

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 28, 2019

The City Council and Planning Commission of the City of Milford met in a Joint Workshop Session on Tuesday, May 28, 2019 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 5:35 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

Planning Commissioners Rae Mims, Andrew Fulton, Sara Pletcher and Dwayne Powell

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmember Lisa Peel & Katrina Wilson

In attendance were Planning Director Rob Pierce and Planning Commissioners Andy Fulton, Sara Pletcher, Rae Mims and Dwayne Powell who arrived later during the meeting. Esquire James Sharp of Moore and Rutt was also in attendance.

He noted that both items on the agenda were objectives in the 2018 Comprehensive Plan.

Sign Code Revision

Planning Director Rob Pierce recognized the Planning Commission members are in attendance, in addition to the Sign Working Group that had met on five different occasions to prepare a draft code to be presented to both the Planning Commission and City Council. He also noted that James Sharp, Esquire of Moore and Rutt Associates has been a key contributor in assisting staff in developing a sign code amendment and facilitated the project with the Sign Working Group.

He felt it would be beneficial to provide everyone with an update of the sign code update in order to provide a basic understanding of where the code update is, and what the path will be used to move forward.

In addition, he decided that both groups could observe and share the Downtown Parking Study Results.

The Planning Director explained that he hoped to get both Council and the Planning Commission on the same page before the document is finalized and public hearings are scheduled.

Mr. Sharp commented that signs can be a hot topic and there are many ideas and opinions, which is why there is a great deal of material to get through today. However, there will be some public hearings later scheduled though this provides an opportunity to introduce this to City Council and the Planning Commission whose review will result in suggestions that will be considered part of the update.

The current sign ordinance was included in the Workshop packet.

Mr. Pierce reminded those present the City regulates all types of permanent and temporary signage, including on-premise and off-premise (billboard) signage.

They come in forms of freestanding, wall, projecting, awning signs and electronic message centers. Temporary signs include smaller push-in signs that are seen in yards and along roadways.

Mr. Pierce stated that in May 2018, the Community & Economic Development Committee of City Council discussed the need and process for updating Milford's sign ordinance. It was agreed it would be beneficial to include the Chamber of Commerce, Downtown Milford, Inc. and sign company representatives to work with the Planning Commission to review the current ordinance and prepare a draft code amendment.

Staff attempted to schedule a Planning Commission workshop in the fall of 2018, but found it difficult to get all stakeholders together for the evening meetings. Because of the conflicts, they reorganized and created a small working group comprised of one City Council member, one Planning Commissioner and the organizations listed above. The "Sign Code Working Group" consisted of the following members:

| | |
|--|----------------------------------|
| Michael Boyle, Ward 1 Councilmember | David Mosley, East Coast Signs |
| Raymond Lynch, Planning Commissioner | Wendy Longstreet, Phillips Signs |
| James Sharp, Esquire, Moore & Rutt | Eric Norenberg, City of Milford |
| Jo Schmeiser, Chamber of Commerce | Rob Pierce, City of Milford |
| Murrie Zlotziver, Downtown Milford, Inc. | Evan Miller, City of Milford |
| Lynn Rogers, Rogers Sign Company | |

The working group met five times between November and February to review and discuss recommendations to improve the sign code, after which they shared recommendations with the Community and Economic Development Committee. Tonight, the working group is prepared to share the draft, which will be presented to the Planning Commission to develop the final amendment. A public hearing will follow before the recommended code is presented to City Council.

During the meetings, several key issues were identified several key issues:

1. The existing sign regulations are located throughout Chapter 230 Zoning and are not in one location.
2. The definitions section needed to be updated and modernized.
3. Portions of the sign code are ambiguous and contain conflicting language.
4. There is very little guidance on how to address legal nonconforming signs and maintenance of existing signs.
5. Signs should be constructed with durable, high quality materials, and some guidance should be provided within the code related to construction materials.
6. EMC regulations needed to be updated based on advances in technology and should include more detailed illumination standards.
7. The City should consider allowing Electronic Message Center (EMC) Signs in other zoning districts besides C3 Highway Commercial, and possibly consider allowing larger EMCs.
8. There are no regulations for signage for nonresidential uses in residential zones for schools, churches, etc. in the current code.
9. Temporary sign regulations in existing code are not content neutral.
10. There are no specific regulations for off premise signs (billboards).

Mr. Pierce said the working group found the existing code to be disjointed, difficult to interpret and fairly restrictive.

Mr. Sharp said the group also found the code to be more restrictive than he believes City Council would like. During the review of the code, it was determined that if an applicant was compliant with how the code is currently written, they did not believe that would be what Council wants or desires it to be. As a result, the new code will be drafted with numbers and sizes that may need to be changed, after considering the many components that make the current regulations so difficult.

He referenced the many areas where sign regulations are listed throughout the code. The definitions are non-existent as to specific signs, which is a challenge in itself.

The first need is to create a separate article in the code and remove all references of signage from throughout the code and place them into one location. This allows for easier enforcement by staff and easier reference by sign companies and businesses.

He stated that the United States Sign Council has a model code that works with counties and municipalities throughout the country with standard definitions that are much easier to understand.

As a result, Mr. Pierce stated they will utilize the United States Sign Council Foundation sign code template and consolidate all regulations into one single article.

Currently, there are seven to eight pages of a sign code; the new code will consist of approximately thirty pages. Included will be updated definitions and more structural components of the ordinance, as opposed to the actual regulatory components.

The group's second recommendation is to review the sign height, area and setback requirements. He referenced two tables that include all regulations found in the code, by zoning category and sign type.

One issue the Planning Director pointed out is there is no guidance on the size of a sign for a school or a church, though they exist in other situations. The working group reviewed the current sign height, area and setback regulations and found the existing regulations to be fairly restrictive. There is not consistency for some of the size regulations in relationship to one another and the uses within those zoning districts.

It was also noted several signs in the residential zoning categories, as well as signs in the BP, OC1, C1 and OB1 zoning districts, do not comply with the current standards. The working group suggested the regulations be adjusted to reflect what has been constructed in the field and what makes sense for individual zoning groups and applicable uses.

The working group discussed developing a procedure to review large developments and complexes that may have signage needs beyond what is addressed in the standard sign regulations. Additional input will be needed as this is developed.

Adding a process for a comprehensive sign plan review by the Planning Commission and City Council for larger developments and site plans should also be considered. That will allow some flexibility to be considered during the land use application as Kent County currently permits.

Mr. Sharp noted that photos will be used to reference as this is discussed.

Because of the lack of standards with current signs, Mr. Pierce said the draft code will align with much more reasonable benchmarks.

Currently electronic messaging centers (EMCs) are only permitted in the C-3 Highway Commercial district. The group discussed allowing them in other zoning districts and removing the limitation of 32 square feet. It was agreed there is a bigger demand for EMCs in industrial zones, in addition to appropriate uses by churches, schools and similar entities.

It will be determined whether those applications will be reviewed by the Planning Commission, City Council or staff.

Mr. Sharp noted that Sussex County officials have discussed this issue in depth adding that most complaints are the result of the illumination. That is why a very detail definition is needed so that it can be enforced as well as understood by the public. He also discussed various technical standards and means of measurement.

Taking these matters into consideration, the draft ordinance will provide better illumination standards and methods to measure ambient light emittance to minimize adverse impacts to motorists and neighboring properties. It will most likely mirror what Sussex County has adopted in relation to EMCs.

Milford's current code permits billboards by conditional use approval within the C3 zoning district only. In addition, the only regulation is that the billboard meets DelDOT standards. The recommendation will be to incorporate regulations also similar to what Sussex County has adopted with more restrictive distances and radius'.

It was noted that one Planning Commissioner recommended prohibiting future billboards within City limits. That will also be considered.

Mr. Sharp shared that the temporary sign issue is a more difficult matter to address. The code's current language conflicts with recent court decisions because they are not content neutral and potentially violate freedom of speech laws.

Mr. Sharp provided information regarding the 2015 Reed vs the Town of Gilbert case involving directional signs for a church in which the United States Supreme Court clarified when municipalities impose content-based restrictions on signage. This section of the sign code needs will be revised to avoid legal challenges in this respect. All temporary signs will be treated the same, and enforcement can only focus on the size, location, quantity and duration and not what the sign says. The current sign code regulates business, real estate and political signs differently, which conflicts with that Supreme Court decision.

Mr. Pierce added that though a formal recommendation was not made, the group stayed within the context of the Sign Council On-Premise template which was structured to allow temporary signs in some quantity and size for each property, though again, additional input is needed.

The current sign code contains language conflicts, particularly under the prohibited sign section where it lists several types of signs not allowed within City limits, but ends the statement with "allowance shall be determined by the Code Official."

There is a need for more definitive criteria as to what is allowed and not allowed when it comes to temporary signs. The group discussed allowing one temporary freestanding sign and one temporary wall sign per property or per business, with size differences for residential versus nonresidential zones.

He stated they will continue working with Downtown Milford Inc. with architectural design standards that were created over the last several months to develop some type of review process.

Mr. Pierce said these five points will take up the majority of time of future workshops and public hearings.

If Council concurs, the draft code amendment will be forwarded to the Planning Commission for their review at the upcoming June meeting. They will provide guidance on the on-premise sign heights, sizes, setbacks, billboards, temporary signs, EMCs, and possible downtown sign design criteria and review. He plans to invite the working group members to participate in those discussions as well.

With the Planning Commission's direction, a final draft will be prepared. After our Solicitor reviews and approves the document, public hearings will be scheduled for a formal ordinance review.

Mr. Sharp stated that he has been through this with Sussex County for more than a year and hopes that Council will carefully review and identify areas they feel that changes are needed, and specifically provide feedback on what signs are permissible, which should be prohibited, heights, etc.

He thanked the working group for their input and recommendations, noting that a lot was accomplished during the five two-hour meetings.

When asked about banners, Mr. Pierce described the informal thirty-day approvals for specific events. That is presently handled in that manner because the code prohibits banners 'except at the discretion of the code official', which again contains conflicting language and needs cleaning up.

Mr. Pierce concluded by stating that next Tuesday, the Planning Commission packets will be mailed. He will provide a link to access the draft sign code. He encouraged Council to review it and email the City Manager or him prior to any further meetings.

Mr. Rutt recalled that a few years ago, legal action was brought against the Town of Milton as a result of making a resident remove some political signs. The ACLU brought suit which resulted in a substantial lawsuit and a lot of bad press.

When asked, Mr. Pierce confirmed the United States Sign Council Foundation is a non-profit group with sign companies as members. In essence, the template is more of a pro-sign industry template and the reason he felt it would be a good starting point.

Mr. Sharp added that the feedback from local sign industries was they are not opposed to clear regulations, though they were in favor of more commonsense type regulations.

Councilman Marabello recalled when he was an elected official many years ago this was discussed. He suggests the effect, as far as beautification, must remain a goal. There has been a lot of work done in Milford to be more attractive, and adding a lot of signs with no separation, looks ugly and defeats the purpose of the sign and referenced the Lewes area where this has occurred.

He asked that the beautification of the City remain a top first priority.

Downtown Parking Study Results

Mr. Pierce reported that one of the objectives of the transportation chapter of the City's Comp Plan was to study and address parking deficiencies in the central business district. He then introduced Adrienne Eiss, Project Manager of Whitman, Requardt & Associates LLP who performed the downtown parking study, paid through a grant provided by the Dover Kent Metropolitan Planning Organization (MPO).

Ms. Eiss said she will summarize the study purpose, talk about what was done, provide a summary of what was found and present the recommendations for improvements.

She explained the purpose was to determine whether the number and allocation of public parking spaces for downtown merchants and their customers is adequate, to determine parking needs, and evaluate potential improvements the city can make to address needs.

The study involved typical conditions and did not include event parking.

It included the C-2 Central Business District zone generally bounded by North Second Street, Causey Ave./South Second Street, Maple Avenue on the west and Montgomery Street on the east. This involved retail establishments, commercial restaurants, as well as parks and public destinations such as the Milford Library and Milford Senior Center.

The test for the study were to evaluate the existing conditions that involved public outreach, identification of needs, developing recommendation for improvements.

The outreach activities include several parts at the beginning. They met with City agencies including the Planning Department, Public Works and Parks and Recreation and she talked to the Police Chief.

They did a presentation to the Downtown Milford Inc. Entrepreneurs' Group in September and followed up with a public workshop at City Hall to get feedback and input. A questionnaire survey was completed and made available on the City and Dover Kent MPO websites.

Initially an inventory was done which results follow:

- 327 on-street spaces
- 433 public off-street spaces (owned by
- approximately 1,000 private off-street spaces
- A total of over 1,750 parking spaces in the Central Business District

Ms. Eiss looked at posted parking regulations and referenced the map and no parking, permitted parking, two-hour parking and handicapped on street parking areas.

They inventoried every parking lot (private, commercial or public) for a total of 48 lots. Of those 13 are public lots owned by the City.

Several maps were referenced and correlating parking statistics.

They also considered turnover which the number of different vehicles that occupy a space. Turnover counts were conducted on a Thursday from 10:00 a.m. to 7:00 p.m. in the three busiest public lots on street in two-hour limit zones.

Turnover can be promoted by setting time limit on parking. The City has addressed that by setting two-hour time limit posted on portions of the following streets:

Walnut Street
South Front Street
North Front Street
Park Avenue
Church Street

From the existing conditions, they found no obvious shortage of parking spaces on typical days. When an individual block or lot is full, spaces always available in adjacent block or nearby lot.

However, there is a need for better direction to the public lots, better identification of public parking lots and the poor layouts cause traffic conflicts and poor circulation.

In some public lots, employees are using those spaces which eliminates spaces from potential customers and visitors.

The purpose of parking-related improvement projects in downtown Milford would be to improve public awareness, user comfort or availability of public parking that supports downtown businesses.

As a result, recommendations were made, with six aimed at improving public awareness, seven aimed at improving user comfort and availability of parking.

For each of the recommendations, a timeframe, cost and responsible party was provided:

Councilman Morrow arrived at this time.

To improve public awareness of the parking resources, the following recommendations were made:

- Consider naming parking lots.
- On-line mapping of public parking resources
- Businesses can add parking information to their websites.
- Improve parking directional signing on the street and identification signing at public lots.
- New signs for public lots.
 - 24 locations for new directional signs on the street.
 - 10 locations for new lot identification signs.
 - 11 signs for other purposes.
- Create convenient, highly visible entrance to Northwest Front Street lot.
 - Change existing exit driveway to entrance
 - Lot identification sign instead of “Do Not Enter”
 - Makes lot seem less remote for destinations south of North Front Street
- Pedestrian directional signing to SW Front Street lot
 - Raise awareness of existing walkway to Walnut Street
- Periodically review and update street parking regulations
- Work with employers to encourage employees to park in underutilized lots north of North Front Street to increase availability of parking for visitors
- Add street parking to Washington Street

- East side between Southeast Front Street and Northeast Front Street
- Destinations served include the Milford Library, apartments, Davis, Bowen & Friedel, Park Place
- Improve Arena's Lot
- Improve Park Avenue Lot
- Improve NE Front Street Lot
- Improve City Hall lot
- Improve Pearl Alley lot sidewalk frontage on Southwest Front Street for pedestrian safety

Ms. Eiss stated that eight of the recommendations can be done in less than two years; nine can be implemented by City sources. Those needed to be completed by contract including parking lot construction and the design and creation of the directional signage system.

The total cost of the recommendations is \$330,000 based on the following estimates:

Five of the improvements involve no capital cost.
\$262,000 for parking lot improvements
\$ 65,000 for signing improvements
\$ 3,000 other
\$330,000

It was determined the conditions of the parking lot were not part of the study.

When asked why the previous bank parking lot was closed off at the proposed restaurant at the corner of Northwest Front and Walnut Street, Mr. Pierce explained the Walnut Street was closed off to gain additional capacity and parking spaces. With proper signage, the front entrance could be made two-way, though it may be difficult to get DelDOT to agree to that due to its close proximity to the signaled intersection.

Mr. Pierce also noted that some of these items were discussed during the Rivertown Rebirth Steering Committee process. Many of the recommendations are in the capital budget for Council consideration including parking lot upgrades and parking signage. Some of those cost estimates were already included in the CIP. For example, Public Works has been working on Arena's lot to improve circulation.

Councilman Culotta feels that in the short term, the signage is the biggest priority and most easily fixed. There is a lot of parking that visitors are unaware of and he feels the City should be doing a better job of making that apparent. He feels the proposed signage budget is manageable.

In addition, he feels the two-hour parking is a bit of an over reach and too hard and too expensive to enforce without a metered system.

Solicitor Rutt stated that a lot of municipalities used to mark a tire and the Federal Court has ruled that is a violation of the Fourth Amendment.

There being no further business, the Joint Workshop concluded at 6:52 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 28, 2019

The City Council of the City of Milford met in Workshop Session on Tuesday, May 28, 2019 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:55 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilmembers Daniele Marabello, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmembers Lisa Peel & Katrina Wilson

Request for Funding/Kent Economic Partnership

KEP Executive Director Linda Parkowski reported that she is present to provide an update of Kent Economic Partnership activities, thanking the City of Milford for their annual support.

She referenced the new slogan/logo/website (choosecentraldelaware.com) created over the past year.

Ms. Parkowski reported the following:

KEP is a private/partnership made up of Kent County Levy Court, municipalities, Greater Kent Committee (businesses and CEO's) and the State of Delaware agencies. A study done by Rockport Analytics identified three targets industries-distribution/warehousing/manufacturing, health care and business and legal services. Either a lot of money was being spent outside the county or those services were being imported.

In Kent County, there was a demand of \$756 million for distribution/warehousing/manufacturing and an import of more than \$310 million; demand of \$1.1 billion and \$153 million was imported in health care services compared to a demand of \$1.6 billion with \$775 million imported.

Because of the need for a workforce to attract that type of business, Rockport also identified education/skills development as a recommended target and provided a list of occupations in which Kent County has a deficit. For the first time ever, an Education Workforce Committee was created in which all higher learning facilities, secondary and technical schools are included. The goal is to have the trained workforce for these targeted industries.

Presently, there is only distribution/warehousing/manufacturing workforce is available. Training for the other target areas is inadequate and will be addressed by the committee(s).

Rockport also identified quality of life. Without a place for people to live and locate their business, they are not moving here. There are a couple municipalities in Kent County in which quality of life is a high priority and she believes Milford is near the top.

A Quality of Life Committee was created with a majority of Millennials. When asked what would make this place attractive and needed, they found out that for a plus thirty Kent County is adequate. For minus thirty, they need to do more and the committee is working on that.

Central Delaware Schools will also be highlighted through a partnership with the Delaware State News.

A movement across the State was created by the various business organizations called Ready in 6. That will study the state permitting procedures, evaluate county and municipal processes, calculate the economic loss and identify the best practices from across the country which will result in five attainable goals.

Acknowledged were the funding received from:

State of Delaware
Kent County Levy Court
City of Dover
City of Milford
City of Smyrna
City of Harrington
Greater Kent Committee

Potential partners include:

Camden
Clayton

KEP has hosted meetings with local planners to discuss standardizing forms between the municipalities, procedures between the municipalities and to encourage more communication between the County and its municipalities.

They have also hosted town manager meetings and at the next meeting will consider access to services. Grant writing, marketing, social media, USDA grants and University of Delaware services will be reviewed.

Business retention and expansion programs are also available. She has toured Milford businesses with City Manager Norenberg and Planning Director Rob Pierce and more visits are planned to access needs and identify potential supplies for potential relocation possibilities.

Talent attraction remains the number one issue across the State of Delaware. Needs range from IT personnel, managerial, technician to mechanics. Some of that problem is the lack of skills in those fields and will be a major focus.

Many leads are received, with many coming from the State organization. They respond with sites locations and Milford is mentioned frequently, often because of their industrial parks which are submitted for distribution and logistic sites because they are shovel ready which is often a business' number one objective.

Kent County, along with KEP requested and Kent MPO funded, a transportation study for Milford of East-West Freight Routes out of Kent County which will begin July 1st.

Master Planning for the Future continues with Little Heaven and South Frederica interchanges being developed so that they will be shovel ready for any potential development in that area.

Ms. Parkowski has attended five different trade shows outside of Kent County and advertised in Site Selector Magazine in an attempt to sell the county and raise awareness of the potential.

The website has been completely rebuilt is much more user friendly, with identified shovel-ready sites and large signage will be installed this summer to help advertise those sites that are in high demand and approvals are in place.

Flyers have been created to highlight the opportunity zones as well as Downtown Development Districts throughout Delaware.

She noted that this was their building year starting with ground zero. This year, she spent a lot of time on warehousing and distribution. Next year, the target industry will be healthcare with Milford poised due to the new Bayhealth Campus.

Following the presentation, Mr. Norenberg reported that next week, City Council will be considering funding several organizations, including Kent Economic Partnership request for \$30,000 to support their initiative. He also noted that Councilman Boyle represents the City on the KEP Board.

Request for Funding/Milford Public Library

Mayor Campbell announced that because his wife works for Milford Public Library, he excused himself and left the Chamber.

Executive Director Kay Hudson was in attendance to present the request on behalf of the Board of Trustees of the Milford in the amount of \$50,000 for the upcoming year stating as follows:

The Library is one of the biggest assets Milford has to offer its citizens and is the Cornerstone of Downtown Milford.

Ms. Hudson provided some background talking about its relocation and growth on South Walnut to its current

In the late 1980's, the City Fathers wanted to move the library downtown in an attempt to help revitalize Downtown Milford. The new library was built and in 1993, the new library opened. In 2007, Milford had already outgrown the building and it doubled from 1,200 square feet to 2,400 square feet. Today, there are 24 public computers, an enlarged children's room, meeting room, Delaware research room, Milford Chronicles digitized from 1872 -2012 and Milford History.

Approximately 500 patrons are served a day. New residents share that Milford Library is one of the main factors for making Milford their home.

She then referenced the following letter:

The growth of Milford is on the rise as the population increases, as does the usage of the library and with that the cost of maintaining the library increases. Everything is free at the library with the exception of a few programs that have a minimum cost. Not only can a patron borrow books, DVD's, and many other formats for entertainment and education, but programs are offered for all ages from the newborn to the senior citizen. Included is a list of "Library Facts" for your enlightenment.

The main funding for the library is from Sussex and Kent Counties, the State of Delaware, donations, and the support of the Friends of the Library. These monies only partially support the costs of maintaining the library as reflected in the attached Financial Analysis sheet. Due to endowments and financial planning by the trustees, the library has been able to maintain the level of service the community has grown to expect. As this growth continues, additional funding is currently needed.

Ms. Hudson provided the following information:

Staff Total: 23 (2 bilingual)
Salaries: \$472,00
Six New Staff Hired in 2018
\$11.20 Average PT/\$21.58 Average FT
Total Salaries \$472,000

Programs/Events Hosted in 2018: 734
Number of attendees: 9,595

New Card Registrations:
2017: 1,226
2018: 1,303

Children Programs-
My First Library Card
A Thousand Books before Kindergarten
Lifesize Candy Land

Children's Program 571 Participants (April 2019)
Storytime-Preschool and Toddlers

Adult Programs
18 Program 350 Participants (April 2019)

Summer Reading Program:
Children: 400 (2018)
Teens: 35
Adults: 525

Music in the Park
Motown Bingo
Blood Bank Services
AARP Services 650 people
Seasons Hospice
Social Worker every Tuesday
Computer Classes
Computer assistance (one on one by IT Specialist)
Book Clubs
Lecture Series

Teen Center open daily from 3 to 8 p.m. with various programs and activities.
Mission Statement:

The Milford Library STEM Teen Center strives to provide teens with constructive, educational, and leisure activities that meet ALL individual interests and needs. We are a place where teens can engage in unique learning opportunities that will reveal their strengths and weaknesses. The Teen Center offers a safe setting which allows teens to express themselves and build positive social interactions. It is our "TOP Priority" to engage teens in lifelong social and academic skills needed to be a successful and productive member of the Milford community.

Teen Center Assistant Director Mike Baker also shared some success stories of teen patrons who are involved in the Teen Center.

Ms. Hudson reported that in the past, they were able to put money in a reserve account. However, they are now coming out in the red every year and those reserve funds are now being used in order to continue with these quality services.

She thanked the State of Delaware for their support in building and expanding libraries, but pointed out they do not provide assistance with operations. Without any new funding, the library will be forced to reduce the hours of operations, less programing and close the Teen Center.

She concluded by stating she appreciates the support shown by the City in 2012 when the library expansion was completed. They recognize the City also provides snow removal and grounds maintenance; however, there is an urgent need for additional financial support.

Mayor Campbell was asked to return to the Council Chambers to adjourn the Workshop Session.

There being no further business, Mayor Campbell adjourned the meeting at 7:29 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 28, 2019

Milford City Council held a Public Hearing on Tuesday, May 28, 2019 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, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmembers Lisa Peel & Katrina Wilson

Mayor Campbell called the Public Hearing to order at 7:33 p.m.

ORDINANCE 2019-11
Code of the City of Milford
Part II – General Legislation Chapter 230 – Zoning
Amending §230-18 OC-1 Office Complex District

Planning Director Rob Pierce referenced the events leading up to the proposed adoption of this ordinance. He stated that in Fall 2018, Council’s Community Affairs and Economic Development Committee lot sales in Independence Commons and heard a request from I-Realty for a self-storage facility within the business park. I-Realty was interested in purchasing Lot 4 consisting of 11.52 acres where they planned to develop self-storage, which is prohibited in the current OC-1 zoning designation.

The OC-1 zoning district permits professional and medical offices/clinics, but permits day care centers, indoor recreation, private clubs, conference centers and charitable organizations but only by conditional use. The current code prohibits residences, manufacturing of any kind and bulk or wholesale storage or distribution centers.

The proposed text amendment, would allow self-storage facilities as a conditional use within the OC-1 zoning district. The draft amendment would also clean up the prohibited use section as the code already states under paragraph OC-1E “any uses not permitted, as previously listed, are prohibited.” This would eliminate any conflicting language that may provide the appearance that any uses not permitted, may be allowed.

The ordinance was reviewed by the Planning Commission at their May 2019 meeting, at which time they recommended denial by a vote of 3 to 1.

Mr. Pierce reported there was public testimony taken at the Planning Commission Hearing with many voices their opinions against it. In addition, a number of emails have been received from adjacent property owners and from employees working in the Veterans Home Facility.

Mr. Pierce advised that representatives from I—Realty have submitted an email stating they wish to rescind their offer on the land next to the Veterans Home and are no longer supporting this ordinance before Council this evening.

He then confirmed that I-Realty has not submitted a formal site plan application and instead, this is an amendment to the code that were permit an application for a storage facility to be submitted.

In order to be approved, it will require six votes of City Council.

Solicitor Rutt directed Council not to consider I-Realty's request as that is unrelated to the OC-1 ordinance amendment, which adds storage units to the zoning district and eliminates three items. Because the Planning Commission to deny the recommendation, City Council would need a vote of 6 affirmative votes, which tonight would be a unanimous vote.

It was confirmed that the City purchased the land from Tim and Jeanne Johnson though there was some supplemental funding for the purpose of creating jobs.

Mr. Pierce referenced the lots that have been sold and those that are still available, adding he has been in Milford for four years and only lot has been sold.

Councilman James pointed out that those lots that have not been sold, are not creating jobs nor any type of revenue. He recalled that desire of the Veterans Home when they located here to downzone that area, but asked if the prohibited uses are in the best interest of Milford or is the City comfortable with the lots not moving.

Mr. Pierce confirmed that if the prohibited section is eliminated from the code, those uses are still permitted, because they are not permitted as a by-right use or through a conditional use process.

He confirmed that eliminating the section does not change the ordinance and reiterated those uses are still not allowed. It is a simple clean-up of the wording in the code. However, the storage units are to be added and would be permitted through the approval of a conditional use application.

Mr. Pierce also reported that the State of Delaware Secretary Jeffrey Bullock also submitted a late letter of opposition to Ordinance 2019-11.

Mayor Campbell then opened the floor for public comment.

When asked if anyone was in favor or the ordinance, no one responded. He then asked for a show of hand, no one responded.

Maria Hammond said she represented her Aunt Major Retried Bernice Jackson who resides at the Veterans Home. She stated:

Yesterday we honored the people that served and gave everything and in November we will honor our veterans. At the end most people that work go home and relax, sit back, enjoy their garden, watch birds or their children play in the yard. That is the space that has been created at the park/facility/land. There is a Veterans home where her 90-year-old aunt sits and watches birds and deer from her window. She can go out on the front porch and watch the children play at the Boys and Girls Club. She can go out back and fish in the pond with her husband. If you have a loved one at home that has Alzheimers or any other illness, there is a place you can go when it becomes terminal at the Hospice House. Another place created so that those people can go there and pass in peace as well as their family members go there and utilize those tranquility gardens so they can feel better. The Boys and Girls Club is phenomenal with how many people go there and even have a church on Sunday. The park that has signs on the highway that tells families go there and play with your kids. They go there to visit her aunt multiple times a week and there is always someone around that pond fishing. People park in the field and walk over to fish, not counting the veterans that use the pavilion out back to fish. My husband has been at that pond with my aunt with a pole with a bate to fish. She has lived 90 years and served over twenty in the Air Force. She is one of the fortunate people there that has her right mind. She deserves the right to live in a place of peace and not in a place where she is constantly disturbed by noise and commission or construction. They are working on a new dining room and she watches the construction trucks go by her room every day. One of the first thing she will say is I know that dining room is for the best but I will be glad when those trucks stop going by my room every day. Her room is in the back and her view is of the drive going around the facility. That is the environment and she does not understand why that is being changed. A storage unit was on the table and we have storage units in Georgetown and they become a place for someone to put their boat that doesn't work anymore, their camper they don't use anymore and they leave them there and desert it. Until the time the owner of the storage unit has to have an auction to get rid of the junk. Not only that, but the one in Dover and she thinks was the Liberto Storage Unit in Dover became a drug center. This gentleman was storing his drugs, his weapons, his items to be distribute the drugs with and the police did a raid on

that facility while he was there getting his drugs. Is that the kind of environment that you want for those veterans the children in that area? Like you said I believe the State of Delaware gave Milford that land with good intentions to take care of it and to provide jobs. If you want and my cousin David Wilson is one that sent you a letter, but if you want to provide jobs for Milford that lady is talking about the library and millennials wanting to do things. Millennials want to be outside and exercise and want a place to go.

Andy Strine of Investors Realty stated:

We are the ones that opened this can of worms several months ago when looking for a parcel they thought was suitable. Obviously, this piece has been on the market for more than fifteen years and it had utilities and entrances and made sense from that standpoint. We came to you guys with the request recognizing it was a little out of the ordinary and said we want to make sense it makes sense for the community before we go forward. I believe you guys reached out to the Veterans Home, Boys and Girls Club and the surrounding stakeholders but maybe it did not get real until it got real. At the last Planning Commission Meeting, they talked to someone of the folks who were passionate and opposed to this, and while as a developer I get there are times where they will agree to disagree, but the day after Memorial Day he is not going to come up here and try to jam something down the Veterans Home throat by any stretch of imagination. That is not something they will do. They did do an email saying they will pull the contract back and he would suggest they don't support the amendment even though they were part of it initially in light of the feedback and comments and the folks that are there, it is not an appropriate use. He is sorry to put the City through this and he appreciates being able to speak.

Eugenia Thornton of 165 Lakeside Lane, Frederica stated:

Crystal balls being in short supply, it is generally bad policy to change what goes into a certain zone just to accommodate one applicant. I think you probably know that now. In this case, this idea has already gone off the rails because as Mr. Strine has said he has withdrawn his application. If you go ahead and change the text to include storage areas being no longer prohibited, we might be risking having another developer who wants to put a storage area in who will not put in a second general storage area like Mr. Strine was and instead get something else that doesn't work as well with the community as Mr. Strine and I-Realty do. You never can blame an applicant to try to make things going this way. He is in the business of making money and this Council is in the business of looking out for this area and the citizens and being as fair as possibly and I know from visiting the City this Council is good at doing that job. Of ten though when a government fails to stick to some of its long range plans the citizens do lose faith in government because after all, they build, develop and put their houses up and put their investment in where they are safe based on the plans already in place. When those plans get yanked out it can be very upsetting and she thinks Council is going to hear about that from some other residents. The Office Complex 1 Zoning already allows many uses that will grow Milford's economy by providing jobs and providing the City many services and good they want and need. And you don't want to continue letting that eleven acres next to the Veterans Home just be farmed for hay for the next fifteen years but the economy has been improving and some of the ideas already heard from a presenter at the meeting there may be some opportunity to get some of the uses that are already included in the OC-1 zone. I am wearing the miniature version of my medals that I earned as a Colonel in the United States Army to tell you that I am a potential person to come in to the Veterans Home and I am a volunteer there now and I know Bernice and she knows my dog Dolly. More importantly I am representing my husband who cannot speak and I am his power of attorney and if I take six minutes that is why. My husband is dying in that Veterans Home right now and I don't want his last views and my future views to be that of a back end of the storage area even if it a next generation storage area. The optic of two warehouses side by side, one the warehouse of unwanted furniture and one the warehouse of veterans would be an optic the City of Milford would not want to provide. She appreciates the no vote tonight.

Renee Smith of 458 Canterbury Road stated:

My husband and I have property that borders two sides of the business park and we also work at the Veterans Home. I have been there for twelve years. I am worried about what you are going to do to the people that live there. They have served their country and do not deserve to live in an industrial park. If you start changing the ordinance now or the text to the amendment, you are opening the door for a lot of other things to come through. I don't think it is right for the park, right for me as a homeowner. I have already been saddled with an enormous number of solar panels that no one informed the surrounding property owners were being placed there. No one told them that chain link fence was going to be put around them and have given someone else the opportunity to put chain link fence up because that door has been opened. The City has already set the precedence and I don't think it is fair for the people

that live or border Independence Commons or to the Veterans Home and to the park. I am hoping you will vote no this evening and leave things as they are and make it a professional business. It is quiet out there and already endure the 'nice' concerts they hold at Mispillion Brewery every Saturday night until 11 or so every weekend and no one in that area can open their windows. She hopes Council will say no and make an attempt to keep this side of the park quiet so the Veterans, Hospice and Boys and Girls Club and neighbors will have a peaceful environment.

Terry Hollinger, Administrator of the Delaware Veterans Home stated:

Thanks to the previous presenters he is able to cut down and hope he is able to stay within the three minutes permitted. The property was initially down zoned at the request of the Delaware Veterans Home and Delaware Hospice and the reason they are located there today. Even though the current storage unit has been removed, does not prevent someone else from coming in or someone else changing their mind and re-presenting this application at another time. Previously in the last meeting minutes, it stated that this would not affect the Delaware Veterans Home. You have to remember a large part of our population of World War II and Korean and Vietnam Veterans who suffer from PTSD, Dementia and Alzheimers and seeing a chain link fence with barbed wire will have an unknown impact on them. For someone to say it would not have an effect on the facility cannot be judged that until it happens. Then it will be too late and they don't want to have to deal with the veterans in that way. The previous presenter from Kent County Delaware said they are going to start emphasizing healthcare and Milford has a wonderful hospital that is now Bayhealth which will attract more physicians and other professionals. True it may not have sold previously but if it is given the opportunity, there will be more professionals moving into that area.

Allan Angel stated:

I am representing my father who is a veteran at the Veterans Home. Myself, as a disabled vet, I could end up there also. I have the same concerns everyone is speaking about tonight, which I agree with everyone's concerns. A storage center is not a job creator. If that was put there for the purpose of creating jobs but let's talk first about what it is used for first. As a County Commissioner, I am the Economic Development Commissioner for Kent County. I would be more than glad to help Milford find the proper place to put something there. The fact that Hospice, the Veterans Home and the Boys and Girls Club have been rightfully protected and the City has done a great job doing that. As a County Commissioner for fifteen years, they have land they have not been able to sell in their business park either. So we are all in the same boat and are all trying to work together. To let you all know, we have the first manufacturing coming to the State of Delaware to Kent County. That is all I am allowed to say at the present time, but in the proper place. With your help, please vote no tonight to what these people are asking and I am asking for too.

Susan Lloyd, President and CEO of Delaware Hospice stated:

Thank you so much for all the comments tonight and you have a tough job to make decisions on the growth and development of Milford, but I want to second a lot of the comments tonight and we have created such a beautiful place in Independence Commons and we have really, truly gone beyond the dreams I had for it when she helped to open the building eleven years ago. I hope you will vote no.

Dottie Burke stated:

My husband is also at the Veterans Home and I just want you all to vote no. That's it.

Dietman Panzig of 143 Bluebell Drive, Magnolia stated:

I am a veteran and fought in Vietnam. When I retire, I don't want to fight that war again. I want to ditto what everyone has said tonight and hope you vote no on this situation.

Donald Smith of 458 Canterbury Road, Milford stated:

I also work at the Delaware Veterans Home and I want to say I am in full agreement with the previous comments against the changes. I am personally against any zoning change that would allow self-storage into the office complex and the lessening of requirements that would allow that type of industry and similar to come in especially for the Veterans Home as everyone has mentioned, but also for the surrounding community. I believe the installation of that type of industry would lessen property values. My property backs up to a portion of this 11-acre parcel as is shown on the screen. I also want my neighbors to be considered as well. Hopefully you will vote no.

Tammi Young of 89 Benmel Lane, Harrington stated:

I am the receptionist at Delaware Veterans Home and I also want you to vote no. These people deserve much more than having everything including their peace and quiet disrupted. Everyone else covered the rest of my concerns. They deserve that peace and they do enjoy watching the children and looking at nature. Right now with the construction going on, it is hard on them. So, I can't imagine that everything is taken away and I ask you to vote no.

Nina Pletcher of 428 South Walnut Street, Milford stated:

My mother is a resident at Milford Place which is no where near this construction proposed. But I don't know if anyone asked me or her about all the condos she can now see at the backend of that facility. I think this makes me neutral about this position, about this vote, but I just felt I needed to speak for my mom who is also very valuable to me as their family members are to them.

There being no other person wishing to speak, Mayor Campbell closed the floor to comments.

Councilmember Marabello moved to deny the adoption of Ordinance 2019-11 amending §230-18 OC-1 Office Complex District, seconded by Councilman James:

Ordinance 2019-11

CODE OF THE CITY OF MILFORD

PART II – GENERAL LEGISLATION

Chapter 230 – ZONING

Amending §230-18 OC-1 Office Complex District

WHEREAS, Chapter 230 of the City of Milford Code establishes zoning regulations for the use of land and structures so as to lessen congestion in the streets; secure safety from fire, panic and other dangers; provide adequate light and air; prevent undue concentration of population and overcrowding of land, facilitate the adequate provision of transportation, water, sewage, school, park and other public requirements, conserve the value of buildings and encourage the most appropriate use of land; and promote the health, safety, morals and general welfare of the City of Milford; and

WHEREAS, City's Planning and Economic Development Staff proposed changes to the code that includes removing certain prohibited uses and adding self-storage facilities; and

WHEREAS, approval of any self-storage facilities will be by majority vote of Milford City Council following a recommendation by the Planning Commission and the conclusion of two public hearings whereby interested individuals can present their views; and

WHEREAS, on March 11, 2019 the Milford Community and Economic Development Committee recommended the proposed amendment.

Solicitor Rutt then stated the motion should be to accept the recommendation of the Planning Commission to deny amending Ordinance 2019-11.

Motion carried by the following unanimous roll call vote:

Councilmember Marabello moved to accept the recommendation of the Planning Commission's rejection of the proposed Ordinance 2019-11 to amend the Zoning Code, seconded by Councilman Culotta. Motion carried by the following unanimous roll call vote:

Marabello-votes yes and stated he went to the service yesterday and he did not expect to be this emotional. But he had two brothers that fought in World War Two and he is the youngest. He rejects it for a few reasons. First of after looking through the documents for all these years this was not the intent for this storage unit to be there. First of all, they have a phrase and is it a unified commercial development and does it conform with what is there now. As far as the economics, the only job that would be created is one possible job in the office. And the construction would be a problem. As far as the economic benefit, the city would get some money for the property, but that is not money that I as a councilman would want to receive. Our assets in the City are high enough that we don't need that money at this cost. Those people have the right, as people said of tranquility and some Hospice patients are living their last

days in that facility. He knows someone in the home and they want a sense of peace and we owe it to them and he votes no.

Boyle-votes in support of the recommendation of the Planning Commission to reject the change to the zoning code. He thinks we owe to the veterans, but we also need to keep our word when it was originally zoned, the City committed itself to develop an office park and the businesses are there bought and built under the assumption it would remain a business park, a setting more conducive to businesses than to activities like manufacturing and storage facilities.

Culotta-stated as a former marine, I can see the value in what the veteran home provides. We were very lucky as a City to get that here. Initially, I thought it was no big deal to put a storage business there. But after meeting with a lot of folks and getting a lot of phone calls and discussing it more and seeing the spirit of what the OC-1 zoning is, has changed my thoughts. The folks who asked for it, like Casey Kenton, is a really good friend of mine and his father taught my brother how to fly a plane and are very good business people and they would have made a very good project. However, my hope is that Milford's overall economy becomes a very healthcare-based economy. With the Veterans Home there, he would like to see that property used as a veteran's healthcare-type business completely and we all know how bad healthcare is for veterans overall at a national level and he wants to be a representation of what could be good. I would like the Mayor and City Management to reach out and help grow that area economically and to use that land for veteran's healthcare or healthcare overall. With that I will vote to support the Planning Commission's recommendation of a no vote.

Brooks-votes yes to support the recommendation and originally years ago it was stated that Delaware and the City of Milford work together to create jobs in that area. We got that property for jobs and that is what is should be for – jobs.

Morrow-approves the recommendation of the motion of the floor. I think Councilman Brooks and he were the only ones here when acquired that job from the State of Delaware and it is where it is supposed to be without any changes. And also based on the recommendation of the Planning and Zoning.

James-votes yes to accept the recommendation of the Planning Commission to deny the amendment to the Zoning Code by not adopting Ordinance 2019-11 for several reasons. Mostly because of the comments from the public. Secondly, I understand the emotions and my sister passed away at the Hospice so we all have some connections with those facilities. My father-in-law is a retired marine and at some point, he will more than likely end up at the Veterans Home and he was actually on the Planning Commission when the City purchased that property and developed the business park when Karen Brittingham was the City Planner. He remembers the exact intention and he wants to thank our Planning Director Mr. Pierce for clarifying what this was all about. Just to be clear because some of these have taken place and it would still be a prohibited use if the other section was removed. He wants everyone to understand that if that zoning code was cleaned up, they would still not be permitted to do the storage facility. But mainly because of the public comments, he votes yes in favor of the denial to change the code.

Mayor Campbell thanked everyone for attending and providing comments.

ORDINANCE 2019-14

Windward Communities LLC-Commercial for a Conditional Use

On behalf of Property Owners Janet R. Swain, Gilbert C. & Irene D. Simpson and Jesse & Joyce Webb Current Zoning: C-3 (Highway Commercial District) C-1 (Neighborhood Commercial District)

Present Use: Single Family Dwelling, Outdoor Recreation, Small Engine Repair Shop Proposed Use: Shopping Center, Office, Retail & Restaurant

Area: 7.99 +/- ac; East side of S Rehoboth Boulevard approximately 350 feet south of Southeast Second Street Intersection Tax Map & Parcel Numbers: 3-30-11.00-042.00, 3-30-11.00-042.01, 3-30-11.00-043.00, 3-30-7.00-033.00 (portion of)

Mr. Pierce reviewed the application referencing an area map showing the location (see Council packet).

He stated the applicant proposes to construct a shopping center containing two 7,000 square foot restaurant buildings, three 9,620 square foot retail buildings and a 4,200 square foot office building on 7.99 acres located along the east side of S. Rehoboth Boulevard.

The shopping center is a conditional use under Chapter 230-14(C)(11). The applicant received approval from the Board of Adjustment on September 13, 2018 for a variance that states:

“Commercial districts. In any C-1, C-2 or C-3 District, a fifteen-foot buffer area shall be provided within which a landscape screen and/or fence or wall a minimum of six feet in height shall be planted or erected to separate any permitted use from any contiguous lot zoned R-1, R-2, R-3 and R-8 or any contiguous lot developed or approved for development for any residential use. Such landscape screen may extend into the lot setback, side yard or rear yard.”

The Board approved a variance mainly along an area that contains a drainage feature and the separation between the commercial and residential portion of this project, though there is some natural screening that exists.

The application is based on the information presented from Chapter 230(48) which outlines six items that Council should consider when reviewing a conditional use application.

The public hearing was properly noticed in the Milford Beacon on April 25, 2019 and all properties within 200 feet of the project area received mailed notices.

The Council packet includes a copy of the preliminary site plan reviewed by the Planning Commission during their May meeting. At that time, it was approved contingent upon City Council’s approval of the conditional use application. They also recommended approval of the conditional by unanimous vote.

Mr. Pierce then reviewed the site plan for City Council noting that the existing home would be removed and replaced with the right-of-way. That entrance would eventually connect to the residential subdivision which has received preliminary approval from the Planning Commission.

Also referenced were each related document in the packet.

Councilman Boyle asked if changing the zoning to C-1, stating that with the exception of the property next to the previous batting cages on the side of the creek, is surrounded by residential property. He feels that C-3 (business highway) would give them the ability to develop basically any type of commercial and believes that signage would be an issue, in addition to the added density.

Mr. Pierce explained the Swain property, which is the large portion of this project, is already zoned C-3, as was approved by City Council many years ago. The property that contains the house, was annexed in where the house is located, as neighborhood commercial. The majority of the project is highway commercial.

Councilman Boyle is concerned that in the middle of a residential neighborhood a highway commercial district which permit all kind of non-conductive businesses and disrupt the surrounding areas. He noted the signage code that is presently under review, which may possibly eliminate some signage problems, though currently there is very little control comparing them to signs that exist on Route 1.

He also noted that immediately across the street, to the south, to the north and behind it is all residential.

Councilman Boyle feels it is incompatible to a C-3 zoning. He said perhaps it can be addressed through a conditional use to confirm with the new ordinance or even limiting the hours of operation.

Mr. Pierce explained that the conditional use review can take into consideration the following six items, which address adverse impacts on neighboring properties:

- The presence of adjoining similar uses.
- An adjoining district in which the use is permitted.
- There is a need for the use in the area proposed as established by the Comprehensive Plan.
- There is sufficient area to screen the conditional use from adjacent different uses.

- The use will not detract from permitted uses in the district.
- Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.

The Planning Director stated that there could be consequences if the City attempted to downzone the property without going through the normal change of zone process, without a petition from the property owner, and it could be considered a legal taking of property rights.

Solicitor Rutt explained at this point, the City has the application, and it would have to be re-noticed and the applicant would have to file the amendment. At this point, he agrees it would not be proper to the applicant at this stage. The other option is to vote against it.

Mr. Pierce did note the C-1 category provides an avenue for neighborhood shopping centers. Councilman Boyle said that the uses he saw were in the C-1 district. His concern is by virtue of the C-3 district, is allowing uses that are found on any main highway, including fast food restaurants, gas stations, and unlimited hours of operations for the most part, in a residential area. It would create a light and noise inconvenience to the surrounding residents.

Mr. Pierce agreed that is the reason it is important for those type issues to be considered by Council at the time the change of zone is considered. Once the zoning is acquired by a property owner, after proper notice and hearings, it is very difficult to downzone a property.

Councilman Boyle understands, but may consider some serious conditions to limit the impact. In theory, there could be a huge sign located there. Mr. Pierce confirmed that a 225-square, 20-foot tall freestanding sign is permitted.

Councilman Boyle pointed out it really is becoming a residential neighborhood with one exception—this property and the one immediately adjacent to the north, but surrounded by R-1, R-2 and some R-3.

Mr. Pierce confirmed that Fork Landing is located to the north, separated by the drainage feature. There is a pond across the street and some residential strip lots that are within the County that are large residential lots and to the south. The property to the east is the Windward on the River residential site plan that received site plan approval for 264 multi-family units in an R-3 zoning and a by right use that meets the criteria and did not require a conditional use review.

He continued stating this was a joint project, that was initially broken up at the request of the Planning Department to separate the commercial from the residential site plan and is how we got to this point. The residential entrance would be off Beaver Dam Road, and would join the proposed entrance off Rehoboth Boulevard.

Mr. Pierce said the construction plans are currently under view to ensure it incorporates some traffic calming methods.

Councilman Boyle stated that he has concerns and even though it is not in City limits, across the street are two residential and a rather large piece of property across the street that he believes is intended to be residential.

Mr. Pierce verified that the large farm across the road is actually split into five to six pieces of land and is designated low-density residential in the City's comp plan. It would have to confirm to either R-1 or R-2 or would need to apply for any amendment to change it, if it were to be developed in the City.

Councilman Marabello asked what can be done with regard to these concerns; Mr. Pierce shared that reasonable conditions can be placed on the application, related to hours of operation, etc. He believes there are some area restrictions that could impact the sign size, and is unsure if the owner would have an issue with conditions being placed on the sign. He recalls there was some discussion of the location in the preliminary review, mainly due to the parking and the orientation of the building.

The Planning Director reiterated the sign size allowed is 28 feet and 225 square feet.

Solicitor Rutt explained the application is for conditional use and there are three zoning districts involved—C-3, C-1 and R-3, which is a combination of zones. Mr. Pierce said the R-3 only involves a small slither of land that will be the landscaped buffer of the project. They will receive PLUS comments on a comp plan amendment request that would take

this triangular piece and make it conform with moderate density residential to prevent a split zone parcel. He then made several references to the site plan and associated zoning and uses.

It was confirmed the Planning Commission did not recommend any conditions on the application.

Councilman Culotta said the road was originally developed for business/commercial uses. As the City developed, it became more residential though that was further south. Though he understands, it is a very busy road and there many commercial uses on the road and he does not feel we should limit. He emphasized that Milford needs to be a business-friendly environment and does not think rules should be made related to a residential area. He thinks it is fine the way it is as in his opinion.

Solicitor Rutt pointed out that Council is discussing the application and has not heard the applicant's presentation, which is not the normal procedure. He recommends the applicant present after which, the public provide any comments, before Council continue to discuss the application.

DBF PE/Principal Ring Lardner of 1 Park Avenue, Milford, was in attendance to present the application. In attendance was Nick Hammonds and Doug Motley of Windward Communities, LLC. He asked to include the Planning Director's comments as part of the record to prevent providing repetitive information.

He stated the following:

Tonight, we are requesting your approval for a conditional use to allow a shopping center to be located on approximately 10.4 acres of land more or less. The project consists of three parcels of land and a portion of a fourth parcel.

Mr. Lardner also referenced the site plan showing the locations of the previous repair shop, Putt a Rosa, batting cages, horseshoe tournaments and Halloween events. The fourth smaller piece in the rear will be used to adjust the lot line. Part of the commercial would then become R-3. He also noted the area that was annexed by City Council in December with at C-1 designation with the intent to become one shopping center project.

The State Strategies Map identifies these properties as Level 1 and 2, whereby the State intends to spend money and encourage growth.

The project as proposed will consist of two restaurants for approximately 168 seats, one office building consisting of 4,200 square feet and three retail buildings each consisting of 9,620 square feet for a total square footage equaling 47,060.

Generally, with the exception of the shopping center, all other proposed uses are permitted within their respective zoning classifications. Only the shopping center requires a conditional use permit. Otherwise, it could have been approved by the Planning Commission through a site plan approval without conditions.

Because of the conglomerate buildings is the reason it is before City Council, which would allow the shopping center to be built.

He noted that it is subject several requirements for the project which include:

The project is greater than 1 acre and public water, sewer and electricity will be provided by the City of Milford. Stormwater management will be provided by a wet extended detention pond, underground chambers or combination of the two. The site provides for an internal circulation with access to a Rehoboth Boulevard and meets the access separation requirements.

It is to be designed to allow small truck and trailer deliveries to the restaurants and UPS-sized vehicles to deliver to the other retail facilities and office building.

The site provides 270 parking spaces that exceeds the code requirement of 259 spaces based on 5.5 spaces per 1,000 SF of leasable area. We were actually required to calculate the parking based on individual uses versus the shopping center calculation. The parking lots will be landscaped and meets the setback requirements. Finally, the project received a variance for buffering along Rehoboth Boulevard, Deep Creek and adjacent residential project. Buffers will be provided along the Feindt properties.

This project is a redevelopment of the former Putt-a-Rosa site and repair shop. This is an opportunity to redevelop the site that has been vacant for several years. During the due diligence period it was discovered that fill was brought on-site and after further investigation it was deemed to qualify as a brownfield. By redeveloping the project, the site will be cleaned up that may have otherwise been left in its current condition.

DNREC is currently reviewing the study and remediation plan and we anticipate approval within the next 30 to 60 days.

The project is partially located within the 100-year flood plain. During the review and approval process, we will file amendments to the Flood Map. There are portions of the site that are incorrectly mapped and other portions will need to be filled. The project is located adjacent to tidal wetlands and the project meets the buffer requirements for the wetlands.

Sidewalks are provided in front of all buildings with three connections to the sidewalk along South Rehoboth Boulevard, as well as an interconnection back to the residential portion. The parking has been designed to handle truck deliveries as previously stated, and the project provides four loading areas.

A free-standing sign will be located in the middle of the road frontage. Commercial is only as good as signage. Though there are concerns about the sign, it would still be permitted if they restricted the uses to those that are permitted as a by-right sign. His client wants to be a good neighbor and the signage will be appropriate to bring visitors to the site and will provide the information on all businesses, versus the need for individual signage.

When heading into the City of Milford, there is existing industries and commercial uses as one approaches the river. Therefore, it is not totally out of character when looking at the immediate area. This is a heavily traveled road that does have a commercial impact. There is nothing south of this area to serve the existing residents south of Milford and will become the first commercial venue. Other than that, those residents are having to travel through town to access Route 113 or those commercial establishments in the northern area of Milford on Route 1.

The access will be on South Rehoboth Boulevard consist of a single lane inbound and dedicated left and rights onto the Boulevard. The Boulevard will be improved to meet DelDOT Standards and will include a left turn lane and right turn lane. A Traffic Impact Study was performed by our office. No other improvements are required and the final letter was issued on April 2, 2019. The study included both the residential and commercial projects and the developer is only required to improve the road frontages along South Rehoboth Boulevard and Beaver Dam Road

The Planning and Zoning Commission unanimously recommended approval at their May 14, 2019 meeting with no recommended conditions.

We thank you for your time on this evening, are here to answer any questions that you may have and respectfully request approval of the conditional use, and felt it was beneficial to redevelop and clean up the parcel and provide services in this portion of the City.

I respectfully request approve of the condition for the use without conditions on the hour of operations and/or square footage of the sign.

When asked the type of sign, Mr. Lardner said the sign has not yet been developed though the 40 mile per hour speed limit will be considered and the appropriate letter size incorporated. He explained that if the sign is twenty feet wide, it can only be ten feet high (280 square feet). They cannot do a ten by 28 because it can only be 225 square feet. As a result, the sign will be proportional between height and width and typically the sides are somewhat wider.

Councilman Boyle emphasized that his concern is not the commercial, but due to the change, it will be surrounded by residential property with the exception of one parcel. He understands that stretch of Business 1 has commercial, but he lives just off that road and it is all residential where he is, across the street, behind and north of the golf course. Turning onto Southeast Second Street is all residential behind the pond as well. In essence, this will be in the middle of a residential neighborhood and what is permitted as commercial highway is incompatible. He said he is just reluctant to just accept someone saying 'trust me'.

Mr. Lardner responded by stating the property is already zoned C-3. They did not come in and ask to be rezoned C-3. He said a freestanding sign will be permitted up to 225 feet. Billboards are not a permitted right and that is a separate application in which Council could determine it would not be an appropriate location. There will be other identifying signs on the buildings. The sign will be specific to this one application who is currently zoned C-3.

He explained they could pull the application, go to the Planning Commission, the sign could be 225 square feet or 28 feet high, with no conditions. But because they want to do more than one type of building is the reason they have to come before City Council for the conditional use.

Councilman Boyle agrees noting that the sign is not a major hang up, though it is one of them. His concern is this is a substantial shopping center in the middle of a residential neighborhood, that theoretically be a 24/7 operation and involves lights and noise and everything related. He is looking out for his constituents and as a resident of that area, in addition to the residents living behind the shopping center in an apartment complex. There is no need for a bar that will be active until three in the morning and don't need trucks coming in all hours of the night. He does not want to see a gas station which is something that could be permitted.

Councilman Boyle respects the developer who needs to develop and sell space, but he suspects there are no tenants lined up and will take whatever is coming their way. But he feels there needs to be some reason applied.

Councilman Morrow pointed out that from Seawatch all the way down are businesses, that include Rumpstich, the business on the corner of Southeast Second Street, which is just north of this property. Therefore, there is a need and he does not think the owner's intent is to have a business operating 24 hours a day as he is unaware of any shopping center open 24 hours a day except for the supermarkets. He agrees with Councilman Culotta that we need to encourage new businesses and continue our business-friendly, compatible, already on the book, zoning areas.

Doug Motley of Windward Communities, LLC, 246 Rehoboth Avenue, Rehoboth Beach, said he wanted to add something. He said they are the developer of the property behind it, and will be making a \$40 million investment. They are pretty vested in making sure that whatever is developed on the front side is not intrusive or a problem for residents because they plan to have 264 of them as their customers and clients every day. They want to make sure they have the appropriate tenant mix in the front, that supports the users they will have in the back, as well as all the other neighbors throughout the community.

Solicitor Rutt then explained this is an application to approve a conditional use. The conditional use, is for the retail, the restaurants, etc., is what Council is considering. If they want to change any of those particular uses, they would have to come back through and amend the conditional use or the ordinance. The concern is about putting something that is C-3 on this site. Once the conditional use ordinance goes on this parcel, they could not do that without coming back before Council and Planning Commission again to amend the ordinance before Council tonight. What Council is voting on is what is before Council. In addition, Council has the right to make conditions. There is not a provision for a shopping center or a Wawa or Royal Farms. It is what Council is looking at.

Councilman Marabello said he is involved in downtown and one of their priorities is to make Milford's corridors more inviting, beauty wise. He asked if there is any possibility to add a couple of monument signs first and why do they have to be so high similar to billboards.

Mr. Lardner explained that the intent is to have people be able to find the shopping center. When a driver is 1,000 feet away, if the sign is too low, it cannot be seen, let alone what is written on the sign.

Councilman Marabello said at the same time, the best advertising is word of mouth. He is in the retail sign and he knows that not always the biggest sign is not always the best. In Rehoboth, they are so close together, a person does not even know which store is there.

Mr. Lardner explained that at this point in time, the design has not been done to say how everything works out. He does not want to see they will do a monument sign of ten feet high because they do not know how this will work out by the time DelDOT, the Conservation District and the City of Milford gets a piece of the pie, which could all impact the plan. It is very difficult to commit at the exact signage is not possible at this point. Right now, he does not even know if they have a project yet, though they hope to move forward though everything is preliminary.

He added that these developers have done commercial throughout Sussex and Kent Counties and understand the needs of area residents and the tenants. They are a well-known group of developers and he is very proud to work with them, though he is unable to make promises other than they will bring something very nice to the City that they will find attractive and nice.

Councilman James asked the intended hours of operation; Mr. Lardner said there is a professional office that could be as early as 7:00 a.m. to 7:00 p.m. depending on the type of office. He has staff that has been in his office since 4:00 a.m. and there are some employees still there. As a result, he cannot limit office staff to hours.

He continued by staying a restaurant is typically 11 a.m. to 11 p.m. weeknights and maybe midnight or 1:00 a.m. on Friday and Saturday nights. But again, this are typical hours and some retail could open as early as 7:00 a.m. and close later than 11:00 p.m. Very difficult to provide that information at this point.

Councilman James said he would imagine by the conversation there is nothing in the 24-hour operation; Mr. Lardner said there is nothing that would warrant 24-hour operations. They do not have a grocery store and believes that is the only thing that could be 24-hour operations and there is no convenience store, which is the other 24-hour possibility. Anything after that should be 'normal' business hours.

Councilman James said that as Solicitor Rutt stated, Council is only voting on what is in front of them. Any changes would need to be revisited. Solicitor Rutt said that is correct though conditions can be added.

Solicitor Rutt then asked if the developer would be willing to a condition that they would install a sign in conformity with the sign ordinance being developed under the C-1 district; Mr. Lardner said they have no idea what that is so it would be very difficult to commit at this time. He added that C-1 could be 32 square feet and no more than 4 x 8, though he understands the question. But it would very hard to commit to something they have no idea of what it will be.

Solicitor Rutt said he is trying to get to a point there is a condition that is proposed for this application that says there will be no sign and trying to find some common grounds between what he is hearing from Council and what the client is willing to accept.

Councilman Culotta said here we go again discouraging investment in Milford. In this case, there are two investors that want to spend \$40 million here. It is very easy for Council to make conditions and push all the development out to the highway and to say well it is out there and it is loud and noisy and that is where it should be. They do not know if that is the case here, though he does not think so from the drawing. He appreciates Councilman Boyle's concern about the impact on the residential neighborhood in the area. But he thinks it is important to business and believes it will actually draw traffic downtown, which will ramp up foot traffic and improve the Downtown Development District, which is all part of Downtown Milford.

He feels the concerns being discussed can be addressed at a later date when a restaurant wants to go in there. As it stands now, he thinks there is a need to vote on it.

Councilman Morrow agreed this is a public hearing, and no one was even heard from the public and this has been talked about for an hour.

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

Councilman Morrow moved to adopt Ordinance 2019-15, seconded by Councilman Culotta:

Ordinance 2019-14

Windward Communities LLC-Commercial for a Conditional Use

On behalf of Property Owners Janet R. Swain, Gilbert C. & Irene D. Simpson and Jesse & Joyce Webb

Current Zoning: C-3 (Highway Commercial District) C-1 (Neighborhood Commercial District)

Present Use: Single Family Dwelling, Outdoor Recreation, Small Engine Repair Shop

Proposed Use: Shopping Center, Office, Retail & Restaurant

Area: 7.99 +/- acres of land

East side of South Rehoboth Boulevard approximately 350 feet south of the Southeast Second Street Intersection

Tax Map & Parcel Numbers: 3-30-11.00-042.00, 3-30-11.00-042.01, 3-30-11.00-043.00, 3-30-7.00-033.00 (portion of)

Motion carried by the following unanimous roll call vote:

Marabello-he can see Councilman Boyle's view point, but reluctantly says yes with the hope they make this a nice project. If they don't another similar situation will not get the vote from me. He hopes this is a beautiful project because it is very important because we are selling the City and not just a store. When they come, they want to see a corridor it has to hit them just like a window. He had a retail business and you get a matter of seconds to sell the City through a beautiful corridor or a beautiful storefront. He hopes the developer does the right thing.

Boyle-he will agree with Councilman Marabello. It is a one-time deal and votes yes. He hopes the right thing is done, because this chair will not support anything else.

Culotta-votes yes to support the Planning Commission's recommendation and feels this is another good investment for Milford and welcomes more investors to Milford to make a better community with jobs and better economy and more options for eating out, which as Councilmembers, they receive many requests for. He thinks that looking at the drawing and knowing what he does about construction, these developers will do the right thing for the community and their business and the growth of Milford.

Brooks-votes yes for the same reasons as Councilman Culotta.

Morrow-votes yes, in concurrence with the Planning Commission and believes will clean up the southern entrance into the City on Business Route 1 from a lawn mower shop, an old golf course, batting cages, skating rink, a dilapidated house and across the street from a pond and it fits in with Etta Lou's Restaurant and the auto repair shop and votes yes.

James-votes yes because it is an awesome enhancement to that site and to Councilman Marabello's concern, he feels it actually enhances that corridor or gateway in to Milford. He believes the developers will act in good faith and have a vested interest with the residential piece to do the best thing for the City of Milford and votes yes.

ORDINANCE 2019-15

Larry M. & Linda H. Pfeiffer on behalf of Pfeiffer Enterprises for a Change of Zone

Current Zoning: R-2 (Residential District); Proposed Zoning: C-1 (Neighborhood Commercial District) Present Use: Vacant Retail; Proposed Use: Barbershop

Area: .207 +/- ac; West side of N Rehoboth Blvd more commonly known as 292 N Rehoboth Blvd Tax Map & Parcel: MD-16-174.18-02-56.00

Planning Director Pierce reviewed the application, noting this property is also on Rehoboth Boulevard but in the norther section across from KSI and north of the Perdue Facility. It conforms with the setbacks, road frontage, etc.

Any future use of the property must comply with Chapter 230 and the C-1 zoning district if approved and must adhere to the use of the area regulations at the time of the building permit issuance. That would include improving the off-street parking.

The applicant has an offer from a business owner who would like to open a small barber shop which Mr. Pierce feels is an appropriate use and location.

Included in the packet is Comprehensive Plan Future Land Use exhibit which illustrates the C-1 is consistent. A copy of the C-1 zoning category is also included.

The application was reviewed by the Planning Commission at their May meeting, at which time they recommended approval of the change of zone by unanimous vote.

The public notice was advertised in the Milford Beacon and all properties within 200 feet received a copy of the notice.

At the Planning Commission, one resident made public comments related to issues at an adjacent property with noise an asking that this applicant would be a good neighbor and not create any adverse impact by a business opening there.

The property was formerly used as retail, though because it is beyond the 12-month period, it is no longer a legal conforming use and instead a nonconforming use and the reason for the application.

Councilman Brooks reported this is a suntan place now and Councilman Morrow agreed.

Larry Pfeiffer stated that he is a retired vet and retired law enforcement, stating that he lives at 647 McColley Pond Road, Harrington, explained he is in the process of liquidating his assets due to his impending retirement.

A young couple have come to him and expressed their interest to open a barber shop at the location, after looking at several other properties. They have received their funding and are currently waiting on the change to revert to its original designation.

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

Councilman Brooks moved to adopt Ordinance 2019-15, seconded by Councilman Culotta:

Ordinance 2019-15
 Change of Zone
 Larry M. & Linda H. Pfeiffer on behalf of Pfeiffer Enterprises
 Current Zoning: R-2 (Residential District)
 Proposed Zoning: C-1 (Neighborhood Commercial District)
 Present Use: Vacant Retail
 Proposed Use: Barbershop
 Size/Location: .207 +/- acres of land located along the west side of North Rehoboth Boulevard
 more commonly known as 292 North Rehoboth Boulevard
 Tax Map & Parcel: MD-16-174.18-02-56.00

Motion carried by the following roll call vote:

- Marabello-votes yes because it conforms to surrounding areas and he sees no problems.
- Boyle-votes yes based on the recommendation from the Planning Commission.
- Culotta-votes yes based on the recommendation from the Planning Commission.
- Brooks-votes yes adding it will improve the neighborhood.
- Morrow-votes yes based on the recommendation of the Planning Commission and it will improve that lot.
- James-votes yes stating it improves an existing parcel as well as the recommendation of the Planning Commission.

ORDINANCE 2019-16
 Shawnee Farm LLC on behalf of LC Management for a Conditional Use to construct Mavis Discount Tires
 Current Zone: C-3 (Highway Commercial District); Present Use: Vacant Land
 Proposed Use: Car Repair Shop; Area: 1.63 +/- ac; Lexus Dr within the Cypress Hall Commercial Shopping Center; Tax Map & Parcel Numbers: 1-30-3.00-261.04

Mr. Pierce reviewed that application stating the location is the outparcel in front of Redner’s Shopping Center.

A car repair shop is considered a conditional use, per Chapter 230-14(C)(7) which is subject to City Council review and approval. The packet contains a staff report evaluation the application based on the conditional use criteria.

The Preliminary Site Plan is included the packet, which meets all use and area regulations set forth in Chapter 230 Zoning. Plan review and agency comments also included.

The application was reviewed by the Planning Commission at their May meeting at which time they recommended approval of the change of zone by unanimous vote. The public notice was advertised in the Milford Beacon and all properties within 200 feet received a copy of the notice.

The outparcels were subdivision as part of the Cypress Hall Commercial project with existing roads and entrances in place.

Becker Morgan Group P.E. Mike Riemann was present on behalf of the application. He stated that this will complete the overall vision of Cypress Hall Shopping Center by implementing the development of one of the pad sites, considered lot 2. It is properly zoned C-3 Highway Commercial. When the property was originally developed, the roads and entrances were already constructed. Utilities are stubbed to the property and stormwater management is addressed and the overall shopping center was designed for about 80% impervious coverage on this lot, though they are only developing about 42%. It meets the code requirements and have met all the requirements outlined in the letter from the City Planning Office.

The Planning Commission recommended approval at their May meeting and they look forward to continue plans to construct a new Mavis Tire Center.

Once agency approvals are received, Mr. Riemann expects another six or so months, after which they will begin to pull building permits.

Mayor Campbell opened the floor to public comment.

Nina Pletcher of 428 South Walnut Street asked if this is a Firestone or what type of tire business; Mr. Pierce stated Mavis Discount Tire.

Ms. Pletcher said so much for the pathways into the City. She is only calling Council's bluff on the gateways to the City and this is the type of business they want visitors to see first thing after then come into Milford City limits.

There being no other persons wishing to speak, Mayor Campbell closed the floor to public comment.

Councilman Culotta moved to adopt Ordinance 2019-16 permitting Shawnee Farm LLC on behalf of LC Management for a Conditional Use to construct Mavis Discount Tires on Lexus Drive within the Cypress Hall Commercial Shopping Center, seconded by Councilman Brooks:

Ordinance 2019-16
Mavis Discount Tires for a Conditional Use
Owner Shawnee Farm LLC on behalf of Applicant LC Management
Current Zone: C-3 (Highway Commercial District)
Present Use: Vacant Land
Proposed Use: Car Repair Shop
Size/Location: 1.63 +/- acres of land located along Lexus Drive
within the Cypress Hall Commercial Shopping Center
Tax Map & Parcel Numbers: 1-30-3.00-261.04

Motion carried by the following unanimous roll call vote:

Marabello-votes yes as it was approved by the Planning Commission.

Boyle-votes yes based on the recommendation from the Planning Commission and it coincides and fills the original development plan of Cypress Hall.

Culotta-votes yes based getting more businesses to Milford and because it is good to see those pad sites start to be developed.

Brooks-votes yes based on the Planning Commission.

Morrow-votes yes based on the recommendation of the Planning Commission.

James-votes yes stating it conforms with their original plans for the site.

ORDINANCE 2019-17

Growmark FS for a Change of Zone

Current Zoning: I-2 (General Industrial); Proposed Zoning: C-3 (Highway Commercial) Present Use: Vacant Warehouse; Proposed Use: Retail

Area: 1.494 +/- ac; North side of Northeast Front Street at the corner of Northeast Fourth Street and Northwest Front Streets

Tax Map & Parcel(s): MD-16-183.10-04-23.00 & 70.00

The Planning Director reviewed the Change of Zone application located across from the Growmark current offices on Northeast Front Street which warehouse used to use for storage in addition to the land that extends to the Riverwalk Shopping Center and contains an additional shopping center.

The Comprehensive Plan shows the plan to be commercial so the request from I-2 General Industrial District to C-3 Highway Commercial District aligns with the Comp Plan Future Land Use Map.

The existing vacant warehouse building that is to be renovated into retail space. There is also a storage building on the north side of the property that would remain and developed as a professional office.

The applicant has proposed a minor subdivision plan which will be reviewed administratively by the Planning Department if the change of zone is approved by City Council and would divide the parcel with the front building to be sold and redeveloped.

Mr. Pierce noted this should improve one of Milford's gateways as the building has been sitting as a vacant warehouse for a length of time.

Any future use of the property must comply with Chapter 230 and the C-3 Highway Commercial District zoning use and area regulations as adopted at the time of building permit issuance. This would include meeting the City's off-street parking and loading requirements, obtaining State of Delaware Department of Transportation approval for the entrance, obtaining State Fire Marshal's Office approval for the parking lot.

The application was reviewed by the Planning Commission at their May meeting, at which time they recommended approval of the change of zone by unanimous vote. The public notice was advertised in the Milford Beacon and all properties within 200 feet received a copy of the notice.

When asked if the property has a clear bill of health environmentally considering it was a fertilizer storage facility, Mr. Pierce said the applicant can provide additional information. He does not it is registered with any brownfields programs though there are some monitoring wells installed voluntarily by the applicant. However, that may have be completed and the reason the application had been withheld.

Robert Nash of Merestone Consultants, 634 Abbots Drive, represents Growmark FS in the change of zone application. He stated that the storage of chemicals by Growmark was on the other side of the road and instead used for maintenance of equipment and vehicle.

Mr. Nash stated it is a downzone from its current industrial zone and a fairly straightforward application. All properties surrounding the parcel is retail, commercial and the new police station will be built on the opposite side of Fourth Street, adjacent to this property.

It was confirmed the existing warehouse would be renovated and Mr. Nash added that the existing siding is corrugated steel. At this point, there are no definite design plans which can be presented.

Councilman Culotta moved to adopt Ordinance 2019-17, seconded by Councilmember James:

Ordinance 2019-17
Change of Zone
Growmark FS
Current Zoning: I-2 (General Industrial)
Proposed Zoning: C-3 (Highway Commercial)
Present Use: Vacant Warehouse
Proposed Use: Retail
Size/Location: 1.494 +/- acres of land located along the north side of
NE Front Street at the corner of NE Fourth Street and NW Front Streets
Tax Map & Parcel(s): MD-16-183.10-04-23.00 & 70.00

Marabello-votes yes as presented and as recommended by the Planning Commission.

Boyle-votes yes based on the recommendation from the Planning Commission.

Culotta-votes yes based on the recommendation from the Planning Commission.

Brooks-votes yes based on the Planning Commission.

Morrow-votes yes based on the recommendation of the Planning Commission.

James-votes yes stating it does fit into the Comprehensive Plan and the recommendation of the Planning Commission.

There being no further business, Mayor Campbell adjourned the Public Hearing at 9:24 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
May 28, 2019

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Tuesday, May 28, 2019.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmember Lisa Peel & Katrina Wilson

CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 9:28 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests in attendance.

COMMUNICATIONS & CORRESPONDENCE

Included in packet.

UNFINISHED BUSINESS

Approval/Milford Little League Agreement

City Manager Norenberg reported that this has been in the works for approximately three years. He recalled that his third week as City Manager, Milford experienced a nor-eastern that knocked down poles and related equipment at the Milford Little League Park. When they sought funding from FEMA, there was no clarifying document that explained who owned what because of the mix of properties and improvements. As a result, neither party was able to get federal disaster relief funding.

After various attempts and working with changing board members, Councilman Brooks helped to arrange some meetings and discussions resumed in February 2019. Several board members met with the Parks and Recreation Director and the City Manager. Many of the differences were worked with both parties worked toward a common goal. Since then, the agreement has been refined and reviewed by attorneys for both parties.

It includes multiple one-year renewals so that each year both parties come together to agree to continue the agreement or to discuss issues to be resolved so the agreement can be renewed. At the ten-year mark, both parties will take a more in-depth look at the agreement and can renew again, with more renewal options for a longer period.

Until recently, the league has not been responsible for paying for solid waste collection and has not facilitated recycling. It had been estimated that the vast majority of waste at the complex is from recyclable water and drink bottles. Agreement

was reached to implement an educational effort and recycling program to reduce waste going to the landfill. If recycling is successful in reducing landfill costs to the City, the City would agree to continue paying for the solid waste charges.

Milford Little League will continue to be responsible for water and electric bills and the City will replace most ballfield lights when they burnout.

A number of areas and types of maintenance were clarified and memorialized. Most had been handled based on years of understanding, but once and a while, things might get forgotten or lost in transitions. So, our negotiations attempted to capture in this agreement all maintenance items and responsibilities.

Liability, financial responsibilities and indemnification have been clarified. In addition to the maintenance items, the agreement makes clear who owns or is responsible for specific assets and costs, etc. This should help if there is ever any damage or insurance claim related to storms, etc.

In an effort to maintain the current level of good communication and cooperation, both parties agree to meet at least at the beginning of the season to review the agreement and needs for the upcoming season.

It was confirmed Milford Little League is in agreement; the City Manager said he received a thumbs up from Mr. Wiley and Mr. Skinner who will be presenting it to board at their next meeting in June.

Councilman Marabello clarified that Milford Little League is a 501(c)(3). Solicitor Rutt explained that they are under the auspices of Little League Basement and have a blanket exemption that applies to each organization.

Council then discussed the various property owners and Councilman Marabello asked if we have certificates of insurance from each owner. Councilman James noted that the agreement requires a certificate of insurance.

According to Councilman Brooks, the property was turned over by the Milford Baseball Association for Milford Little League to use. Should they never need it, it would be transferred to the City. When the City sells the property, the money would go to the youth.

Councilman James does not see an issue with asking Milford Little to provide their tax status letter or certificate.

Councilmember Culotta moved to approve the Milford Little League agreement, with a minor typo correction, seconded by Councilman Boyle.

Councilman Brooks abstained saying he coached Little League for 53 years and had a great relationship.

Motion carried.

Discussion/Sidewalk Improvement Project Update

Public Works Director referenced the memo included in the Council packet, stating that they first requested comments be sent to the City Manager in order to address as many questions before the meeting.

At the March 25, 2019 Council meeting, several concerns were raised by Council members regarding the project. Some of those questions are below:

Why are the sidewalks the responsibility of the property owner when the sidewalks are not within the property owners' boundary?

The streets, curb and sidewalks are built within a right-of-way. The City does not own the property which allows streets to be built. Anything beyond the curb and the property line, is the responsibility of property owner. That includes items such as grass plots and sidewalks, which are maintained by the property owners.

The history of the City states the purpose of the formation of the City of Milford was to assess property owners for the placement of sidewalks and curbs. That information goes back to the 1800's when sidewalks were first installed.

How are property owners made aware of the available financing options and financing assistance?

A document was prepared to be sent to the property owners regarding the financing of sidewalks that included hiring their own contractor. See below:

Property owner can:

Repair/replace the sidewalk themselves

Hire a contractor to repair/replace the sidewalk

Contact the City and have the City replace using the City's contractor; City will inspect

Do nothing and City will repair sidewalk

City replacement:

City's contractor will remove and replace sidewalk blocks and City will complete inspection.

City will bill property owner for contractor's cost + 10% to cover financing and inspection fees.

Financing options:

Property owner can hire and pay directly their own contractor

Property owner can pay 100% of City cost (contractor price + 10%) at time of billing.

Property owner can make 60 equal monthly payments, for 100% of City's cost (contractor's price + 10%) plus interest.

Property owner can pay nothing; City will place lien on property to be satisfied at time of property sale/transfer.

How do we handle area where there are no sidewalks?

Property owners are required to install sidewalks where there are no buildings on the parcel at time of development. In locations where there are existing buildings and no sidewalks, the property owner may petition Council for the installation of sidewalks and Council shall determine the feasibility of installing said sidewalks.

If property owners elect to finance the repairs over five years through the City, should they pay interest?

Presently, the Charter provides for interest on loans provided to property owners for any improvement. The City is receiving about 2.5% and is recommending a 3% interest rate for those who wish to make payments. However, Council has the right to waive that fee as well.

Is the present ordinance still valid? Should it be less restrictive?

Mr. Whitfield cautioned Council on making it less restrictive. He understands that some people are upset about a one-inch gap or rise between sidewalks. However, the new Americans with Disability Standards require attention to one-quarter inch. This could set the City up for litigation as a result of the Americans with Disability Act.

The ordinance and repair criteria are very similar to other Cities and town ordinances in Delaware. He emphasized it is not too restrictive and it has been tested and tried in many areas in various areas and believes it would hold up in court.

In the interest of moving the project forward, one of the challenges is getting a bid from contractors. They are bidding without knowing the quantity, because the property owner has ninety days to make the repairs, the contractor is on hold until after the ninety-day time frame is completed.

Only one bid was received the first time and only two bids were received the last time, of which one failed to include a bid bond and was disqualified. It was bid so that the larger the project, the price became cheaper. However, it is difficult for Mr. Whitfield to provide a property owner with a cost, which cannot be achieved until he can provide the correct quantity.

Though he knows everyone agrees Milford's sidewalks need addressing. One of the things he would suggest is to come up with some funding to cover the maximum price of a per block basis the property owner would be responsible for. For example, if the City agreed to pay \$50 per block, will cost approximately \$80,000 on this go-around. If the City paid \$100,000, it will cost \$160,000.

Mr. Whitfield recommends using funds out of the Real Estate Transfer Fund to get the project started. It can be handled in this manner over the next four years. Once all sidewalks are in good standards, the City would revert to the ordinance with regular inspections, etc.

He also emphasized the 10% inspection fee can be waived or the interest, though Council will need to make those determinations.

Councilman Culotta agrees the ordinance states the homeowners are responsible for their sidewalks. But to all of a sudden come up with a plan to fix sidewalks and require property owners to fix their sidewalks, and tell them that if they are not repaired, the City will do it for the property owner and bill them. He appreciates the work and time that has been into this project and the many inspections.

However, he feels this is a form of the City regulating themselves into the community. He also pointed out that the City has a lot of sidewalks they are responsible for that need repairing. He recommends that is done first. Once that is completed, the City go to the homeowners or change the ordinance. He also referenced the number of developments that have no sidewalks and if they should play a part. He asked why the City cannot access everyone a tax and have a referendum on sidewalks. The voters in Ward 1 can then give their opinion and agree that sidewalks have a fix, then they have skin in the game. He noted that presently, we are putting this responsibility on the homeowners where it is needed.

Councilman Culotta said if someone purchases a house and wants to renovate it, he has no problem with the City telling them the sidewalk has to be repaired. Those are some of the things he had to do when he bought his house three years ago.

However, telling everyone to fix their sidewalks and telling them the City is going to fix sidewalks in stages. Then to send out letters informing them it will be done though we don't know exactly what needs to be fixed.

He thinks the City needs to be an example and repair their own sidewalks first.

Councilman Morrow said he will jump on what Councilman Culotta says. He agrees with him that we can't tell someone to repair their sidewalk if ours are in disrepair. Perhaps that would spur some interest with the residents to repair their own. In addition, it would help letting them know what it will cost.

He appreciates everything that has been done by Mr. Whitfield, but he wants the City to budget what is needed to repair the blocks that are damaged from meter pits, poles, etc.

Mr. Norenberg said this has been discussed for a couple years now and there was a bid ready to be awarded on March 25th though Council asked it be put on hold and the reason Council was asked to send specific concerns. That work included all the work that needed to be done in the target areas, including the City sidewalks.

Mr. Whitfield agreed explaining that in terms of water met pits, street signs and utility poles was only approximately 10% of the blocks of the entire project.

He also noted that another concern is when the City goes to repair a block with some damage from a meter pit only to find the block next to it is very badly damaged but is the responsibility of the homeowner. Then the homeowner asks why they won't fix the next block.

Councilman Culotta stressed that he is only concerned about City-owned sidewalks adjacent to City property. He understands any block damaged by meters is a separate issue. He recommends a bid be put out for City-owned sidewalks first. That provides property owners the ability to piggyback and repair their sidewalks based on the price the City received. He also feels more contractors will respond as well.

Public Works Director Whitfield confirmed he has an idea of the number of City-wide sidewalks that need repair, in addition to the area they were requested to survey the first time. He reiterated that very few of those sidewalks are damaged City-owned.

Councilman Brooks said there are eight blocks downtown by the parking lot. Mr. Whitfield would need to review that at this point.

Councilman Culotta said the City sidewalks need to be repaired first; then a program can be created for homeowners.

Councilman Marabello asked if a City sidewalk is repaired and a certain level is required to make it even, what happens when the City sidewalk is leveled, which causes a large gap between the private property sidewalk. Councilman Brooks recommends grinding it down.

Councilman Marabello believes there will be times an arrangement will need to be made with the private homeowner and perhaps an extended period be offered or an initial deferral, such as payments not required until the 12th month after the work is done.

Councilman Culotta agrees with Councilman Marabello that if there is a transition, it has to be addressed in some way. He fundamentally has a problem with the City, as a government organization, requiring residents to pay for their sidewalks.

It was noted that this ordinance has been in place for many years. The City Manager said they were asked a couple years ago to get the program moving. Mr. Whitfield has reviewed other cities and towns and all have similar ordinances. When asked for specifics about the ordinance, he only received feedback from one councilmember in addition to what was brought up at the last meeting.

Mr. Norenberg said there are new suggestions and concerns tonight that were never discussed in the past. He said they are looking for some direction from Council and asked if the ordinance should be ignored.

Councilman Culotta said it sounds like this same discussion was held ten years ago. At that time, Council felt the City could not afford to fix the sidewalks so they made the homeowners responsible. But no one every enforced it.

Public Works Director Whitfield explained that the ordinance has been in place for decades and actually dates back to the 1800's. There was an update about ten years ago, but it had nothing to do with the homeowners' responsibility.

Councilman James thanked whoever put the information together for the packet and commended the work, noting the history was helpful and it was extremely helpful and answered a lot of his questions.

He continued by stating that Milford is booming and needs to beautify, which means the sidewalks have to be fixed. He is a true component that you don't point and say go and instead you lead. Let the taxpayers understand that Milford is fixing sidewalks. While the sidewalks are being repaired, some situations are going to be encountered whereby a private homeowner is going to be responsible. He agrees it is beneficial to the entire City to do it all at once. He does not think it can be separated. What he is becoming afraid of is future cost escalations and eventually it is going to cost the City much more each year we wait.

Councilman James is in favor of waiving the fee and the interest. He thinks that could be a great compromise to move it forward. He is also a strong component for the City to repair theirs first, but he does not think it can be done as separate projects and it will not be efficient. However, a letter needs to be sent and the entire process explained, including the funding options.

He will not support liening a property; Councilman Culotta said it is not enforceable if it is not liened.

Solicitor Rutt then added that if a public right-of-way is abandoned, the adjoining property owner owns to the center of the street and referenced a situation off Lakeview Avenue involving an extension of West Clarke Avenue. The City abandoned the right-of-way and the two property owners became owners of the extension. A similar situation involved an extension that went through Seawatch properties on both sides. Usually it is just a right-of-way or use and not ownership.

Mr. Rutt also noted that under Delaware Law, any municipality has the right to enact this type of ordinance, unless prohibited by the Charter. The only city in Delaware that had it in their charter was Wilmington, who had problems each time they tried to enforce a similar ordinance. The Supreme Court denied it because of the language in their charter. However, all other municipalities have very similar ordinances on their books which have been upheld. For example, they say the City absent, the prohibition in the ordinance can require adjoining property owners to repair and replace sidewalks. It came up in a couple of cases involving liability issues.

He also explained that if a lien is put on a property for sixty months, it will not be enforced nor will interest be charged. A provision could be added stating that at the end of the sixty months of scheduled payments, the City could surcharge all the back interest, which is an incentive to make the payments over a period of time. The City does not have to enforce it, but at the time the house is sold, at any point in time, including the acquisition of an estate, then that lien has to be paid off to provide a free and clear conveyance of the property.

The Solicitor also emphasized this ordinance is not a discretionary ordinance and states guidelines 'shall' be used and repairs/removal/replacement 'shall' be required when a public sidewalk/driveway/alley approach is a hazard or unsafe condition, as determined by the limits of the guidelines or in conjunction with the judgment of the City Engineer.

It also incorporates by reference the standard specifications for installation of utility construction projects and subdivision pavement design. Then further, conditions that require repair, removal and replacement of conditions and then lists criteria for determining that need.

If someone was injured involving a horizontal separation of one inch or more, involving a joint or a crack, they could bring a writ of mandamus for failure to enforce its ordinance. There is a one-year statute of limitations built into all charters that if there is any public liability on the part of the City and someone is injured, they can bring an action against the city within that one year.

Mr. Rutt recommended City Council consider all items when reviewing in the broad scope.

Mr. Whitfield also pointed out that the municipality often becomes liable and now know there is an issue with 1,632 sidewalk blocks. Not doing anything exposes the City.

It was confirmed the project will need to be rebid because the bid bond is only good for sixty days.

Mr. Whitfield also noted that finding a concrete contractor right now is difficult because they are all very busy.

Councilman James feels there is a need to move this forward and believes it is moving in a good direction with Mr. Whitfield's recommendation and really likes the idea of the City paying a portion of the cost per block, waving the 10% inspection fee and the interest. In addition, a lien does not sound as bad now that he has had further explanation.

Councilman Culotta also reported that the Town of Georgetown is putting together a public fund for sidewalk improvements. They are addressing the same problems without requiring the homeowners to pay for the repairs.

He then said if we have a referendum to tax all homeowners to repair all the sidewalks that need to be fixed, though he does not think Council would agree with that. Mr. Rutt added that the City would be sued because in the same ordinance there is a provision that says City Council on any new development, may in its discretion, waive the sidewalk requirements. At the time they were constructed, those sidewalk requirements were waived and if you try to go back will create a litigation issue.

Councilman Boyle referenced homeownership and anyone owning the home is responsible for maintenance. People don't want to pay but there is no choice. He agrees we need to move forward and start with those streets that lead to schools for safety reasons. The City will be repairing their sidewalks and in conjunction, a homeowner will be given some options as has been discussed. He feels offering a homeowner sixty months to pay it off, noting that someone with five blocks to repair would cost a homeowner \$20 a month.

Councilman Marabello also pointed out that we know there is a problem, and now if someone gets hurt, the City is going to pay a lot more for a settlement than the cost to subsidize some owners who really need help.

Solicitor Rutt agreed that if someone is injured, the City could be found negligent in not enforcing the ordinance and knowing there is a problem. Councilman Culotta suggested changing the ordinance.

Councilman Morrow said the other option is to win the case; Mr. Rutt said there is still a cost of the defense and time. Councilman Morrow said a lot has been done including the letters being sent so the property owners were notified. The only thing we haven't done is get the cement truck out there to do the work.

Councilman Culotta said the property owners were not told specifically what needed to be fixed; Councilman Morrow and City Manager Norenberg said they have been informed.

When asked if the property owners were made aware of the options, Mr. Whitfield explained that because we were getting a lot of questions last fall, we sent a letter out at the direction of the Public Works Committee to notify property owners of the sidewalk blocks identified and a formal notice would be sent in the spring and at that point, there would be 90 days to fix the sidewalk blocks.

Mr. Whitfield also advised that the letter informing the property owners of the costs and the financing options was to be sent in the spring. However, that was not sent because when the bids came in, Council decided to delay action on the bid.

Councilman James also recommended searching for grants and other financing options. He recalled sidewalks being installed at no cost to the homeowners in his neighborhood many years ago which is a benefit to the City and the residents.

Mr. Norenberg stated that CDBG funds were requested last year for sidewalk infill and repair, though it was denied. He feels the City has been very fortunate receiving CTF funding for everything from stop signs to waterway repairs. There are a number of questions that could be filled by our local legislators and some are pending and some will happen next year. Unfortunately, that is a limited pot of money that is geared more toward benefiting all residents rather than specific neighborhoods.

The City Manager confirmed there is a consensus building around a particular proposal and between what Mr. Whitfield and the City Solicitor said, and if that is the case, they will move forward.

It was agreed to move forward with sending the letter specifying the funding options available and provide a deadline. In the meantime, the City sidewalks will be addressed.

Councilman Boyle asked that the Public Works Director provide five options and then finalize the plan at the next meeting, after which the letter will be sent.

It was confirmed the ordinance allows the property owner to comply within 90 days; after that, the sidewalk will be fixed by the City and the property owner billed.

The billing would be a separate bill and not included with the utility bill.

Mr. Whitfield asked if the City is willing to put some money into the pot in order to move it forward. He would come up with a standard price for a sidewalk with the City paying a portion and lessen the burden on the homeowner.

When asked how long it will take to get this project moving and to complete, Mr. Whitfield responded the 1,600 identified could be completed by November 2019.

Mr. Whitfield was directed to draft a letter with four to five financing options.

The Public Works Director will bring the letter to Council before it is mailed.

Adoption/Ordinance 2019-18/Chapter 67/Volunteer Fire Companies
Adoption/Ordinance 2019-19/Chapter 26/Enhancement Funds

Mr. Norenberg referenced Chapter 67, entitled Volunteer Fire Companies which establishes the Carlisle Fire Company Volunteer Firemen's Enhancement Funding Program. In preparation of the facility needs by the police department, in addition to other city needs, it was agreed to put forth a similar ordinance which would create an enhancement fund for police and other general government facilities.

The first ordinance (2019-18) rescinds Chapter 67 and moves those provisions to a new Chapter 26, entitled Enhancement Funds, which will also include the proposed Police and General Government Facilities Fund. It was determined that Chapter 67, Volunteer Fire Companies, is no longer suitable and those provisions would be relocated to Chapter 26. This will aid in finding items by retaining alphabetical order for the Chapters of the City of Milford Code

Ordinance 2019-19 proposes the fee for the Police and General Government Facilities Fund be set at 0.75%. This will help generate funds for the cost of the replacement Police Station and other general government facilities that are not supported by enterprise revenue.

The enhancement fund fees are collected on construction costs as indicated on the applications for building permits issued by the City. The surcharges are paid to and collected by the City as are all other building permit fees for new construction projects, expansion projects or other building projects that increase building size. Enhancement Fund surcharges are not to be required, billed or collected on permits for residential accessory structures, renovations, replacements or similar work that does not increase the building size.

Through April 30, 2019, the Planning and Development Department collected \$352,260.14 for the Carlisle Enhancement Fund.

Consequently, had the new Police and General Government Facilities Fee been in place for the same period, approximately \$230,000 would have been generated for municipal facility needs. The Planning and Development Department projects that in FY2019-20, approximately \$275,000 could be collected for Police and General Government Facilities if the new fee was enacted. The Carlisle Enhancement Fund would continue to generate about \$90,000.)

As has been discussed in the past, a growing community puts demands on both fire and police departments, as well as other government operations, all of which need to be able to support the increasing size and complexity of our community. Continuing the Carlisle Enhancement Fund and instituting a similar fee for police and general government needs, will provide a modest funding stream to help fund known upcoming projects, like the replacement Milford Police Station.

When asked if anyone from the public wished to comment, no one responded. The Mayor then closed the floor.

Councilman Boyle moved to adopt Ordinance 2019-18, seconded by Councilman Morrow:

ORDINANCE 2019-18
CODE OF THE CITY OF MILFORD
PART I-ADMINISTRATIVE LEGISLATION

CHAPTER 67
VOLUNTEER FIRE COMPANIES

Whereas, an Ordinance is required to rescind Chapter 67 of the Code of the City of Milford; and

Whereas, having changed the provisions in Chapter 67, Volunteer Fire Companies is no longer a suitable title; and

Whereas, the Chapters of the City of Milford Code have been conveniently arranged in alphabetical order to facilitate usage; and

Whereas, in order to preserve the alphabetical progression of the Chapters in the City of Milford Code, it was necessary to strike Chapter 67 and insert a new Chapter, entitled Enhancement Funds, to be placed in its proper order.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Whereas, Chapter 67, entitled Volunteer Fire Companies, is hereby rescinded in its entirety, and available for future use.

~~Chapter 67—VOLUNTEER FIRE COMPANIES~~

~~ARTICLE I—Carlisle Volunteer Fire Company Enhancement Funding Program~~

~~§ 67-1. Grants authorized.~~

~~The City Council of Milford, Delaware, may award to the Carlisle Volunteer Fire Company annual grants which shall be in addition to all other payments made by the City to them. The grants shall be known as the "Carlisle Fire Company Volunteer Firemen's Enhancement Funding Program."~~

~~§ 67-2. Annual estimate of available funds.~~

~~On or after August 1 of each year, the Carlisle Volunteer Fire Company shall receive from the City Manager of the City of Milford his estimate of the funds that may be available for grants as a result of the imposition of the surcharge described hereinafter.~~

~~§ 67-3. Surcharge.~~

~~The Enhancement Funding Program grants shall be funded by means of, and there is hereby imposed, a surcharge of .25% of the construction costs shown in the applications for building permits issued by the City Manager. Said surcharge shall be paid to and collected by the City of Milford as are all other building permit fees.~~

~~§ 67-4. Rules and regulations.~~

~~The City Manager is hereby authorized to promulgate such rules and regulations as he/she deems necessary for the purpose of giving full force and effect to the provisions of this article.~~

~~§ 67-5. When effective.~~

~~The collection of the surcharge and the award of grants and all other provisions of this article shall take effect immediately upon its adoption by a majority of all of the members of the City Council.~~

Section 2. Dates.

City Council Introduction: May 13, 2018

City Council Review and Public Comments: May 28, 2019

Proposed Adoption: May 28, 2019

Effective: June 7, 2019

Motion carried.

Councilman Boyle moved to adopt Ordinance 2019-19, seconded by Councilman Culotta.

ORDINANCE 2019-19
CODE OF THE CITY OF MILFORD
PART I-ADMINISTRATIVE LEGISLATION
CHAPTER 26
ENHANCEMENT FUNDS

WHEREAS, in 2004, the City of Milford adopted an ordinance as a means of collecting alternative funds for the Carlisle Fire Company; and

WHEREAS, in order to keep pace with the significant increase in the City's population and growth, and to continue providing exceptional municipal services, there is a need to consider other funding methods; and

WHEREAS, it is only reasonable that new development pays its fair share of the impact and that it should not become a burden on the general taxpayer; and

WHEREAS, City Council finds it appropriate to add a surcharge to building permits, at the time of issuance, as a means of collecting supplemental funds for the Milford Police Department and City of Milford General Government Facilities as a result of new and expanded construction.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

The Code of the City of Milford, is hereby amended by adding a new Chapter 26, entitled Enhancement Funds, to read as follows:

Chapter 26 - ENHANCEMENT FUNDS

26.1 Surcharges Authorized.

Enhancement Funds shall be funded by means of surcharges on the construction costs as indicated on the applications for building permits issued by the City, as outlined in this Chapter. Said surcharges shall be paid to and collected by the City as are all other building permit fees for new construction projects, expansion projects or other building projects that increase building size. Enhancement Fund surcharges shall not be required, billed or collected on permits for residential accessory structures, renovations, replacements or similar work that does not increase the building size.

26.2 Rates

A. Carlisle Fire Company Equipment and Facilities:

- (1) City Council may award to the Carlisle Volunteer Fire Company grants for equipment purchases and facility improvements, which shall be in addition to any other payments provided by the City.
- (2) The grants shall be known as the "Carlisle Fire Company Enhancement Fund."
- (3) On or after August 1st of each year, the City Manager shall provide the Carlisle Volunteer Fire Company an estimate of the funds that may be available for grants as a result of the imposed surcharge described hereinafter.
- (4) The surcharge for the "Carlisle Fire Company Enhancement Fund" shall be billed at the rate of 0.25% in accordance with § 26-1.

B. Police and General Government Facilities

- (1) The surcharge, to be used by City Police and General Government, shall be known as "Police and General Government Facilities Enhancement Fund".
- (2) The surcharge for the "Police and General Government" shall be billed at the rate of 0.75% in accordance with § 26-1.

26.3. Rules and Regulations.

The City Manager is hereby authorized to promulgate such rules and regulations as he/she deems necessary for the purpose of giving full force and effect to the provisions of this article.

Section 2. Dates.

City Council Introduction: May 13, 2018

City Council Review and Public Comments: May 28, 2019

Proposed Adoption: May 28, 2019

Effective: June 7, 2019

Motion carried.

NEW BUSINESS

Approval/DEMEC-Milford AMI Contract Amendment 2

Mr. Whitfield explained this involves the Advanced Metering Infrastructure (AMI) Program and the Geographical Information Systems. That allows the City staff to locate by GIS mapping a meter not corresponding to a data collector. In turn that helps identify the location of the problem outages, problem transformers, etc. It also helps identify areas with line and electricity loss.

There was \$10,000 budgeted as part of the contract, though this is an amendment to the contract with DEMEC as discussed.

Councilman Brooks moved to authorize \$8,548 for the GIS Module and \$1,294 for ongoing maintenance services and authorize the Milford AMI Contract Amendment 2, seconded by Councilman Morrow. Motion carried.

EXECUTIVE SESSION

Due to the time, Mayor Campbell announced that the Executive Session will be postponed until the June 10, 2019 Council Meeting.

ADJOURNMENT

There being no further business, Councilmember Brooks moved to adjourn the Council Meeting, seconded by Councilmember Morrow. Motion carried.

The Council Meeting adjourned at 10:39 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder