm remains out on FMLA part-time and will return next month.

IT Department

IT Director Pettigrew reviewed his monthly report.

Finance Department

Finance Director Lou Vitola provided finance and staff updates.

Councilmember Fulton moved to accept the City Manager and associated departmental reports, seconded by Councilmember Culotta. Motion carried.

COMMUNICATIONS & CORRESPONDENCE

Councilmember Marabello reported that the homeless are parking in front of the Second Street Players Theater. Chief Ashe was aware and is planning to meet with representatives of the theater to discuss no trespassing laws. The Behavioral Health Specialists are also involved in this matter.

Mayor Campbell also shared that he discussed with Chief Ashe a recent situation in which the Delaware State Police dropped off some homeless individuals at the Milford Diner.

UNFINISHED BUSINESS

Authorization/Change Orders/Memorial Park Playground

Parks and Recreation Director Dennehy presented the following request:

During construction of the playground, the installation of catch basins and additional grading beyond the initial design were identified as requirements for proper drainage. Further, the construction of a retaining wall was recommended to improve safety in the climbing arch area of the playground.

I have worked with the contractor to develop a scope of work to address these issues based on input from the original design firm, which acknowledges the improvements must be put in place. The City Engineer reviewed the site and likewise agrees that these items should be addressed.

Change order #002 in the amount of \$36,000 is quoted for the retaining wall construction. Change order #003 in the amount of \$28,000 addresses the additional drainage requirements.

RTT funding is available to support the additional cost of the change orders up to the estimated total of \$64,000. Upon approval, the Contractor will address these issues and we can move toward completion of this project.

Councilmember Fulton moved to authorize the acceptance of Gateway Construction, Inc. Change Orders #2 and #3 in a combined amount not to exceed \$64,000 to remediate the adverse field conditions emerging during construction funded by Realty Transfer Tax Reserves, seconded by Councilmember Wilson. Motion carried.

NEW BUSINESS

Authorization/Tyler Technology/ERP Software Update

Planning Director Pierce is requesting the third amendment to the Tyler Technologies ERP Software Agreement. The amendment permits the addition of ten licenses for the Community Development Suite totaling \$55,380 over 3.25 years and the addition of a Business Management Suite under Enterprise Permitting & Licensing, for a total cost of \$84,692.25 over 3.25 years. The gross increase of \$140,072 is partially offset by one-time savings of \$11,180 and 3.25 years of annual maintenance costs of \$10,634, related to the movement from the existing business license module. This results in a net increase of \$118,258 in addendum 3.

He reminded Council that RFP 2020-12 was issued for an Enterprise Resource Planning System Selection on December 8, 2020 to Tyler Technologies. Project management firm Brandywine Technologies was also hired to lead the project and serve as liaison between Tyler and the City.

In July, Council authorized addendum 1 in the amount of \$45,356 over five years for the inventory management module.

In March, Council authorized addendum 2 for \$64,173.75 over 3.75 years for the eReviews and Workforce Mobile services.

Additional needs continue to be identified.

The original Tyler contract included five licenses for code enforcement, planning & engineering, building permit reviews and building/utility inspection. It was later determined that ten additional licenses were needed. The original Tyler contract included the implementation of the Community Development Suite within EPL. Business licenses were to be implemented through the Munis Business License module which is not fully integrated with the Community Development Suite where building permits and rental inspection functions are housed.

The annual maintenance cost for ten additional Community Development Suite licenses will be \$17,040 per year over the remaining 3.25 years of the initial contract for a total of \$55,380. The one-time cost of the Business License Management Suite implementation services totals \$41,750. The annual maintenance costs total \$13,213 per year over the remaining 3.25 years for a total of \$42,942.25.

The proposed amendment would increase the post-implementation maintenance costs from \$172,675 to \$199,656.

Councilman James suggested reviewing the contract again to determine any other needs. He prefers the changes be presented together instead of bringing each item to Council separately.

Councilmember Boyle moved to approve Addendum 3 to the Tyler SaaS Agreement representing a 3.25-year net investment of \$118,258. No additional funding is required at this time, but the additional costs will be layered into the City's future capital and operating budgets, seconded by Councilmember James. Motion carried.

Adoption/Resolution 2023-19/Revision to Independence Commons Deed Covenants, Conditions and Restrictions

Food Bank's Vice President of External Affairs Chad Robinson presented the following request:

As you are aware, the Food Bank of Delaware is currently constructing a new facility at 102 Delaware Veterans Boulevard (Parcel ID: MD-16-173.00-01-02.08-000) in the Independence Commons Business Park. The City of Milford has been a stalwart partner throughout this construction, and we appreciate the time and energy from all the City staff that have gotten this project to this point.

Recently, we have been working on our Comprehensive Signage Plan application and it has been determined that we will need additional assistance from the City in carrying out our intended plan. The deed restrictions for the Independence Commons Business Park lay out specific requirements for signage. Based on our intended usage of the facility and to ensure that it is welcoming to the myriad of visitors that will utilize it, our signage needs are greater than what is currently allowed in the deed restrictions. We are aware that Resolution 2016-05, adopted by the City of Milford City Council, lays out the "Declaration of Covenants, Conditions and Restrictions and Easements" for Independence Commons. Included in this document in Exhibit A, Article 2 is the Sign Requirements. As outlined there, the deed restrictions call for illuminated pan letters in the monument sign and directional signage that is limited to one (1) sign that is no more than two (2) square feet in size. The Food Bank of Delaware plan would create a monument sign that includes an electronic message center and five (5) directional signs throughout the property that are twelve (12) square feet in size. These changes would allow full and complete messaging with all those that visit the Food Bank of Delaware daily.

As outlined in Exhibit A, Article 5 of Resolution 2016-05, the Declaration of Covenants, Conditions and Restrictions and Easements "may, from time to time, be amended by Resolution," of a majority vote of the City of Milford City Council.

The Food Bank of Delaware respectfully requests that the City Council of the City of Milford make an amendment to the sign requirements for our property and that we be allowed to construct the signage that will best serve the thousands of constituents we assist each year.

Solicitor Rutt explained this is not a zoning code amendment, but instead will allow the property owners in Independence Commons through their deed restrictions, to make application for signage consideration for their parcels. Currently, there is only one sign permitted in the restrictions that are more than twenty years old.

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

Councilmember Fulton moved to adopt Resolution 2023-19, seconded by Councilmember Wilson:

**RESOLUTION 2023-19
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
Independence Commons in the City of Milford, Kent County, Delaware**

Tax Parcel Numbers:	MD-16-173.00-01-02.15-000	MD-16-173.00-01-02.00-000	MD-16-173.00-01-02.14-000
MD-16-173.00-01-20.00-000	MD-16-173.00-01-02.13-000	MD-16-173.00-01-02.24-000	MD-16-173.00-01-02.12-000
MD-16-173.00-01-02.23-000	MD-16-173.00-01-02.11-000	MD-16-173.00-01-02.22-000	MD-16-173.00-01-02.10-000
MD-16-173.00-01-02.21-000	MD-16-173.00-01-02.08-000	MD-16-173.00-01-02.20-000	MD-16-173.00-01-02.07-000
MD-16-173.00-01-02.19-000	MD-16-173.00-01-02.06-000	MD-16-173.00-01-02-18-000	MD-16-173.00-01-02.05-000
MD-16-173.00-01-02.17-000	MD-16-173.00-01-02.03-000	MD-16-173.00-01-02-16-000	MD-16-173.00-01-02.02-000

WHEREAS, in 1998, the City of Milford (“City”) purchased and subdivided 211 +/- acres of property on the north and south sides of County Road 409 (Airport Road and east side of State Route 15 (Canterbury Road) for economic development benefits; and

WHEREAS, the City of Milford initially sold the property for \$24,000 an acre with appraisals of the properties completed in 2006, 2008 and 2016; and

WHEREAS, it is deemed to be in the best interest of the City of Milford and its taxpayers to sell the land in accordance with its most recent appraisals; and

WHEREAS, as the owner of the subdivision and infrastructure shown and described in Exhibit B, attached hereto, and known as Independence Commons (“property”), the City intends that this property continue to provide employment opportunities and economic benefits to all City residents; and

WHEREAS, the City desires to create, establish, preserve, and maintain a unified commercial development upon the property and finds it appropriate to subject the property to certain easement, covenants and other restrictions for the orderly development and operation of the property and mutual benefit of all owners of the property as a unified commercial development, regardless of time of purchase or zoning district; and

WHEREAS, the City deems it desirable and in the best interest of all present and future owners of the property and all portions thereof, to subject the property to this Declaration.

NOW, THEREFORE, the City hereby declares that the real property described in Exhibit B, effective September 11, 2023, is and will be held, conveyed, acquired, and encumbered subject to the terms and provisions of the Declaration, all of which shall run with the land and binds any respective successors, heirs, and assigns.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford:

- 1) City Council approves the Declaration of Covenants, Conditions, Restrictions and Easements attached as Exhibit A.
- 2) This Resolution shall supersede Resolutions passed by the majority of City Council on February 13, 2006, March 12, 2007, September 22, 2008, and March 14, 2016 in relation to Independence Commons.
- 3) This Resolution shall supersede Deed Book RE, Volume 8104, Page 278 recorded with Kent County Recorder of Deeds on May 25, 2016.

Motion carried.

*Preliminary Conditional Use Site Plan Application of Helmick Milford – Fast Food
1.024 +/- acres of land located at the southwest
corner of Warner Road and US Route 113
Comprehensive Plan Designation: Commercial
Zoning District: C-3 (Highway Commercial District)
Present use: Vacant Proposed Use: Fast Food Restaurant & Drive-in Restaurant
Tax Parcel: MD-16-174.14-01-03.02*

Mayor Campbell introduced Ordinance 2023-33. A brief synopsis was provided by Planning Director Pierce. The ordinance is scheduled for final action by City Council on September 25, 2023.

*Introduction/Ordinance 2023-34
Preliminary Conditional Use Site Plan Application of Milford School District/Milford Middle School
23.97 +/- acres of land located on the
south side of Lakeview Avenue, approximately 875 feet east of the Route 113 Intersection
Address: 512 Lakeview Avenue
Comprehensive Plan Designation: Low Density Residential
Zoning District: R-1 (Single-Family Residential District)
Present and Proposed Use: Public School
Tax Parcel: 1-30-3.07-138.00 & 138.01*

Mayor Campbell introduced Ordinance 2023-34. A brief synopsis was provided by Planning Director Pierce. The ordinance is scheduled for final action by City Council on September 25, 2023.

*Introduction/Ordinance 2023-35
Conditional Use Application of Food Bank of Delaware
11.5 +/- acres of land
West Side of Delaware Veterans Boulevard within the Independence Commons Business Park
Address: 102 Delaware Veterans Boulevard
Comprehensive Plan Designation: Commercial
Zoning District: OC-1 (Office Complex District)
Present and Proposed Use: Charitable and Philanthropic Organization
Tax Parcel: MD-16-173.00-01-02.08*

Mayor Campbell introduced Ordinance 2023-35. A brief synopsis was provided by Planning Director Pierce. The ordinance is scheduled for final action by City Council on September 25, 2023.

*Introduction/Ordinance 2023-36
Conditional Use Application of James Purcell
0.31 +/- acres
South Side of Kings Highway between South Walnut Street and Polk Avenue
Address: 102 Kings Highway
Comprehensive Plan Designation: Low Density Residential
Zoning District: R-1 (Single-Family Residential District)
Present Use: Single-Family Dwelling
Proposed Use: Single Family Dwelling with Accessory Dwelling Unit
Tax Parcel: 1-30-3.08-063.00*

Mayor Campbell introduced Ordinance 2023-36. A brief synopsis was provided by Planning Director Pierce. The ordinance is scheduled for final action by City Council on September 25, 2023.

*Introduction/Ordinance 2023-37
Legal Owner Mispillion Realty LLC for a Change of Zone from
R-1 (Single-Family Residential District) to C-3 (Highway Commercial)*

on 1.73 +/- acres of land located along the east side of S. Dupont Boulevard approximately 235 feet north of the Donovan Street Intersection

Address: 839 South DuPont Boulevard, Milford, DE

Present Use Single-family Detached Dwelling & Vacant Lot;

Proposed Use Single-family Detached Dwelling

Tax Map & Parcels 1-30-3.15-014.00 & 1-30-3.15-015.00

Mayor Campbell introduced Ordinance 2023-37. A brief synopsis was provided by Planning Director Pierce. The ordinance is scheduled for final action by City Council on September 25, 2023.

EXECUTIVE SESSION

Councilmember Fulton moved to go into Executive Session reference the below statutes, seconded by Councilmember Marabello:

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

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

Motion carried.

Mayor Campbell recessed the Council Meeting at 7:40 pm for the purposes as are permitted by the Delaware Freedom of Information Act.

At 8:42 p.m., Councilmember Fulton moved to return to Open Session, seconded by Councilmember James. Motion carried.

MPD Dispatcher Collective Bargaining Agreement

Councilmember Fulton moved to proceed with negotiations as discussed, seconded by Councilmember Boyle. Motion carried with no one opposed.

Potential Land Purchase by City

Councilmember Fulton moved that the City Solicitor to proceed with land acquisition as discussed, seconded by Councilmember James. Motion carried by a voice vote of 7-1, with Councilmember Culotta voting nay.

ADJOURNMENT

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

The Council Meeting adjourned at 8:44 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder