

CITY OF MILFORD
COUNCIL MEETING MINUTES
November 27, 2023

The City Council of the City of Milford met in Regular Session on Monday, November 27, 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

ABSENT: Councilmember Nirmala Samaroo

Councilmember Samaroo left at this time because of a medical issue.

CALL TO ORDER

Mayor Campbell called the meeting to order at 6:03 p.m.

PUBLIC COMMENT PERIOD

Though the Public Comment period was scheduled prior to the start of the official meeting, it was opened by Mayor Campbell after the meeting was called to order.

No persons were signed up to speak and the comment period was closed.

INVOCATION AND PLEDGE

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

PUBLIC HEARINGS/ORDINANCES/FINAL ACTION

*Delaware State Housing Authority/Community Development Block Grant Programs
Levy Court of Kent County & Sussex County Council*

Public Hearing Notice

The City of Milford, Delaware, in cooperation with the Sussex County Council, the Levy Court of Kent County, Delaware, and the Delaware State Housing Authority (DSHA), will hold a public hearing on Monday, November 27, 2023, at 6:00 p.m. at the City Hall, 201 South Walnut St., Milford, Delaware for the purpose of providing any interested citizens the opportunity to comment on the municipality's application for funds under the Delaware Community Development Block Grant (CDBG) Program. In accordance with the Section 106 Review Process established by the National Historic Preservation Act of 1966, as amended, comments are especially encouraged from interested agencies and individuals with respect to undertakings that may affect historic properties of significance to such agencies and individuals.

This Federally funded program will provide grants amounting to \$2,000,000. (funding level subject to change), to support Community Development Activities in eligible local governments in Kent and Sussex Counties. The public hearing will also include a status report for Milford's FY-23 projects.

Kent and Sussex Counties promote equal housing opportunity.

Director of Community Development and Housing for Sussex County Brandy Nauman introduced herself along with Kent County Levy Court's Housing and Community Development Supervisor Kain Johnson.

She shared that their offices apply for and administer the Community Development Block Grant (CDBG) on behalf of municipalities and rural communities throughout each county. The 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.

There is approximately \$2 million this year that will be awarded to Kent and Sussex counties on a competitive basis. One requirement of the CDBG program is to hold a public hearing which allows the opportunity to explain the program and provide an update. It also gives citizens and local leaders a chance to have input on the upcoming application.

The 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, demolitions, and small infrastructure projects. All projects applied for must benefit persons of low and moderate income defined as households with incomes at or below 80% of the area income.

As an example, in Sussex County, a four-person household income that qualifies is \$71,100 annually. A two-person household is \$56,900 or less and is slightly higher than Kent County.

Historically, most funding is used for owner occupied housing, rehabilitation, which is ideal because it helps maintain the existing housing stock.

Housing rehabs include roofing, doors, windows, electrical and plumbing upgrades, as well as energy upgrades. The home must be owner occupied and the primary residence of the applicant, lower/moderate income, insured or insurable, and county taxes and utilities must be current.

When a rehab is done, a lien is placed on the property which is a way to protect the funding to ensure that folks aren't getting the funding and then flipping the property. Liens vary from 5 to 10 years with zero interest prorated which means at the end of that period, they are forgiven and considered satisfied.

In the last 5 years, Milford has received \$350,000 in CDBG funding from Sussex County for housing rehab. The application was for \$420,000 on Milford's behalf, but only received \$350,000. With the funding, twenty households have received assistance in Sussex County.

They can also help City of Milford residents who have emergency repairs using funds that Sussex County Council provides for emergency repairs. They have also assisted at least 10 households over the last 5 years with that funding.

Currently, there is only one household on the waiting list for Milford. Because of your close involvement with the City Staff and work closely with Mrs. Hudson who is very helpful in reviewing the list and informs them of any other potential applicants.

They are unable to apply for funding for the City of Milford unless there are at least four households on the waiting list to demonstrate the need of the program.

She then talked about the brochures and social medial outlets that provide information, as well as newsletters. Applications can be mailed, or property owners can be sent to their offices for help.

Contact information was then provided for both counties.

Historically, Milford has always had a supply for housing, rehab and they hope to plan for that again this year if that is the consensus.

This year’s application is due on February 29, 2024, which was sent to Mrs. Hudson and have been included on tonight’s agenda.

She added they really appreciate the partnership right now.

Mr. Johnson confirmed that in Kent County, Milford has five applications presently on the waiting list.

It was confirmed that \$2 million is received for Kent and Sussex Counties. Typically, on the Sussex side, Milford receives between \$80,000 to \$105,000 and Kent Country receives \$60,000 to \$80,000.

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

Councilmember Wilson moved to adopt Resolution 2023-23, seconded by Councilmember Fulton:

RESOLUTION 2023-23
Sussex County

Councilmember Wilson 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 27th DAY OF NOVEMBER 2023.

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/Mayor Arthur J. Campbell

I DO HEREBY CERTIFY THAT THE FOREGOING TITLE OF RESOLUTION ADOPTED BY THE CITY OF MILFORD IS THE SAME TITLE OF RESOLUTION NO. _____ ADOPTED BY THE COUNTY COUNCIL OF SUSSEX COUNTY ON THE _____ DAY OF _____, 2023. _____

s/Tracy Torbert, Clerk of Sussex County Council

Motion carried.

Councilmember Wilson moved to adopt Resolution 2023-24, seconded by Councilmember Baer:

Resolution 2023-24
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 held a Public Hearing on November 27, 2023, 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.

Adopted: November 27, 2023

Motion carried.

Councilmember Wilson moved to adopt Resolution 2023-25, seconded by Councilmember Baer:

RESOLUTION 2023-25
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 27, 2023.

Councilmember Wilson moved to adopt Resolution 2023-26, seconded by Councilmember Samaroo:

RESOLUTION 2023-26
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 27, 2023.

Motion carried.

Councilmember Wilson moved to adopt Resolution 2023-27, seconded by Councilmember Baer:

RESOLUTION 2023-27
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 27, 2023.

Motion carried.

Solicitor Rutt then read the rules of City of Milford public hearings into record, after which he announced each ordinance.

Adoption/Ordinance 2023-45

Chapter 180 Rental Licenses

Disabled Tenants/License Waiver

Planning Director Rob Pierce provided a synopsis of the amendment to the Residential Rental Operating Licenses Code. He recalled the changes being discussed in June during a workshop. Specifically, the changes involved exemptions for renters who are related to the property owner.

That evolved into additional areas. This amendment does not provide an exemption from the licensing program but provides a fee waiver for those residential rental units occupied by disabled individual or who are related to the property owner which was the original intent. The units would still be required to register and subject to regular inspections.

The definitions for 'directly related to an owner, landlord, and tenant' were added or modified to remove any ambiguity in the code.

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

Councilmember Fulton moved to adopt Ordinance 2023-45, seconded by Councilmember James:

ORDINANCE 2023-45
AMENDMENT TO CITY OF MILFORD CODE
CHAPTER 180 - RESIDENTIAL RENTAL OPERATING LICENSE

WHEREAS, the City of Milford enacted a Residential Rental Operating License Ordinance to protect the health, safety, and welfare of its residents and to prevent the deterioration of the housing stock in the City; and

WHEREAS, from time to time, City Council determines a need for amendments and additions to the Residential Rental Operating License Ordinance of the City of Milford; and

WHEREAS, it is recommended that clarification be made within the ordinance regarding who is required to obtain a rental license; and

WHEREAS, it is recommended to provide a waiver from the rental license fee for disabled tenants who are directly related to the owner of the property.

NOW, THEREFORE, the City of Milford hereby ordains:

Section 1. Purpose: The Code of the City of Milford is hereby amended to clarify specific definitions within Chapter 180, Residential Rental Operating Licenses and provide a fee exemption for rental units occupied by disabled tenants who are directly related to the property owner.

Section 2. Sections 180-3, 180-4 and 180-9 are hereby amended.

Section 3. Strikethrough text denotes a deletion; underlined, and bold text denotes an addition.

Motion carried with no one opposed.

Adoption/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

Planner Pierce reviewed the ordinance sharing that it was required because of the comprehensive plan map amendment that was previously approved by Council, which is typically on the same night. In this case, the applicant delayed the process by filing the change of zone and paying the fee until a later date.

The applicant is seeking a change of zone of two parcels from I-1 and I-2 to C-3 highway commercial.

He then reviewed each related document in the packet.

All properties in the area are C-3 though a few are industrially zoned (Perdue Farms).

He reiterated it is now consistent with the comprehensive plan, as was recently changed.

The public notice was published in Delaware State News on October 30th and all owners of properties within 200 feet of the parcel were mailed notices. A public notice sign was also posted at the site.

The Planning Commission reviewed the change of zone by a vote of 6 to zero at their November 20th meeting.

It was then determined that the applicant was not in attendance and the Planning Director agreed with Solicitor Rutt's recommendation that the application should be postponed until the next meeting.

Councilmember Fulton moved to defer action on Ordinance 2023-46 until the December 11, 2023 Council Meeting, at which time the applicant must be present, seconded by Councilmember Boyle. Motion carried.

Adoption/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

It was again determined the applicant was also absent.

There was no discussion on the ordinance.

Councilmember Fulton moved to defer action on Ordinance 2023-47 until the December 11, 2023 Council Meeting, due to no representation, seconded by Councilmember Boyle. Motion carried.

MONTHLY FINANCE REPORT

Finance Director Lou Vitola reported little change since the last report. The utilities seemed to have rebounded. They started out of course with the August and September results, though October is slightly stronger.

In both the general fund and the utilities look good compared to the budget.

He recalled a previous question regarding specific cash balances in the investment program and referred to the explanation found on line 39 of page 111 in the packet. He also referenced the total of the reserve funds and the majority of the \$20.9 million is part of the \$30.1 million invested.

Director Vitola also discussed the impacts fees of which the majority are also invested. The last couple lines (14 and 15) are two of the special purpose revenue funds (economic development and lodging tax) and the majority is also invested.

The total is over \$32 million; the \$30 million invested has grown to \$30.1 million which is a cross-section of the lines. The difference is held in cash and in the money market accounts at WSFS.

With tax collections and a couple months in the investment program, there is the ability to invest more. The note will be included in future reports.

Director Vitola verified the average rate of return on the investments is approaching 5% on the shorter end. The longer end is in the lower 4% range.

Councilmember Marabello moved to accept the October Finance report as submitted, seconded by Councilmember Baer. Motion carried.

UNFINISHED BUSINESS

*Authorization/Preliminary Major Subdivision Extension
Red Cedar Farms/Tax Parcel Number(s): 3-30-11.00-068.00*

Becker Morgan Group Incorporated Vice President J. Michael Riemann submitted the following request for a Major Subdivision Extension:

We are hereby requesting an extension of the approval for the above-referenced project. City Council Granted preliminary site plan approval on October 24, 2022. However, the project was contingent upon adoption of the TID which was not adopted by the city until April 10, 2023. As a result, final entrance plan engineering could not commence until the TID was in effect. In addition, an underground burial site was located on the property which was previously unknown. An archeologist was consulted to map the location of the grave sites and the plan was revised to eliminate disturbance of the subject area. Final engineering of the site could not be completed until this process was completed. To date, construction plans have been completed and filed with all agencies for review, which we are currently awaiting.

We respectfully request an extension of the preliminary approval.

Associate Principal of Beck Morgan Group Jon Falkowski was present on behalf of the application. He described the delays that created the need for the extension. One was the adoption of the Transportation Improvement District after which the plans were submitted to DelDOT who have since requested the final record plans.

They were also unaware there is a small gravesite on site and an archeologist was hired to do a survey during which time several grave sites were uncovered. The plan was then modified to allow that eastern area to be separated and left intact, which resulted in a reduction of lots to 199.

It was suggested a small fence be placed around the area, and it was determined that the HOA would be responsible for its maintenance.

Solicitor Rutt explained that because it is part of the common area, Schell Brother the developer, and their representatives then become responsible. However, no additional conditions can be added.

Councilmember Fulton moved to approve the extension as requested, seconded by Councilmember Wilson. Motion carried.

NEW BUSINESS

Adoption/Resolution 2023-31/Reappointment of DEMEC Director & Change of Alternate Director

A resolution by the legislative body is required whenever a change is made in the Director or Alternate Director's position on DEMEC's (Delaware Municipal Electric Corporation) board. This will replace the Finance Director with Electric Director Tony Chipola as the Alternate Director.

Councilmember Marabello moved to adopt Resolution 2023-31 changing Milford's Alternate Director to the Electric Director, seconded by Councilmember Baer:

RESOLUTION 2023-31 Reappointment of DEMEC Director & Change of Alternate Director

WHEREAS, the City of Milford is a member of the Delaware Municipal Electric Company ("DEMEC"), a municipal electric company established pursuant to 22 Del. C. Chapter 13;

WHEREAS, the City of Milford is authorized to appoint an individual to serve on the DEMEC Board of Directors pursuant to 22 Del. C. § 1304(3);

WHEREAS, Article V, Section I of the DEMEC Agreement and Articles of Incorporation, grants the Member City the authority to appoint an alternate director to serve in the absence of the director.

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

- (1) The City Manager shall continue to serve as the Director representing the City of Milford on the DEMEC Board of Directors.
- (2) The Electric Director shall serve as the Alternate Director in the absence of the Director.
- (3) In the absence of the Director, the Alternate Director shall have full power and authority to act on the City of Milford's behalf.
- (4) This resolution supersedes all prior resolutions related to the appointment of a DEMEC Director and Alternate Director from the City of Milford.

Motion carried.

ADJOURNMENT

Councilmember Culotta moved to adjourn, seconded by Councilmember Wilson. Motion carried.

Mayor Campbell adjourned the meeting at 6:42 p.m.

Respectfully submitted,

Teresa K. Hudson, MMC
City Clerk/Recorder