

CITY OF MILFORD
COUNCIL MEETING MINUTES
November 13, 2023

The City Council of the City of Milford met in Regular Session on Monday, November 13, 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, Todd Culotta, Andrew Fulton, Nirmala Samaroo, 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

ABSENT: Councilmember Brian Baer

PUBLIC COMMENT SESSION PRIOR TO MEETING

With no one signed up to speak, and the Public Comment Session was closed.

CALL TO ORDER

Mayor Campbell called the meeting to order at 6:10 p.m., prior to the scheduled Public Comment period.

INVOCATION AND PLEDGE

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

RECOGNITION

New Employees

Planning Director Rob Pierce introduced Howard Rothstein to fill the newest code enforcement position in his department. He comes from Rehoboth Beach Delaware where he spent the last three years.

Finance Director Lou Vitola welcomed the two newest customer service employees Zuleika Ramos-Diaz. Zuleika comes from Sequoia Landscaping and is fluent in two languages. Alexis Janusiewicz comes from the Bank of Delmarva where she was a Universal Banker.

ORDINANCE REVIEW/PUBLIC COMMENTS/FINAL DETERMINATION

Solicitor Rutt read the rules of the public hearing process into the record.

Ordinance 2023-39

Lands of Riverwalk Villas on behalf of Milford Housing Development Corporation

3.829 +/- acres of land located along the north side of Mispillion Street and west side of Marshall Street

Application Type: Preliminary Major Subdivision

Comprehensive Plan Designation: Moderate Density Residential

Zoning District: R-3 Garden Apartment & Townhouse District

Present Use: Vacant Land

Proposed Use: Townhouse Subdivision

Tax Parcel: 3-30-7.17-11.00

Planning Director Rob Pierce provided a synopsis of the application. The applicant plans to develop a 27-lot townhouse subdivision on property located at the northwest intersection of Mispillion and Marshall Streets. The most recent project on the site was a 48-unit apartment complex known as Riverwalk Villas that has since expired. Milford Housing Development Corporation brought the property for the townhouse community.

Various sections of the reports were reviewed along with the preliminary plans for compliance with the city's standards and specifications. The property is located along the river and includes a portion of the riverwalk west of the Dog Park and east of the shipyard.

The public notice was published in the Delaware State News, mailed to owners of properties within 200 feet, and posted on the site.

The Planning Commission reviewed this application at their October 24th meeting and recommended approval upon a vote of 5 to 0 with one member recusing themselves due to a conflict of interest.

Representing the applicant was Merestone Professional Engineer Roger Gross of Lewes. Milford Housing Development President and CEO David Moore, owner/developer of the property was also in attendance.

He stated the site plan complies with the city zoning and subdivision chapters. The property is being developed in accordance with the R-3 zoning category and meets the dimensional requirements of that ordinance. The plan proposes 27 townhouse lots, a stormwater management parcel of approximately .8 acre and an open space parcel of approximately .9 acre.

Utilities, including sewer water and electricity are available to the site. Initially, vegetative channels and ephemeral constructed wetlands are proposed to meet our stormwater quality requirements in accordance with the Delaware Sediment and Stormwater Regulations. Portions of the site lie within a FEMA designated floodplain.

The developer will file a revised conditional letter of map revision with FEMA based on fill to exclude those areas from the flood hazard areas.

He then discussed the various agency approvals and applications that will be made prior to submitting final construction improvement plans.

Milford Housing Development Corporation's President Dave Moore then addressed Council. He talked about the conversations related to the open areas behind the townhomes. Their intentions were to get the .9 acre (section B) donated back to the city. Their hope is to complete the backs of these townhouses with patios and balconies to allow self-contained backyards and not a hodgepodge.

Fencing will also be included, after which the .9-acre site would be dedicated back to the City of Milford to be a no-built zone against the riverwalk.

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

Councilman Fulton moved to adopt Ordinance 2023-39, seconded by Councilmember Boyle. Motion carried by the following 7-0 roll call vote:

Samaroo: I vote yes, based on meeting the requirement of Chapter 230 zoning and Chapter 200 subdivision and thinks more housing is needed in Milford, along with the comments made by the Planning Commission addressed prior, final major subdivision approval.

James: I vote yes, it does meet the requirements of the city code and does address the dire housing need in the city and the need is great and it is good to see the 27 units recommended to be built and I vote yes based on the need of the residents.

Wilson: I vote yes, based on meeting all our requirements with Chapter 230 and 200 ordinances. And it is a bonus because it meets our need for affordable housing with the 27 units. And it's going to benefit a lot of people that are living at a lower level. It's an opportunity to move up to the next level and am happy about that.

Culotta: I vote yes, this is a unique project in a unique area. I am excited to see it take place and Milford Corporate Housing Development is a good organization to oversee it.

Fulton: I vote yes, Chapter 200, Chapter 230 compliance. It is a need for the city, as I stated before.

Boyle: I vote yes for the motion; it is consistent with Chapter 230 zoning and Chapter 200 subdivision of land. But, more importantly, we're putting 27 homeowners in a downtown setting on a piece of ground that could have been a disaster if this project hadn't come along. And this is good for Milford.

Marabello: I vote yes, for the 27 new townhouses, in addition to a plan for beautifying this city, especially in that area.

Ordinance 2023-40

AMENDING AND ADOPTING BY ORDINANCE

THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN

Amendment #16

Milford Corporate Center

MD-16-173.00-01-01.00 (portion)

Future Land Use Designation Change

Planning Director Pierce summarized the application related to a portion of the Milford Corporate Center owned by the City of Milford. During the final subdivision review of the corporate center, modifications were made to the internal road alignment which shifted the frontage road, that runs parallel with Routes 14 and 15, further into the site.

As a result, there's lots anticipated being zoned BP business park are going to further in and requires the line to be shift approximately 100 feet.

The comprehensive plan map amendment changes the future land use for that portion from future industrial to future commercial, which aligns with the vision for the site.

He then reviewed each of the documents included in the packet, reiterating this aligns it up with the planned internal roadway geometry.

The final major subdivision plan should be seen by Council before the end of the year.

Planner Pierce then reviewed each of the agency's comments.

The public notice was published in the Delaware State News, mailed to owners of properties within 200 feet and posted at the site.

The Planning Commission reviewed the request and recommended approval at their October 24th meeting by a vote of 6 to zero.

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

Councilman Fulton moved to adopt Ordinance 2023-40, seconded by Councilmember James. Motion carried by the following 7 to zero roll call vote:

Boyle: I vote yes, it makes sense to do this and better aligns the comprehensive plan with the intended use of the park and gives more commercial opportunities for the residents in Milford.

Marabello: I vote yes, the change doesn't have any adverse effects in that area at all.

Culotta: I vote yes. There are no issues with the change.

Samaroo: I vote yes based on the planning analysis, and that commercial feature land category allows different levels of commercial development.

James: I vote yes, it aligns the parcel with the city's commercial desire in that area.

Wilson: I vote yes, based on approval of the PLUS review, as well as the alignment of the land usages. It just makes sense to clean it up.

Fulton: I vote yes, flexibility and vision. All good.

*Ordinance 2023-41**Lands of Milford Corporate Center**182 +/- acres of land (portion of) located at the northwest corner of Milford-Harrington Highway & Canterbury Road**Application Type: Change of Zone**Comprehensive Plan Designation: Industrial & Commercial (pending adoption of Ordinance 2023-40)**Present Zoning District: I-1 (Limited Industrial)**Proposed Zoning District: BP (Business Park)**Present Use: Vacant Land**Proposed Use: Industrial Park/Corporate Center**Tax Parcel: MD-16-173.00-01-01.00 (portion of)*

Planner Pierce reviewed the application noting this the subsequent ordinance to rezone the property based on the previous ordinance adoption of amending the comprehensive plan future land use maps. It changes that portion of the property from I1 limited industrial to BP business Park.

The public notice was published in the Delaware State News, all properties within 200 feet of the Milford Corporate Center received a copy of the public notice for the change of zone, and the property was posted with a public notice sign.

The Planning Commission reviewed the application at their October 24th meeting and recommended approval by a vote of 7 to zero.

When asked if the original lots on the end of Route 14 would be made smaller, Planner Pierce said the lots that would front Routes 14 and 15 would be deeper and have internal access. There will be entrance toward the western limits of the property which would come in and go behind these lots. It will make that area a little deeper. There is an internal loop and those lots remain the same size but slightly shifted.

The floor was open for public comment; no one responded, and the floor was closed.

Councilmember Fulton moved to adopt Ordinance 2023-41, seconded by Councilmember Wilson. Motion carried by the following 7 to zero roll call vote:

Fulton: I vote yes, as the zoning change reflects the comprehensive plan, as amended.

Boyle: I vote yes, for the same reason that is now aligned with the comprehensive plan as amended.

Marabello: I vote yes, that it is consistent with the change.

Culotta: I vote yes, for the same reasons as Councilman Marabello.

Samaroo: I vote yes for the rezoning, that it proposes lots along Route 14 to be slightly larger and align with the road.

James: I vote yes, it is not in conflict with our comprehensive plan.

Wilson: I vote yes based on the compliance with the comp plan.

*Ordinance 2023-42**AMENDING AND ADOPTING BY ORDINANCE**THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN**Amendment #17**Burriss Foods Incorporated**3-30-10.08-070.00 (portion)**Future Land Use Designation Change*

Councilman James recused himself due to a potential conflict as an employee of Burriss Foods Incorporated.

Planning Director Pierce reviewed the comprehensive plan future land use map amendment from open space to the industrial zone for a portion of the space. It is currently used as an industrial storage area associated with the property zoned I1 located to the east and has been utilized as a fenced-in industrial storage area since at least 1992.

It is also shared by Milford Little League for use as ball fields. The comp plan allows industrial use to remain separate from recreational use. The applicant proposes to record a lot line adjustment plan to encompass this fenced in area with the industrial building to the east.

He then reviewed each of documents in the meeting packet.

A survey highlights the area that would be changed and the improvements that include an existing garage, concrete pad, storage containers, and a fenced in yard associated with the building to the east.

The public notice was advertised in Delaware State News, mailed to all owners of properties within 200 feet, and posted at the site.

The Planning Commission reviewed the comprehensive plan amendment and recommended approval at their October 24th meeting and recommended approval by a vote of 7 to zero.

Davis, Bowen, and Friedel Engineer Clifford Mumford of 1 Park Avenue, Milford, represented the application. Burris is planning to construct a storage building on the rear of the property and when they discovered it was not part of the industrial parcel and zoned differently. They began with a topography and boundary survey and informed them of the need to rezone the parcel. Once that was complete, a lot line adjustment would be done to make that part of the bigger industrial parcel.

The first step is the change to the comprehensive plan.

Mr. Mumford then referred to the area where the fence is located.

When asked by Councilmember Fulton if there are any plans to impact Milford Little League, Mr. Mumford explained the property line was adjusted to prevent any bearing on the outfield fence and avoids the dugouts on the opposite side.

The floor was open to public comment. No one spoke and the floor was closed.

Councilmember Fulton moved to adopt Ordinance 2023-42, seconded by Councilmember Boyle. Motion carried by the following 6 to zero roll call vote:

Marabello: I vote yes, it's already being used for storage so there is no adverse impact by changing the map.

Boyle: I vote yes for the same reason and historically it has been thirty years that it has been used as a storage facility and this just aligns it better with our comprehensive plan, and from the actual use of the property.

Fulton: I vote yes, Burris Industries has been a good neighbor for helping to take care of the Little League and this is doing nothing more than cleaning up the map.

Culotta: I vote yes for the reasons stated and this seems like a formality for the most part.

Samaroo: I vote yes based on the Planning Commission's analysis and this land is similar to I1 and I2 zoning district as found in the Milford ordinances.

Wilson: I vote yes, based on the proper alignment of the property for future use.

Ordinance 2023-43

Lands of Burris Foods, Inc.

0.621 +/- acres of land located to the west of 412 McColley Street

Application Type: Change of Zone

Comprehensive Plan Designation: Industrial (pending adoption of Ordinance 2023-42)

Present Zoning District: R-2 (Residential District)

Proposed Zoning District(s): I-1 (Limited Industrial District)

Present Use: Industrial Outdoor Storage

Proposed Use: Industrial Outdoor Storage

Tax Parcel: 3-30-10.08-070.00 (portion)

Councilman James was recused due to a potential conflict as an employee of Burris Foods Incorporated.

Planning Director Pierce reviewed the change of zone request because of the previous comprehensive plan amendment just approved by City Council. The request is for a portion of the property to be rezoned from R2 residential to I1 limited industrial and encompass the area in and around the fenced storage area depicted on the map. It will eventually be combined with the parcel to the east through a lot line adjustment application.

All documents in the packet were reviewed.

The public notice was advertised in Delaware State News, mailed to all owners of properties within 200 feet, and posted at the site.

The Planning Commission reviewed the application and recommended approval at their October 24th meeting and recommended approval by a vote of 7 to zero.

Engineer Cliff Mumford reintroduced himself and confirmed that what has been stated is correct and his previous comments should be incorporated into the record to apply to this ordinance.

It was confirmed that a closed storage building would eventually be constructed similar to what already exists.

When asked why this had not been corrected previously, Planner Pierce said the map showed it as R2 because it was on the parcel utilized by Little League as are most parcels up and own that stretch. He recalled the change of zones that were required when First State Manufacturing developed in the area. Some were cleaned up during the 2018 comprehensive plan update, but these were not included.

The floor was open to public comment; no one responded, and the floor was closed.

Councilmember Fulton moved to adopt Ordinance 2023-43, seconded by Councilmember Boyle. Motion carried by the following 6 to zero roll call vote:

Marabello: I vote yes, it is consistent with the prior ordinance approval Ordinance 2023-42.

Boyle: I vote yes, this action aligns it now with the comprehensive plan that we just amended.

Fulton: I vote yes, meets comprehensive plan as amended by Number 17, and meets Chapter 230 requirements.

Culotta: I vote yes for the reasons stated.

Samaroo: I vote yes based on its consistency with the adopted comprehensive plan future land use map as amended.

Wilson: I vote yes based on meeting the comp plan requirements.

Ordinance 2023-44

AMENDING AND ADOPTING BY ORDINANCE

THE 2018 CITY OF MILFORD COMPREHENSIVE PLAN

Amendment #18

Kenton Property

MD-16-183.07-01-12.00 & MD-16-183.07-01-14.00

Planning Director Pierce provided a synopsis of the application for the future land use map amendment. The change of zone application is scheduled before the Planning Commission at their November meeting and for a final determination by City Council on November 27th.

The owner of the property requested that two parcels of land be changed from industrial to a commercial district. Both parcels are vacant though being used for industrial storage. The change is to potentially redevelop the North Rehoboth Boulevard and Northeast Front Street into a commercial use.

The properties in this area are primarily commercial except for those owned by Perdue Foods and Kent Sussex Industries. There are also lands on Northeast Front Streets owned by Atlantic Concrete and other parcels on the south side that are industrial.

The documents in the packet were then reviewed by Planner Pierce

The public notice was advertised in Delaware State News, mailed to all owners of properties within 200 feet, and posted at the site.

The Planning Commission reviewed the comprehensive plan amendment request and recommended approval at their October 24th meeting and recommended approval by a vote of 7 to zero.

Randall Kenton of 16140 Fitzgeralds Road, Milford, Delaware then addressed the Council stating this property is owned by his family who worked there for many years. He believes commercial use is a better fit in the area than the industrial zone, noting this is one of the gateways into Milford and in particular, downtown Milford.

When asked if they owned the piece on the corner that used to be a gas station, Mr. Kenton shared that at one point, it was a Tire King forty to fifty years ago. The plan is to beautify the parcel and he recently applied for its demolition, adding that site is already zoned commercial.

Mr. Kenton confirmed that his family purchased the land from Walter Sharp approximately forty years ago.

The floor was open to public comment; no one responded, and the floor was closed.

Councilmember Fulton moved to adopt Ordinance 2024-44, seconded by Councilmember Wilson. Motion carried by the following 7 to zero roll call vote:

Fulton: I vote yes, it meets the PLUS review standards and meets the usages of neighboring sites and there is beautification going on as well.

Boyle: I vote yes, for the reasons cited by Mr. Fulton.

Marabello: I vote yes for the reasons stated by his two councilmen to his left.

Culotta: I vote yes it will be a good use of the property.

Samaroo: I vote yes, it is consistent with the 2018 comprehensive plan.

James: I vote yes, it will bring uniformity with the surrounding properties, and it will allow beautification to take place on that property.

Wilson: I vote yes, it is surrounded by commercial zoning, and it makes sense to make it uniform.

APPROVAL OF PREVIOUS MINUTES

Councilmember Fulton moved to approve the minutes of the July 24, 2023, Council Meeting and August 14, 2023, Public Safety Committee Meeting, seconded by Councilmember Wilson. Motion carried.

MONTHLY STAFF REPORTS

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

Police Report

Chief Ashe provided highlights of a number of undertakings within the department, and an update of several ongoing programs within the department.

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

City Clerk

City Clerk Hudson provided a synopsis of the monthly activities that have occurred during the month. She also commended Senior Deputy Clerk Katrina Wilson on obtaining her Master Municipal Clerk designation from the International Institute of Municipal Clerks. She is presently the fourth active clerk in Delaware to have received the designation.

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

Monthly City Manager Report

City Manager Whitfield reviewed several items in his report and provided a briefing from a training session he attended at a recent conference.

Public Works

Public Works Director Mike Svaby presented an in-depth report of accomplishments at Public Works during the month.

Electric Department

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

Planning & Zoning Department

Director Rob Pierce provided a synopsis of his accomplishments in October.

Human Resources

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

IT Department

IT Director Pettigrew read into the record several portions of his monthly report.

Economic Development & Community Engagement

From San Antonio, Texas, Economic Development & Community Engagement Administrator Sara Bluhm provided an overview of her undertakings throughout the month.

Finance Department

Finance Director Lou Vitola provided details about the USDA police loan and several staff updates including the benefits resulting from the hiring of the new finance employees.

Councilmember Fulton moved to accept the City Manager reports, seconded by Councilmember Boyle. Motion carried.

MONTHLY FINANCE REPORT

Finance Director Vitola reported on the September 2023 Finance Report.

The expected boost to cash materialized as is seen in the report with \$2.6 million of the \$2.8 million net increase in cash is attributable to property tax receipts.

Another \$2.3 million followed in October and will be reflected in October.

There were ten different reserve and special purpose accounts that all expended money totaling almost \$265,000. Despite those outflows, and with an ordinary month of RTT receipts, permit fees, and impact fees, and a very strong investment return combined, inflows across all those accounts were at \$331,000 which more than offset the outflow.

Cash should remain strong through the spring. He will clarify any cash burn on whether it was budgeted or unexpected expenses.

In terms of performance, the general fund looks great with respect to the seasonalized budget, though not as strong as the first quarter of last year. That is primarily due to a quicker start with ongoing projects and new fiscal 24 projects.

On the utility side, except for water, the first quarter is behind last year and lagging in total against the budget, although it is 0.3% in total.

This will recur in utilities for two reasons. One is the council approved transfers out of the electric and sewer budget. Those transfers are made monthly resulting in 1/12 of the budget.

The second reason is August has surprisingly cooler weather than previous years. On the wholesale side, our electric consumption was over 7% less than this time last year. August's weather influences August and September billings.

On the utility side, when you start a year light due to a weather event, it has a negative impact through the spring.

For those funds that were put into investments, the question was asked where the earnings are reflected; Director Vitola explained they are shown on page two in the interest earned column and referenced by the \$15,741 and the \$140,429. Councilmember James asked that going forward, the amounts gained from investments be added.

Councilmember Fulton moved to accept the September 2023 Finance Report, seconded by Councilmember Boyle. Motion carried.

COMMUNICATIONS & CORRESPONDENCE

Information on SCAT, Tastes of Milford, and the Holiday Stroll were included in the packet.

UNFINISHED BUSINESS

FY24 Budget Adjustment/Emergency/Generator//Public Works Facility

Public Works Director Svaby discussed the following recommendation:

Public Works is requesting Council authorize a budget adjustment of \$8,000 each from the Stationary Generator at Fork Landing Pump Station CIP, electric reserves, and water reserves totaling \$24,000 to Public Works O&M Building Maintenance for an emergency repair of the existing backup generator serving public works facilities. The addition of the generator at the Fork Landing Pump Station was identified in the FY24 Capital Improvement Plan. Considering the project is being funded with sewer reserves, an underspent slice of its budget is an ideal funding source in lieu of sewer reserves as part of a three-way cost share between electric, water and sewer reserves.

The need for repair of the generator that supports the Public Works (PW) Complex is an urgent one. Not only does its functionality enable the full operation of the PW facility including the administrative offices, the garage, warehouse, and wash bays during power outages, it also includes continuous operation of the IT server room that supports the SCADA system – that tracks alarms for sanitary sewer wet wells, drinking water wells, and electrical service continuity throughout the city.

Councilman Fulton moved to authorize a budget adjustment of \$24,000 to the Public Works operating budget to fund the emergency generator repair at the Public Works facility, with funding sourced equally from among electric, water and sewer reserves, with the sewer share derived from the surplus funds of the Fork Landing Generator Project, seconded by Councilmember Boyle. Motion carried with no one opposed.

NEW BUSINESS

Authorization/Additional Funding/Davey Resource Group/Electric Infrastructure Inventory Project

Electric Director Tony Chipola referenced the request for an authorization to increase the existing professional services engagement with Davey Resource Group (DRG) in the amount of \$65,000 for the ongoing project to survey and conduct a field inventory of the City's electric infrastructure.

Initial estimates were based on older maps and data which did not capture the true number of featured points. As of October 26, 2023, 11,864 features were collected by DRG out of an original estimate of 12,203. Based on the number of circuits remaining and the average feature count per circuit, it is estimated that there are at least 5,000 additional features that need to be collected. However, with the remainder of the infrastructure located in the downtown area where the assets are more highly concentrated with recordable features, we are estimating 7,035 remaining at the initial bid of \$9.83 per feature, or about \$69,154 (although only \$65,000 is required thanks to the initial contingency budget).

DRG has mapped six of nine distribution circuits, plus the 138KV Transmission line, and the City has been provided preliminary data for review / approval of four distribution circuits. Internal audits have shown the data collection to be highly accurate with no inconsistencies found to date through various spot checks audits.

It was confirmed the FY24 Capital Budget included a consolidated total of \$200,000 for this project funded with electric reserves. Council authorized the existing \$125,000 engagement with DRG on December 14, 2022 following a public bid process (\$119,895 award + contingency of \$5,105).

Councilmember Fulton moved to authorize an increase of \$65,000 to the existing engagement with Davey Resource Group for a total of \$190,000 to cover the anticipated overages due to increased feature counts, seconded by Councilmember Wilson. Motion carried.

Confirmation/Mayoral Appointment/Tree Preservation & Advisory Council

Parks and Recreation Director Brad Dennehy submitted a recommendation to fill the vacancy on the Tree Preservation and Advisory Council. In consultation with Mayor Campbell, they agreed the most suitable experienced candidate is Eric Johnsen of 703 North Walnut Street.

Mr. Johnsen is a retired horticulturist from New England and a new resident of Milford, who brings a depth of knowledge for all things tree related.

Councilmember Boyle moved to appoint Eric Johnson to the Tree Preservation and Advisory Council to fill the current vacancy whose term expires 08/31/2026, seconded by Councilmember Fulton. Motion carried.

Authorization/General Fund Reserves/NE Front Street Floating Dock Repairs

Due to Parks and Recreation Director Dennehy being on leave, Finance Director Vitola reported that earlier this year, it was discovered the floating kayak/boat dock behind the Milford Police Station had suffered some damage and was posing a risk to users. This dock is used year-round not just for kayaks, but to launch fishing, crabbing, and other boats onto the river.

The dock is fabricated out of aluminum and consists of a hinged gangplank connected to the floating dock; flotation is provided by ballast underneath the dock and gangplank. The dock's flotation separated from the dock (likely being struck by debris or possibly a boat in the river). As a result, both the dock and the gangplank had to be removed by crane from the river.

A lot of time was spent figuring out who originally built the dock and how it could be repaired. First State Crane prepared a proposal to fix the dock and place it back in the water. It is believed to be the most cost-effective way of returning the dock to a usable condition.

Councilmember Fulton moved to authorize \$24,900 from general fund reserves to fund the emergency repairs to be made to the floating dock by First State Crane Services, seconded by Councilmember Wilson. Motion carried.

Authorization/Easement License Agreement/West Shores at New Milford/Stormwater Management Infrastructure

Planning Director Pierce reviewed the following request:

Over the past few years, the developer for the West Shores at New Milford development has been working with the Sussex Conservation District to address a failed infiltration stormwater management pond in the northeast corner of the development. To address the failed pond, the developer is proposing to construct an outfall pipe that would discharge into the existing roadside swale along the west side of Cedar Creek Road. The developer has received approvals from Sussex Conservation District and DelDOT for this modification.

Deed Book 3233 Page 288 recorded with the Sussex County Recorder of Deeds reserves and grants a perpetual non-exclusive easement to the City of Milford along the north side of the Matlinds Estates development.

Staff met with representatives of the Matlinds Estates Homeowners Association in February 2023 to review the proposed outfall modification and to begin coordination of access to the easement within the open space area. A letter dated February 17, 2023, from the HOA acknowledges receipt of notice.

A clarification email on February 20, 2023, to the HOA, indicating that the West Shores at New Milford developer and HOA would only maintain the stormwater pipe, manholes and other stormwater infrastructure below grade within the easement area, and that the Matlinds Estates HOA would still be the owner of the land and would have to maintain the vegetation, grass, and trees.

For the West Shores at New Milford developer to construct and maintain the stormwater utility within the City's non-exclusive easement area, a license agreement is needed between the city and the developer. A draft agreement is in the packet.

Councilmember Fulton moved to authorize the Mayor to execute the license agreement to allow West Shores at New Milford developer to install the stormwater outfall pipe, manholes, outfall structure and related appurtenances within the City of Milford easement located on Sussex Tax Parcel 3-30-11.00-407.00, with the condition that the developer provide confirmation from the bonding company that the performance bond is still in effect to complete the streets, curbing, sidewalks, and utility repairs within the development or provide a new bond. Said stormwater improvements within the license area will be initially maintained by the developer until such time that the West Shores at New Milford open space areas are properly assigned to the West Shores at New Milford Homeowners Association or similar maintenance corporation. Motion seconded by Councilmember Wilson. Motion carried.

*Authorization/Windward on the River Pump Station Agreement & Pump Station Contribution
Authorization/Knight Crossing Development Agreement*

Director Pierce explained that these two items are related. Several years ago, the Windward on the River Development signed an annexation or development agreement with the City of Milford related to the construction of their apartment project off Beaver Dam Road. The agreement included a requirement to construct a regional sewer pump station force main and related gravity sewer main, that would accommodate, anticipated sewer flows for the Windward on the River residential project, along with their commercial project known as Deep Creek Plaza, and some land owned by the adjacent developer for the Knight Crossing development.

The City required Knight Crossing to enter into a private cost-sharing agreement with Windward to facilitate Windward's recovery of the pro-rata cost attributable to Knight Crossing sewer capacity needs. Both Windward and Knight Crossing were made aware of these terms early in the development review process and both parties agreed in principle.

The Windward on the River apartment project obtained final approval from the City in 2019 and completed construction of the required sanitary sewer pump station, force main and extended the gravity sewer to the Knight Crossing development in 2021.

Due to unforeseen circumstances, the Knight Crossing project progressed at a much slower pace than the Windward on the River project, and a private cost-sharing agreement for the sewer infrastructure was never executed between the parties.

To resolve the timing difference and promote continued development across the regional sewer collection area, staff is recommending that the City acquire the pro-rata share of the sewer infrastructure improvements attributable to Knight Crossing's sewer capacity from Windward for \$468,549.10, representing Knight Crossing's contribution to the sewer infrastructure. In order to do so, the original Windward on the River development agreement would need to be amended. Enclosed is a copy of the draft amendment for review.

Additionally, staff recommends that the city recover its investment in the sewer infrastructure through Aid-in-Construction (AIC) fees that would be collected at the time of building permit issuance for the first 122 EDUs of the Knight Crossing development. The AIC fee would be subject to increase on July 1st each year at the same rate of increase as the City Sewer Impact Fee as adopted by City Council. If authorized by City Council, we would add this AIC fee to the City fee schedule for tracking purposes at a later date. Both Windward on the River, LP and Milford Marina, LLC (Knight Crossing) are agreeable to the terms outlined above and in the draft development agreements and amendments.

Director Pierce talked about the various developments that were provided funding in advance and would be reimbursed at a later date. Specifically, the city carried 50 EDUs carried for the Bayhealth pump station back in 2016. The Aid in Construction charge would be set by Council at a later date, but based on the amount in the agreement.

Councilmember James pointed out the impact fees are set by Council at 4% unless a later decision is made to increase them.

It was confirmed the Aid in Construction charges are included on the comprehensive fee schedule adopted by City Council and can be reviewed on the website. If approved, a resolution would need to be adopted to amend that schedule by adding this fee.

Councilmember Fulton moved to execute an amendment to the Windward on the River development agreement and authorize a one-time payment from the City to Windward on the River, LP in the amount of \$468,549.10 for costs related to the design and construction of the regional sewer pumping station, force main and gravity sewer main to be paid from Sewer Impact Fee Reserves, seconded by Councilmember Boyle. Motion carried.

Councilmember Fulton moved to execute the Knight Crossing development agreement requiring the developer to remit scheduled Aid in Construction fees per EDU in consideration of the City's contribution to the regional sewer pumping station and related infrastructure in the initial amount of \$468,549.10, in the form outlined in the agreement. Fees collected shall be reimbursed to the City's Sewer Impact Fee Reserves. Motion seconded by Councilmember Boyle and carried.

The following three ordinances were introduced by Mayor Campbell, followed by a brief synopsis by Director Pierce:

*Introduction/Ordinance 2023-45
Amendment to City of Milford Code
Chapter 180-Residential Rental Operating License
License Fee Waiver/Disabled Tenants*

*Introduction/Ordinance 2023-46
Lands of Randall Kenton
3.72 +/- acres of land located along the north side of NE Front Street and the east side of N. Rehoboth Boulevard
Application Type: Change of Zone
Comprehensive Plan Designation: Commercial (pending adoption of Ordinance 2023-46)
Zoning District: C-3 (Highway Commercial District)
Present Use: Pallet Recycling
Proposed Use: Pallet Recycling
Address: 609 NE Front St
Tax Parcel: MD-16-183.07-01-12.00 & MD-16-183.07-01-14.00*

*Introduction/Ordinance 2023-47
Lands of Iglesia Pentecostal Bethel Delaware, Inc.*

0.808 +/- acres of land located along the north side of SE Front Street approximately 55 feet east of the Charles Street Intersection

Application Type: Conditional Use

Comprehensive Plan Designation: Low Density Residential

Zoning District: R-2 (Residential District)

Present Use: Church (095.00), Church Parking (094.00), Former Single-family Dwelling (096.00)

Proposed Use: Church with associated parking

Address: 803, 805 & 807 SE Front Street

Tax Parcel: 3-30-7.17-094.00, 3-30-7.17-095.00 & 3-30-7.17-096.00

All three ordinances will be back to City Council for a final determination at the November 27th Council Meeting.

Finance Director Vitola explained that Resolution 2023-28, 2023-29, and 2023-30 are all related to the Police Department loan financed through the USDA.

Resolution 2023-28 is the city's resolution authorizing both USDA loans, with the first \$8.5 million and the second \$8 million totaling \$16.5 million initially approved on December 14, 2022.

There were previous resolutions approved before and after the referendum that was approved by the public. Those included locking in the term. This resolution simply authorizes the Mayor to execute the loan closing documents so that the USDA can advance the \$8.5 million and then later, the \$8 million to the city.

It is likely that 100% of the funds will be used to reimburse the temporary financing, the bond anticipation note and there are also allowances for costs of issuance and similar items.

Resolutions 2023-29 and 30 are the individual USDA resolutions that the USDA requires City Council to approve and that it coincides with their requirements. The first is for loan 11 in the amount of \$8.5 million for the 2023 Series A. The second one is 2023 Series B Loan 12 for \$8 million.

Nothing changes in these that was adopted in a previous resolution with the rate remaining at 3.5% rate max though it could go down. There is a 40-year max and that is needed to meet what was promised to our property owners and the amount is not to exceed \$16.5 million.

The City's Bond Counsel Tim Anderson is also on the line if Council has any questions.

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

Councilmember Fulton moved to adopt Resolution 2023-28, seconded by Councilmember James:

Adoption/Resolution 2023-28

AUTHORIZING A CERTAIN PROJECT HEREIN DESCRIBED AND THE INCURRENCE OF INDEBTEDNESS AND THE RATIFICATION OF THE APPROVAL OF A CERTAIN CAPITAL PROJECT; AUTHORIZING THE ISSUANCE OF THE USDA GENERAL OBLIGATION BONDS, SERIES OF 2023 (THE "USDA BONDS"), IN ONE OR MORE SERIES, TO PROVIDE FUNDS FOR AND TOWARD SUCH PROJECT; SETTING FORTH TERMS OF THE USDA BONDS; COVENANTING TO BUDGET, APPROPRIATE AND PAY DEBT SERVICE ON THE USDA BONDS AND PLEDGING THE FULL FAITH, CREDIT AND TAXING POWER OF THE CITY FOR PAYMENT OF THE USDA BONDS; SETTING FORTH THE SUBSTANTIAL FORM OF THE USDA BONDS; PROVIDING FOR THE EXECUTION AND AUTHENTICATION OF THE USDA BONDS; PROVIDING FOR THE SALE OF THE USDA BONDS AND AUTHORIZING THE ACCEPTANCE OF THE USDA COMMITMENTS FOR THE PURCHASE OF THE USDA BONDS; SETTING FORTH THE INTEREST RATE AND MAXIMUM DATE OF MATURITY; SETTING FORTH CERTAIN FEDERAL TAX COVENANTS; PROVIDING FOR THE APPLICATION OF USDA BOND PROCEEDS; AUTHORIZING OFFICERS TO ACT; APPROVING THE UNDERTAKING OF CERTAIN CONTINUING DISCLOSURE, IF ANY; SETTING FORTH THE DATE OF THE USDA BONDS AND OTHER

DOCUMENTS; AUTHORIZING OTHER NECESSARY ACTION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL INCONSISTENT ORDINANCES; AND STATING THE EFFECTIVE DATE.

Motion carried by a unanimous roll call vote of 7 to zero (Marabello, Boyle, Fulton, Culotta, Samaroo, James, Wilson).

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

Councilmember Fulton moved to adopt Resolution 2023-29, seconded by Councilmember James:

Adoption/Resolution 2023-29

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS 2023 MILFORD POLICE FACILITY ACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE IN THE AMOUNT OF \$8,500,000.00.

Motion carried by a unanimous roll call vote of 7 to zero (Marabello, Boyle, Fulton, Culotta, Samaroo, James, Wilson).

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

Councilmember Fulton moved to adopt Resolution 2023-30, seconded by Councilmember James:

Adoption/Resolution 2023-30

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS 2023 MILFORD POLICE FACILITY ACILITY *TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE IN THE AMOUNT OF \$8,000,000.00.*

Motion carried by a unanimous roll call vote of 7 to zero (Marabello, Boyle, Fulton, Culotta, Samaroo, James, Wilson).

*Sussex County Land Use Application CZ-2004
Key Properties Group, LLC/Tax Parcel 3-30-11.00-070.00*

City Manager Whitfield referenced a draft letter that would be provided to Sussex County Planning Commission and County Council opposing the rezoning of Sussex County Land Use Application CZ-2004, Key Properties Group, LLC, Sussex Tax Map 3-30-11.00-070.00, AR-1 (Agricultural Residential District) to C-4 (Planned Commercial District) from AR-1 to C-4.

The request will be deliberated in the next couple of months. This letter was based on Council's decision in the past not to have the property rezoned. He has the Planning Director draft a letter under Council's direction opposing the rezoning.

The City Manager confirmed that Council, on two to three different occasions, voted against the change of zone to commercial in the past couple of years and prefer it stayed as low density residential.

Milford Council Chambers: There was a lot of conversation about this. I don't want to redeliberate. It's packed.

Council agreed this involved long discussions in the past and they preferred not to redeliberate. However, the various reasons for the denial were reviewed.

Councilmember Boyle moved to authorize the letter to be sent as written, seconded by Councilmember Marabello. Motion carried by a vote of 5-2.

ADJOURNMENT

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

Mayor Campbell adjourned the meeting at 8:53 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder