

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 23, 2019

The City Council of the City of Milford met in Workshop Session on Monday, September 23, 2019 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware at 6:00 p.m.

PRESIDING: Mayor Arthur Campbell

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

STAFF: Acting City Manager Mark Whitfield, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

Organizations receiving financial support from the City of Milford were in attendance to present their quarterly status reports to City Council.

Quarterly Update/Downtown Milford, Inc.

DMI President Peggy Reilly referenced the written report included in the Council packet, after which she offered the following highlights and updates:

- New Executive Director Trish Gerken hired as of today and a one-year contract signed.
- New Board Members elected effective 07/01/19.

President Reilly reported the official count for the 2019 Ladybug Music Festival held this past Saturday was approximately 5,000 attendees, or 2,000 more than the first year.

She thanked Mayor Campbell, City Manager Norenberg and Councilmen Boyle and Culotta for participating in the festivities and volunteering to be on the main stage on Saturday. She also thanked the Police Department, Public Works and Parks and Recreation for their assistance.

Volunteer hours on Saturday equaled 96 hours; Sara Pletcher and Sara Kate Hammer, through Saturday night, had spent 150 hours alone, to help make this event successful. Multiplying that number by the volunteer hourly rate calculates to more than \$6,000.

DMI will meet with Gable over the next month to discuss the plans for the 2020 Ladybug Festival.

President Reilly thanked those in attendance at the Third Thursday this month. That was the last event whereby the streets will be closed, though Third Thursday will continue monthly from 5:00 pm to 8:00 p.m.

Councilman Boyle commended DMI on the Ladybug Festival adding that the City will assist in the future by providing better marketing for the event. He feels many more people will attend if they were aware of the quality of the performances. Several other Councilmembers remarked on what a great community event it was.

Council thanked President Reilly and DMI for their hard work with the event.

Quarterly Update/Milford Public Library

Library Director Kay Hudson thanked Council for their financial support this year. She reported they continue to be extremely busy on a daily basis and are happy to provide these services to our residents.

She reported that the restrooms are now available to the public during all outside community events. Those include Music in the Park, Freedom Festival, Ladybug Festival (until the library closed), Third Thursday and the Farmers Market.

Director Hudson stressed that the library's emphasis on the Teen Center that welcomed 400 teens during the last two months of the summer. In addition, the library has incorporated a fun, hands-on STEM focused learning environment to spark student innovation.

Additional numbers for July include:

Library Attendance: 36,353
Music in the Park: 1,225 (200 to 400 nightly)
Summer Reading Programs: 2,000
Programs held for Adults, Teens, & Children: 72
New Patrons: 275

Two part-time high school seniors have been hired, one being bilingual.

Upcoming events include a Romeo and Juliet Performance on Friday, November 1st at 2:00 pm (Delaware Shakespeare Production), various children, teen and adult programs and a book signing. The two-hour Shakespearian performance will be held in the Lions Club Room.

Their major fundraiser is the Christmas Tree Extravaganza which will begin the first of December. This community effort has been adopted as a holiday fundraiser to bring added joy to a deserving family through the generous donations of individuals, businesses and organizations.

Quarterly Update/Milford Museum

Executive Director Claudia Leister encouraged everyone to visit the new ladybug statute that is now in the front of the museum. She recalled that the students in Lulu Ross Elementary School's 2nd Grade Class in 1974 successfully petitioned the State Legislature to have the ladybug designated the State bug.

She talked about the fundraising efforts of a friend, in addition to the work of local artist Nadia Zychal, that made this happen.

Ms. Leister then provided a quick synopsis of her quarterly report noting that their current membership is at 215 and encouraged those present to consider becoming a member and becoming involved in their activities.

She acknowledged the financial and in-kind assistance of corporate sponsors J.H. Wilkerson & Son, I.G. Burton, Richard Y. Johnson & Son, Atlantic Concrete, Wagamon Technology, Copy Works and Davis, Bowen & Friedel Inc.

Monthly visitors to the museum were 175 in June; 220 in July; 747 in August and 75 to date in September.

The success of their newest event, HippieFest, a first of its kind in Milford, celebrated the 50th Anniversary of Woodstock at the Causey Mansion in August. Tickets were sold so quickly that Ms. Leister finally had to stop when they unexpectedly reached 300, resulting in a profit of \$2,583.

Earlier in the month, 100 people attended an ice cream social at the Mulholland Spoon Mill Building located along the Mispillion River, next to the dog park.

Ms. Leister pointed out they are accomplishing all of this with only eleven board members, spouses and volunteers.

She reported on the Museum's funding, which change, because of the three paid employees, who all work on a part-time basis.

ITEM	AMOUNT	ITEM	AMOUNT
Payroll	\$10,686.59	Payroll	\$29,795.10
Utilities	\$1,332.90	Utilities	\$5,536.01
TOTAL:	\$12,019.49	TOTAL:	\$35,332.01

Presentation/Misphillion Art League/The Big Draw

Board Member Morgan Golladay spoke about the Big Draw Festival which will be held throughout the month of October.

She reported the following:

Twenty-five classes, workshops and events have been planned for artists, young and old, beginners and experienced. Another twenty-five events will be free to families on Saturdays throughout the month.

People have been creating designs within circular formats for thousands of years. The Art League is inviting community members every Saturday during October to help paint a mandala on the adjoining wall between the gallery and the education annex space.

Ms. Golladay provided some background stating the Big Draw, sponsored by Bayhealth, originated in England about twenty years ago and was designed to get people to have fun with art, with or without any artistic talent. She then described various activities that include using crayons on walls, profiles, drawing on large pieces of paper and sandcastle building on Park Avenue, to name a few.

The Art League has partnered with Jerry’s Artarama in Newark, Milton Arts Guild, Rehoboth Art League, Developing Artist Collaboration in Rehoboth, Gallery 107/Nanticoke River Arts Council in Seaford and Downtown Dover Partnership to bring these art opportunities to our surrounding communities.

The kickoff will be done on the last day of the Farmer’s Market at which time a Community Canvas will be done.

The theme is ‘Creativity and Wellness’ and the league will have a manned, art cart at Bayhealth during October, taking art activities to the patients. Other organizations involved include the Second Street Players, Music School of Delaware, First State Dance Academy and Milford Museum.

Other activities will be held at Misphillion River Brewery, Arena’s, Dolce, Gallery 37, Vinyard Shipyard and the Milford Public Library.

She encouraged the Mayor and City Council to attend, and bring friends and family to participate in the fun-filled, creative events.

The workshop temporarily recessed at 6:28 p.m., but was reconvened at 7:01 p.m. by Mayor Campbell, when a representative from Carlisle Fire Company arrived.

Quarterly Update/Carlisle Fire Company

Chief Engineer Duane Fox informed Council that he is reporting on the monies appropriated by the City and what they do for the City.

He shared that the \$60,000 received from the City was spent in the first two months on salaries. He plans to continue reiterating every time he addresses Council that the money has already been spent.

Since January 2019, Carlisle has had 2,194 ambulance runs (projects to 3,840 annual runs) and 438 fire calls (projects to 766 annual calls). Runs on both sides have steadily increased as the year progressed which aligns with the City’s growth.

Mr. Fox also talked about the expanded uses in the former Milford Memorial Hospital, which include La Red Health Center, assisted living and nursing services, in addition to a full-time day care in the previous Medical Arts Building.

Every year, the State Auditor provides a report to show what the volunteer fire services save the State of Delaware in a given year. If a paid service was needed in the City of Milford today, at least two pieces would be required, with a staff or four persons apiece, an engine and a ladder. To accomplish that, would require eight people a crew, four shifts, or 32 people. Those people would require supervisors who would be overseen by the Chief.

Using figures from Wilmington Fire Department, Mr. Fox roughly estimated, that 24 firefighter salaries would cost approximately \$1,080,000 per year. Adding officers is another \$480,000, supervisors \$280,000 and a paid Chief who would make at least \$90,000 annually. Those salaries alone total \$1.930,000 just for firefighters.

Currently, Carlisle has two shifts of EMS that include a 24-hour shift and a 10-hour day shift, which will be increased in the near future. That was recently increased to seven days a week from five days, and needed as a result of the dwindling number of volunteers.

Mr. Fox emphasized that no one can voluntarily make almost 4,000 runs and have a full-time job.

Three EMT's and a supervisor per shift, with someone overseeing the EMS Division, would cost another \$740,000 for a grand total of almost \$2,700,000 which is the savings to the City of Milford in salaries alone.

In addition, equipment, gear and training costs need to be considered.

Mr. Fox emphasized they do not have a lot of volunteers beating down the doors to be a volunteer fireman. Much of that is attributed to the amount of time required and the number of weekends needed just to satisfy minimum training requirements to be eligible to ride on a fire truck.

Carlisle also has fire police that help, over and above all of these activities. He shared that their Chief typically calls Kent Center and asks to dispatch any available fire police for numerous type incidents, including traffic signal outages and accidents. In turn, this prevents Milford Police from having to put officers at these locations. They also standby for the City electric department when necessary, which again frees up Milford Police Department while a pole or wire is being repaired.

From January to September, approximately 82 manhours, calculated at \$24 per hour, which is the average hourly pay of a Milford Patrolman, saves the City of Milford another \$200,000 by having Carlisle's personnel volunteer to man these scenes in their own personal vehicle in all kinds of weather.

Of the 438 alarms, one fireman currently has made 344 calls. Calculating that at \$20 an hour for a one-hour call, results in a donation of \$6,880 to the City of Milford and surrounding community. This fireman is very fortunate because his employer allows him to leave and respond to calls during his work day, which is a unique situation for most firefighters.

Mr. Fox shared that Lewes is having the same issues as other downstate fire companies. Lewes runs five or six ambulances a day. Some are by volunteers, but most are paid and they are also looking for ways to help with funding. A study was done that resulted in a paid fire department increasing county property taxes \$9 per thousand, which is a huge hit.

Referencing the number of people that move to Delaware because of our low tax base, Mr. Fox noted that one of the reasons we can keep our taxes low is because of volunteer fire companies. If there was another way to fund our public schools, very little property tax would be paid at the county level.

Councilman Boyle asked if we continue to grow, does Mr. Fox anticipate the need for another fire station. Mr. Fox said that has been discussed for a long time. However, a piece of property is required first and foremost. If another station is needed, it has to come with enough volunteers from that area to make it work. Their theory was to be in the Hearthstone area, and though they had discussions a long time ago with Mr. Fannin who agreed at the time, that has all gone by the wayside when he sold the property to the hospital.

Mr. Fox does not feel Carlisle has planned far enough ahead to do that, so he does not expect that in the near future.

When asked about equipment, Mr. Fox is confident they have enough equipment to handle the growth for some time. He referenced their three pumpers, a tanker, a ladder and a rescue, along with a brush unit and two ambulances. Where the increase will be needed from a station point, is in the ambulance area. They recently purchased a new ambulance and did not get rid of the old ambulance as they have done in the past. They will be using three ambulances, but will not man the third ambulance at this time. However, if the runs continue to increase, they will need to in order to meet the demand. They try not to burden surrounding fire companies for assistance, which also results in a longer response time.

He emphasized that a substation turns into more about the firefighters and being closer to their people, versus having a station closer to a lot of developments, that is difficult for firefighters to get to.

Mr. Fox feels that from a volunteer fireman's perspective, their current fire house is not in the best location. He lives approximately a mile and a half away on Old Shawnee Road and is one of the first ones to respond. It takes anywhere from five to eight minutes for the trucks to get out, in addition to the time it takes to get to the site, which is frequently impacted by downtown traffic issues. He pointed out that is a long response time in his opinion.

Having paid firefighters, would make more sense by helping to reduce their response time.

When asked if Carlisle will become a mixed paid/volunteer fire company in the future, Mr. Fox said that though they currently call Carlisle a volunteer fire company, technically, they are already a combination, due to paying EMT staff. EMT's have been paid since the 1960's when the firehouse was down by the river.

On the firefighter side, he pointed out that volunteers do not want to give their service up until it is absolutely necessary, in addition to the affordability factor.

He concluded by saying this year, Carlisle has begun adding other departments to assist when needed. He believes the highest call volume is due to vehicle accidents with very few actual fires.

There being no further business, the Workshop concluded at 7:23 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 23, 2019

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, September 23, 2019.

PRESIDING: Mayor Archie Campbell

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

STAFF: Acting City Manager Mark Whitfield, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:23 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Proclamation 2019-17/Public Power Week

Acting City Manager Whitfield reintroduced Electric Superintendent Will Gallagher, who was present to accept the Public Power Week Proclamation on behalf of his department. Mr. Whitfield commended him noting that since he was hired in May, he has taken on a number of new projects, many of which have been completed.

Last week, Mr. Gallagher had employees who were deservedly recognized at the DEMEC Annual Meeting for volunteering to participate in the Light Up Navajo Nation Project and the recent Hurricane Dorian Relief effort.

Mayor Campbell read the following proclamation into record:

WHEREAS, we, the citizens of the City of Milford, place high value on local control over community services and therefore have chosen to operate a community-owned, locally-controlled, not-for-profit electric utility and, as consumers and owners of our electric utility, have a direct say in utility operations and policies; and

WHEREAS, the City of Milford Electric Division provides our homes, businesses, farms, social service, and local government agencies with reliable, efficient, and cost-effective electricity employing sound business practices designed to ensure the best possible service at not-for-profit rates; and

WHEREAS, the Electric Division is a valuable community asset that contributes to the well-being of local residents through energy efficiency, customer service, environmental protection, economic development, and safety awareness; and

WHEREAS, the Electric Division is a dependable and trustworthy institution whose local operation provides many consumer protections and continues to make our community a better place to live, play, and work, and contributes to protecting the global environment.

NOW, THEREFORE BE IT RESOLVED: that the City of Milford Electric Division will continue to work to bring lower-cost, safe, reliable electricity to community homes and businesses just as it has since the utility was created to serve all residents of the City of Milford; and

BE IT FURTHER RESOLVED: that the week of October 6-12 be designated Public Power Week to recognize the Electric Division for its contributions to the community and to educate consumer-owners, policy makers, and employees on the benefits of public power; and that our community joins hands with more than 2,000 other public power systems in the United States in this celebration of public power, which is best for consumers, business, the community, and the nation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Milford to be affixed hereto this 23rd day of September 2019.

Superintendent Gallagher then spoke noting that this week is an opportunity to highlight the hard work of the City's electric workers and demonstrate the core values of public power.

He noted that on Monday, October 7th and Wednesday, October 9th, he and the Operations Supervisor will be set up in Customer Service for the purpose of talking and networking with residents. In addition, an appreciation breakfast is scheduled on Thursday, October 10th for Public Works Employees who give their all for the City of Milford. He also hopes to get into Milford's elementary school to interact with those students and tell the story of what his employees do.

PUBLIC HEARINGS

Planning Director Rob Pierce then shared information on the following ordinances:

Ordinance 2019-31

Code of The City of Milford

Part II-General Legislation

Chapter 230-Zoning

Add Yard Sale Definition, Amend Craft Distilleries and Microbreweries

This is an amendment to the Zoning Code that involves two parts. The first part adds a definition related to yard sales. It was discussed at the Community and Economic Development Committee meeting in July, where some tweaks were made prior to it being presented to the Planning Commission earlier in August.

The four-day limitation was the result of the discussion and determination by the committee.

At the September 17th Planning Commission meeting, they recommended a slight modification to the definition of yard sale by replacing the word OR with AND (as noted).

The second portion adds language related to craft distilleries and microbrewery establishments. This was the result of meetings with a local distillery company that opened on McColley Street in a light industrial zoning district. They plan to provide additional services of direct sales, tastings and on-site consumption, which were previously prohibited in the I-1 zone. The amendment adds language into the downtown central business district and riverfront development zoning categories that will permit craft distilleries and microbrewery establishments, provided they meet the required criteria.

In addition, language was added into the business park and light industrial zoning categories that would permit those uses as conditional uses, meaning they would require the final approval by City Council.

In addition to a minor numbering error and word amendment, the Planning Commission unanimously recommended approval of the ordinance.

Mr. Pierce then explained the difference in uses permitted in the downtown and riverfront development districts which allow taverns and retail liquor stores. Some housekeeping amendments were also needed in the business park and light industrial zoning categories, in addition to the requirement of the conditional use permits in those districts.

When asked about required square footage or limited number of persons when serving in premises, Mr. Pierce confirmed that would be established by the State of Delaware OABCC and the City's building code.

Mayor Campbell then opened the floor to public comment.

Business Managers Stacey Arnold of 5 Big Pond Drive, Milford and Eric Fibelkorn of 191 Doctor Smith Road, Harrington, were both in attendance. Ms. Arnold explained that as part of the TTB and OABCC requirements, they were required to run ads in the three local newspapers, weekly and monthly. In addition, the City provided them with area property owners whom were sent notices by mail.

She confirmed that the number of people is regulated by the State Fire Marshal, and is based on the public space available, which is currently eighteen persons.

They also informed Council the two of them are the only employees. Each has full-time jobs and the manufacturing will be done on weekends. The tasting room will be added to try to recoup some revenue. She confirmed they are completely surrounded by commercial and industrial uses.

There being no further comments, the floor was closed.

Councilmember Peel moved to adopt the language in relation to the definition of yard sale or garage sale, in Section 230(4)(A), with the amendment proposed by the Planning Commission, which eliminates the word OR and adds the word AND, to read as follows:

...A permitted temporary sales activity principally involving household items and/or consumer goods, conducted by the owner (or residential tenant) of real property upon said property which is residentially zoned **AND** used primarily for residential purposes..., seconded by Councilmember Culotta.

ORDINANCE 2019-31
CODE OF THE CITY OF MILFORD
PART II-GENERAL LEGISLATION
CHAPTER 230-ZONING
ADDING YARD SALE DEFINITION
AMENDING CRAFT DISTILLERIES AND MICROBREWERIES

WHEREAS, the Mayor and Council of the City of Milford are charged with the protection of the public health, safety, and welfare of the citizens of the City of Milford; and

WHEREAS, the purpose of the C-2 District is to create an atmosphere that encourages the preservation and revitalization of the Central Business District; and

WHEREAS, the regulations are designed to encourage the development and opening of new businesses and recognize the unique circumstances that are peculiar to the downtown area

WHEREAS, the Planning and Economic Development Director proposes changes to the Code that include adding the definition of a Yard Sale or Garage Sale; and

WHEREAS, adding Craft Distillery and Microbrewery Establishments as a permitted use in the C2 (Central Business District) and C2A (Riverfront Development District); and

WHEREAS, Removing Nano or Microbrewery With Or Without Associated Pub from the conditional uses in a C2A (Riverfront Development District); and

WHEREAS, Adding Craft Distillery and Microbrewery Establishments as a conditional use in the BP (Business Park District) and I1 (Limited Industrial District); and

WHEREAS, City Council found that the updated provisions are in the best interest of the health, safety, convenience, and general welfare of the citizens of the City.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

§230-4.A *Definitions* is hereby amended by adding language shown as underlined:

YARD SALE or GARAGE SALE – A permitted temporary sales activity principally involving household items and/or consumer goods, conducted by the owner (or residential tenant) of real property upon said property which is residentially zoned ~~or~~ AND used primarily for residential purposes. A yard sale is typically limited to a one-day event but not longer than two consecutive days. Provided however, that such temporary sales activity shall, under no circumstances, last more than four total days during any particular calendar year upon any real property.

Section 2.

§230-13B Permitted uses in the C-2 District is hereby amended by adding a new subsection to be referenced as (22):

(22) Craft distillery and microbrewery establishments, provided that:

(a) All permits and approvals required by the Delaware Alcoholic Beverage Commission are obtained and remain in full force and effect.

(b) All aspects of the distilling or brewing process are completely confined within a building, including storage of all materials and finished products.

(c) Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, including by way of example: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises for consumption off-premises and other retail items.

(d) On-site consumption or tasting associated with a craft distillery or microbrewery establishment shall be permitted. Any area associated with on-site consumption or tasting shall not operate as a stand-alone bar or tavern, shall be located on the premises of the craft distillery or microbrewery establishment, and shall be ancillary to the primary use. "Ancillary" for purposes of this section means subordinate, auxiliary, smaller and less intensive than the primary use. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises, except as otherwise permitted by Delaware Law.

(e) All food sales shall be limited to prepackaged snack items or those food items prepared by a food establishment licensed by the State of Delaware. If a craft distillery or microbrewery intends to operate on its premises a food establishment that is otherwise a permitted use in this district (i.e. restaurant, café, or full-service restaurant), the City may require the property owner to provide the City with a letter of no objection from the Delaware Alcoholic Beverage Control Commissioner regarding the operation of a food establishment on the premises of a craft distillery or microbrewery.

(f) Outdoor seating and gathering areas shall be permitted subject to the following requirements:

i. Permanent and temporary outdoor seating and gathering areas shall be subject to building permit application and approval requirements.

ii. Outdoor seating and gathering areas and ancillary improvements shall include physical barriers from public rights-of-way and physical and visual barriers from adjoining properties. Physical barriers along public rights-of-way shall restrict access from the public rights-of-way to the outdoor seating and gathering areas and shall not exceed four feet in height. Barriers along adjoining property lines shall create a physical and visual barrier consisting of fencing six feet in height or vegetation at least six feet in height. The regulations herein shall be in addition to any regulations imposed by the State of Delaware.

iii. Maximum occupancy and points of ingress/egress shall be clearly marked. Occupancy of outdoor seating and gathering areas shall not exceed one person per 15 square feet of the outdoor seating and gathering areas identified in the building plans or any other occupancy limit established by the Office of the State Fire Marshall.

iv. All structures and uses related to outdoor seating and gathering areas and facilities are subject to the City of Milford Building Code and the City of Milford Zoning Code.

v. The occupancy of outdoor seating and gathering areas shall be included when calculating the building requirements and minimum parking standards required by the City of Milford and State of Delaware. Outdoor seating and gathering areas shall meet all requirements of the City of Milford and the State of Delaware.

vi. Tables, chairs, umbrellas, equipment, games, and any other items provided in connection with outdoor seating and gathering areas shall be maintained in good repair and shall be secured during non-business hours in a safe and orderly manner.

vii. Any licensing required by the Delaware Alcoholic Beverage Control Commissioner for outdoor seating and gathering areas shall be obtained.

Section 3.

§230-13.1. Permitted uses in a C2-A District is hereby amended by adding a new subsection to be referenced as (12):

(12) Craft distillery and microbrewery establishments, provided that:

(a) All permits and approvals required by the Delaware Alcoholic Beverage Commission are obtained and remain in full force and effect.

(b) All aspects of the distilling or brewing process are completely confined within a building, including storage of all materials and finished products.

(c) Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, including by way of example: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises for consumption off-premises and other retail items.

(d) On-site consumption or tasting associated with a craft distillery or microbrewery establishment shall be permitted. Any area associated with on-site consumption or tasting shall not operate as a stand-alone bar or tavern, shall be located on the premises of the craft distillery or microbrewery establishment, and shall be ancillary to the primary use. "Ancillary" for purposes of this section means subordinate, auxiliary, smaller and less intensive than the primary use. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises, except as otherwise permitted by Delaware Law.

(e) All food sales shall be limited to prepackaged snack items or those food items prepared by a food establishment licensed by the State of Delaware. If a craft distillery or microbrewery intends to operate on its premises a food establishment that is otherwise a permitted use in this district (i.e. restaurant, café, or full-service restaurant), the City may require the property owner to provide the City with a letter of no objection from the Delaware Alcoholic Beverage Control Commissioner regarding the operation of a food establishment on the premises of a craft distillery or microbrewery.

(f) Outdoor seating and gathering areas shall be permitted subject to the following requirements:

i. Permanent and temporary outdoor seating and gathering areas shall be subject to building permit application and approval requirements.

ii. Outdoor seating and gathering areas and ancillary improvements shall include physical barriers from public rights-of-way and physical and visual barriers from adjoining properties. Physical barriers along public rights-of-way shall restrict access from the public rights-of-way to the outdoor seating and gathering areas and shall not exceed four feet in height. Barriers along adjoining property lines shall create a physical and visual barrier consisting of fencing six feet in height or vegetation at least six feet in height. The regulations herein shall be in addition to any regulations imposed by the State of Delaware.

iii. Maximum occupancy and points of ingress/egress shall be clearly marked. Occupancy of outdoor seating and gathering areas shall not exceed one person per 15 square feet of the outdoor seating and gathering areas identified in the building plans or any other occupancy limit established by the Office of the State Fire Marshall.

iv. All structures and uses related to outdoor seating and gathering areas and facilities are subject to the City of Milford Building Code and the City of Milford Zoning Code.

v. The occupancy of outdoor seating and gathering areas shall be included when calculating the building requirements and minimum parking standards required by the City of Milford and State of Delaware. Outdoor seating and gathering areas shall meet all requirements of the City of Milford and the State of Delaware.

vi. Tables, chairs, umbrellas, equipment, games, and any other items provided in connection with outdoor seating and gathering areas shall be maintained in good repair and shall be secured during non-business hours in a safe and orderly manner.

vii. Any licensing required by the Delaware Alcoholic Beverage Control Commissioner for outdoor seating and gathering areas shall be obtained.

Section 4.

§230-13.1. Conditional uses in a C2-A District is hereby amended by striking item (7) as shown in strikethrough:

C. Conditional uses subject to special requirements. The following uses are permitted subject to receiving a conditional use permit by the City Council as provided in Article IX of this chapter:

~~(7) Nano or microbrewery with or without associated pub.~~

Section 5.

§ 230-16. Conditional uses in an I-1 Limited Industrial District is hereby amended by adding a new subsection to be referenced as (4):

(4) Craft distillery and microbrewery establishments, provided that:

(a) All permits and approvals required by the Delaware Alcoholic Beverage Commission are obtained and remain in full force and effect.

(b) All aspects of the distilling or brewing process are completely confined within a building, including storage of all materials and finished products.

(c) Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, including by way of example: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises for consumption off-premises and other retail items.

(d) On-site consumption or tasting associated with a craft distillery or microbrewery establishment shall be permitted. Any area associated with on-site consumption or tasting shall not operate as a stand-alone bar or tavern, shall be located on the premises of the craft distillery or microbrewery establishment, and shall be ancillary to the primary use. "Ancillary" for purposes of this section means subordinate, auxiliary, smaller and less intensive than the primary use. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises, except as otherwise permitted by Delaware Law.

(e) All food sales shall be limited to prepackaged snack items or those food items prepared by a food establishment licensed by the State of Delaware. If a craft distillery or microbrewery intends to operate on its premises a food establishment that is otherwise a permitted use in this district (i.e. restaurant, café, or full-service restaurant), the City may require the property owner to provide the City with a letter of no objection from the Delaware Alcoholic Beverage Control Commissioner regarding the operation of a food establishment on the premises of a craft distillery or microbrewery.

(f) Outdoor seating and gathering areas shall be permitted subject to the following requirements:

i. Permanent and temporary outdoor seating and gathering areas shall be subject to building permit application and approval requirements.

ii. Outdoor seating and gathering areas and ancillary improvements shall include physical barriers from public rights-of-way and physical and visual barriers from adjoining properties. Physical barriers along public rights-of-way shall restrict access from the public rights-of-way to the outdoor seating and gathering areas and shall not exceed four feet in height. Barriers along adjoining property lines shall create a physical and visual barrier consisting of fencing six feet in height or vegetation at least six feet in height. The regulations herein shall be in addition to any regulations imposed by the State of Delaware.

iii. Maximum occupancy and points of ingress/egress shall be clearly marked. Occupancy of outdoor seating and gathering areas shall not exceed one person per 15 square feet of the outdoor seating and gathering areas identified in the building plans or any other occupancy limit established by the Office of the State Fire Marshall.

iv. All structures and uses related to outdoor seating and gathering areas and facilities are subject to the City of Milford Building Code and the City of Milford Zoning Code.

v. The occupancy of outdoor seating and gathering areas shall be included when calculating the building requirements and minimum parking standards required by the City of Milford and State of Delaware. Outdoor seating and gathering areas shall meet all requirements of the City of Milford and the State of Delaware.

vi. Tables, chairs, umbrellas, equipment, games, and any other items provided in connection with outdoor seating and gathering areas shall be maintained in good repair and shall be secured during non-business hours in a safe and orderly manner.

viii. Any licensing required by the Delaware Alcoholic Beverage Control Commissioner for outdoor seating and gathering areas shall be obtained.

Section 6.

§ 230-19.1. Permitted uses in a BP Business Park District is hereby by removing language indicated by strikethrough:

(11) Beverage blending, bottling (all types), ~~but not distilling~~.

Section 7.

§ 230-19.1. Conditional uses in a BP Business Park District is hereby amended by adding a new subsection to be referenced as (6):

(6) Craft distillery and microbrewery establishments, provided that:

(a) All permits and approvals required by the Delaware Alcoholic Beverage Commission are obtained and remain in full force and effect.

(b) All aspects of the distilling or brewing process are completely confined within a building, including storage of all materials and finished products.

(c) Such establishment offers the public, on a regular and continuing basis, various activities ancillary to its distilling and/or brewing process, including by way of example: tours of the premises, educational classes, demonstrations, tasting rooms, and retail sales areas limited to the sale of beer, mead, cider, or spirits brewed or distilled on the premises for consumption off-premises and other retail items.

(d) On-site consumption or tasting associated with a craft distillery or microbrewery establishment shall be permitted. Any area associated with on-site consumption or tasting shall not operate as a stand-alone bar or tavern, shall be located on the premises of the craft distillery or microbrewery establishment, and shall be ancillary to the primary use. "Ancillary" for purposes of this section means subordinate, auxiliary, smaller and less intensive than the primary use. On-site consumption or tasting of alcohol shall be limited to those products brewed or distilled on the premises, except as otherwise permitted by Delaware Law.

(e) All food sales shall be limited to prepackaged snack items or those food items prepared by a food establishment licensed by the State of Delaware. If a craft distillery or microbrewery intends to operate on its premises a food establishment that is otherwise a permitted use in this district (i.e. restaurant, café, or full-service restaurant), the City may require the property owner to provide the City with a letter of no objection from the Delaware Alcoholic Beverage Control Commissioner regarding the operation of a food establishment on the premises of a craft distillery or microbrewery.

(f) Outdoor seating and gathering areas shall be permitted subject to the following requirements:

i. Permanent and temporary outdoor seating and gathering areas shall be subject to building permit application and approval requirements.

ii. Outdoor seating and gathering areas and ancillary improvements shall include physical barriers from public rights-of-way and physical and visual barriers from adjoining properties. Physical barriers along public rights-of-way shall restrict access from the public rights-of-way to the outdoor seating and gathering areas and shall not exceed four feet in height. Barriers along adjoining property lines shall create a physical and visual barrier consisting of fencing six feet in height or vegetation at least six feet in height. The regulations herein shall be in addition to any regulations imposed by the State of Delaware.

iii. Maximum occupancy and points of ingress/egress shall be clearly marked. Occupancy of outdoor seating and gathering areas shall not exceed one person per 15 square feet of the outdoor seating and gathering areas identified in the building plans or any other occupancy limit established by the Office of the State Fire Marshall.

iv. All structures and uses related to outdoor seating and gathering areas and facilities are subject to the City of Milford Building Code and the City of Milford Zoning Code.

v. The occupancy of outdoor seating and gathering areas shall be included when calculating the building requirements and minimum parking standards required by the City of Milford and State of Delaware. Outdoor seating and gathering areas shall meet all requirements of the City of Milford and the State of Delaware.

vi. Tables, chairs, umbrellas, equipment, games, and any other items provided in connection with outdoor seating and gathering areas shall be maintained in good repair and shall be secured during non-business hours in a safe and orderly manner.

viii. Any licensing required by the Delaware Alcoholic Beverage Control Commissioner for outdoor seating and gathering areas shall be obtained.

Section 8. Dates.

Planning Commission Review and Public Hearing: September 17, 2019

City Council Introduction: September 9, 2019

City Council Review and Public Hearing: September 23, 2019

Effective: October 3, 2019

Motion carried.

Councilmember Peel moved to adopt the language regarding craft distilleries as described in Sections 2 through Section 7 of Ordinance 2019-31, related to C2, C2A, I1 and BP districts, seconded by Councilmember Culotta. Motion carried.

Ordinance 2019-32

Code of The City of Milford

Part I-Administrative Legislation

Chapter 57-Planning Commission

Add Compensation of Members

Mr. Pierce explained this is an amendment to Chapter 57 entitled Planning Commissioner, related to compensation of the Planning Commissioners, at \$50 per regular or special meeting attended, as was discussed during the budget hearings.

It was confirmed that the compensation is the same that City Council receives for meetings. Councilman Morrow recommends considering the compensation of the various boards and City Council at some point in the near future.

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

Motion to adopt Ordinance 2019-32 amending Chapter 57 made by Councilmember Boyle, to allow each Planning Commissioner to be paid \$50 per regular or special meeting attended, and the reimbursement of actual expenses incurred in conjunction with their official duties, seconded by Councilmember James:

ORDINANCE 2019-32
CHAPTER 57-PLANNING COMMISSION

WHEREAS, in accordance with Title 22, Section 701 of the Delaware Code, the City of Milford established a Planning Commission; and

WHEREAS, the City Council of the City of Milford recognizes the valuable work and time commitment made by Planning Commission members and deems it necessary to provide compensation to the members in appreciation of their service to the community.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1:

§57-5-Salaries and Compensation is hereby amended by adding language shown as underlined and removing language shown in strikethrough:

All Each members of the Commission shall ~~serve without compensation~~ be paid \$50.00 per regular or special meeting s/he attends, ~~but~~ and may be reimbursed for actual expenses incurred in connection with their official duties.

Section 2: Dates.

City Council Introduction: September 9, 2019

City Council Review and Public Hearing: September 23, 2019

Effective: October 3, 2019

Motion carried.

Ordinance 2019-33

Code of The City of Milford

Part II-General Legislation

*Chapter 230-Zoning
Article VII-Board of Adjustment
Add Compensation of Members*

Mr. Pierce explained this ordinance mirrors that of the previous ordinance relating to compensation of each member of the Board of Adjustment for regular or special meetings attended. It was reviewed by the Planning Commission who also recommended approval by unanimous vote.

It was noted that those members of the Board of Adjustment are chosen by their knowledge and background, which makes a vacancy often difficult to fill.

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

Councilmember Boyle moved to adopt Ordinance 2019-33, by inserting language in the Zoning Code to allow the members of the Board of Adjustment to be compensated, by \$50 per meeting or special meeting attended, and any associated expenses, seconded by Councilmember Peel:

ORDINANCE 2019-33
CHAPTER 230-ZONING

WHEREAS, in accordance with Title 22, Section 322 of the Delaware Code, the City of Milford established a Board of Adjustment; and

WHEREAS, the City Council of the City of Milford recognizes the valuable work and time commitment made by Board of Adjustment members and deems it necessary to provide compensation to the members in appreciation of their service to the community.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1:

A new Section 39 is hereby added to read as follows:

§230-39. - Salaries and Compensation.

Each member of the Board of Adjustment shall be paid \$50.00 per regular or special meeting s/he attends and may be reimbursed for actual expenses incurred in connection with their official duties.

Section 2: Dates.

Planning Commission Review and Public Hearing: September 17, 2019

City Council Introduction: September 9, 2019

City Council Review and Public Hearing: September 23, 2019

Effective: October 3, 2019

Motion carried.

COMMUNICATION & CORRESPONDENCE

In regard to a number of complaints from residents about dark streets and what appears to be a lack of streetlights on our downtown streets, Acting City Manager Whitfield reported that Electric Superintendent Gallagher is working on a project to replace the high-pressure sodium lights with new LED lights. The plan is to start at the core part of the downtown and work outwards.

Mr. Whitfield encouraged Council to inform their constituents to contact public works. Depending on what is needed in terms of infrastructure, some are easy though can take more time and work. Regardless, the electric crews will try to accommodate any concerns received.

He confirmed that converting to LEDs will decrease the kilowatt usage by about one-third.

Councilman James brought up a concern about the lack of a streetlight at the end of Truitt Avenue Extended that ends at US Route 113 and the impact on safety in that area.

The Councilman also referenced to the earlier discussion about the need for a fire substation and asked about a police substation in the Brightway Commons area. He recalled this was an option approximately ten years ago when it was being discussed by residents and police officials at the time. That did not move forward at that time because of funding issues, though he assured his constituents that he would bring it before Council again. He did tell them that police officers have increased foot patrols in the Brightway area in an effort to get people off the streets. However, most of the people he spoke with preferred a more permanent type presence.

Chief Brown said he believes the area is what the Starlings are referring to and because he has increased foot patrol, it has made a big difference in crime throughout the summer. They used money from a grant to pay those officers overtime and were able to get even more money this year because it has been so successful in stopping criminal activity.

UNFINISHED BUSINESS

Appointment/Planning Commission Member

Planning Director Pierce recalled that a vacancy occurred the end of August and new applications have been received. There was also an effort to contact residents who had previously expressed an earlier interest. After reviewing Ward 1 or Ward 4 applications, in an effort to keep the commission's representation balanced, Michiah Grainger was recommended. Mr. Grainger is a very interested resident who lives in the Watergate Community and has been in Milford for about seven years according to Mr. Piece.

Based on Mayor Campbell's recommendation, Councilmember Boyle moved to confirm the appointment of Michiah Grainger, 6418 Tabard Drive, to fill the vacant position on the City Planning Commission, seconded by Councilmember Culotta. Motion carried.

Funding Authorization/FY 2018-19/Hook Public Relations Firm/Police Facility Promotion Funding Authorization/FY 2019-20/Hook Public Relations Firm/Police Facility Promotion

Acting City Manager Whitfield reported that earlier this year, City Council authorized the Hook Public Relations contract to allow them to promote the new police facility on behalf of the department. Unfortunately, there was no funding authorization at that time.

The contract now consists of two phases. The first phase was completed in the FY18-19 for \$4,300 and the second phase was recently approved by Mayor Campbell and Chief Brown this fiscal year (FY19-20) in the amount of \$7,000.

Councilman Boyle moved to authorize \$4,300 from general fund reserves, in the FY18-19 budget, for the Hook Associates contract for the purpose of promoting and marketing the new Milford Police Department, seconded by Councilmember Peel. Motion carried.

Councilman Boyle moved to authorize an additional \$7,000 to be paid from the current fiscal year's general fund reserves, for further campaign development of the new police facility, in the amount of \$7,000, seconded by Councilmember James. Motion carried.

NEW BUSINESS

Approval/FY19-20 Budget Update/Technical Services Overtime Correction

Mr. Whitfield informed Council that the Technical Services overtime was not transferred from the electric, water and sewer departments when those employees were moved to the new division. The anticipated overtime is \$9,000, which primarily covers the on-call time for after-hour meter turn-ons.

Councilmember Peel moved to amend the FY19-20 budget by increasing the Technical Services overtime line item to \$9,000, with funding from the electric division overtime line in the amount of \$4,500 and \$2,250 to be funded from the water division overtime line item and \$2,250 from the sewer operations overtime line item, to result in a net zero change to the overall budget, seconded by Councilmember James. Motion carried.

Approval/FY19-20 Budget Update/Election Account Correction

City Accountant/Customer Service Manager Suzannah Frederick then shared that when the final version of the current year's budget was printed, \$6,000 was inadvertently omitted from the general government, election salaries. She is requesting this be added back, with funding from the general tax levy. Based on collections to date, the income from Property Tax will exceed the projected line item.

Councilmember James moved to amend the FY19-20 City Budget by increasing the General Government Election Salaries line by \$6,000, to be offset by increasing the General Fund Property Tax/Current Levy by \$6,000, seconded by Councilmember Wilson. Motion carried.

Adoption/Ordinance 2019-34/Part I-Administrative Legislation/Chapter 55-Personnel

Acting City Manager Whitfield recalled the repeal and replacement of Chapter 55, Personnel Code, accomplished through two ordinances, one in 2018 and the second in 2019. During recent staff meetings, City department heads and the Human Resources Manager have reviewed the chapter and are recommending some additional housekeeping items and updates.

Proposed changes to Chapter 55 involve police dispatch shift differential and holiday pay/sellback, to align with the Teamsters' contract for Milford Police Officers.

Mr. Whitfield explained the last item involve the use of vehicles by City employees.

Human Resources Manager Jamesha Eaddy was present and referenced the memorandum outlining the proposed changes to Chapter 55, in relation to provisions that already apply, though they were never written into the ordinance. This ensures that all policies are documented and can be easily located.

Councilman James asked if the provision allowing the City Manager to authorize a vehicle allowance for mid management employees and above, is already in place; Ms. Eaddy responded by stating that only three vehicles are authorized a vehicle allowance. They include the City Manager, Public Works Director and the City Engineer who receive a \$200 monthly allowance. Without this change, he is unable to authorize another employee, such as the Planning Director, who uses his vehicle often.

Councilman James asked if a study has been done to determine if a vehicle allowance is more feasible than mileage reimbursement or purchasing another City vehicle. Ms. Eaddy explained this will allow the option to assess all three levels though right now only City vehicles are being used. For example, Finance has a vehicle that is used very infrequently. In order to reduce costs with purchasing new vehicles, they would like to have this option to consider. A comparison would be needed of the \$200 allowance versus the travel allowance of 58 cent a mile or costs of a City vehicle.

There being no further questions from Council, Mayor Campbell opened the floor to public comment. No one responded and the public comment session was closed.

Councilman Boyle moved to adopt Ordinance 2019-34, as presented, seconded by Councilmember James:

ORDINANCE 2019-34
CODE OF THE CITY OF MILFORD PART I-ADMINISTRATIVE LEGISLATION
CHAPTER 55-PERSONNEL

WHEREAS, Chapter 55 of the City of Milford Code governs personnel policies for all City of Milford employees; and

WHEREAS, the Chapter is intended to inform employees with important information about the City's rules, policies, practices, and procedures, as well as educated them on their own privileges and responsibilities; and
 WHEREAS, the Overtime Compensation provision does not include police dispatchers shift differential; and
 WHEREAS, the Holiday provisions does not include full time police dispatchers holiday pay; and WHEREAS, the Vehicle Use/Insurability provision included reimbursement at the current mileage rate for employees using their personal vehicle for City related business; and
 WHEREAS, the Vehicle Use/Insurability provision Did not include employee's responsibility for tolls, traffic violations, fines and fees when using a City owned vehicle; and
 WHEREAS, the Travel on Official City Business provision requires approval for travel on City-related business from the employee's supervisor instead of the Appointing Authority; and
 WHEREAS, the Travel on Official City Business provision allowed reimbursement at the current mileage rate for employees using their personal vehicle for City related travel instead of the City reimbursing the employee for either the cost of airfare or mileage, whichever is less; and
 WHEREAS, the Travel on Official City Business provision does not include the City Manager authorizing a monthly vehicle allowance in lieu of regular use of a City vehicle for mid-management employees and above who are expected to travel frequently in Kent and Sussex counties in the performance of their duties.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. The following text is hereby amended by inserting language shown as italicized and underlined and removing language indicated by strikethrough. as set forth below:

SECTION 6 - CLASSIFICATION, PERFORMANCE EVALUATION, AND COMPENSATION

- OVERTIME COMPENSATION
- ELIGIBILITY:

All FLSA non-exempt employees shall be eligible for overtime compensation. (*NOTE: There are special rules for police officers, please refer to the FLSA Special 7[k] Work Periods rules.)

- SCHEDULING:

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. When possible, advance notification of these mandatory assignments will be provided. Overtime scheduling in all departments must be approved by the Department Director, Superintendent or supervisor prior to overtime work, except in the case of an emergency.

Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.

- OVERTIME PAY:

FLSA non-exempt employees shall be compensated at the rate of one and one-half times the equivalent hourly rate of the employee for overtime hours worked. The work week starts at 7:00 a.m. Sunday and ends at 6:59 a.m. the following Sunday. Hours worked in excess of forty (40) hours in the work week, for regular non-exempt employees or 80 hours in a pay period for non-exempt police officers, will be paid at overtime rate. Vacation leave, bereavement, and paid holidays will be considered hours worked for purposes of performing overtime calculations, unless otherwise specified in a collective bargaining agreement. Hours worked by regular full-time employees on a holiday, which has been approved by City Council as an observed City holiday, shall be compensated at the rate of one and one-half times the equivalent hourly rate of the employee. When a holiday occurs on a Saturday or Sunday the holiday will be observed and paid on Friday or Monday (in accordance with the section of this manual regarding pay periods). An employee shall receive only one paid holiday per holiday.

6.6.D. SHIFT DIFFERENTIAL-POLICE DISPATCHERS:

The amount of shift differential pay shall be calculated for each hour actually worked between 7:00 p.m. and 7:00 a.m. at the rate of \$1.00 per hour. Shift differential shall not become part of base pay and shall be paid bi-weekly.

Section 2. The following text is hereby amended by inserting language shown as italicized and underlined and removing language indicated by strikethrough. as set forth below:

SECTION 7 - EMPLOYEE BENEFITS

7.3 HOLIDAY

The City will grant holiday time off to all employees on all legal holidays officially adopted and approved by the Milford City Council each calendar year. Holiday pay will be calculated based on the employee's straight time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day.

To be eligible for holiday pay, employees must work or be on approved leave the last scheduled day immediately preceding the holiday and the first scheduled day immediately following it.

If a recognized holiday falls during an eligible employee's paid absence (e.g., vacation, sick leave, etc.), holiday pay will be provided instead of the time off benefit that would otherwise have applied.

If an eligible employee works on a recognized holiday, he or she will receive holiday pay plus wages at one and one-half times his or her straight time rate for the hours worked on the holiday.

The City will provide to employees a list of holidays each year after approval of the City Milford Council.

When a holiday falls on a Saturday, the preceding Friday will be the observed holiday. When a holiday falls on a Sunday, the following Monday will be the observed holiday.

If an employee is absent from work the day before or after a holiday, holiday pay will not be provided until proof of sickness or excusable absence is established to the satisfaction of the Department Director.

7.3.A. HOLIDAY-FULL-TIME POLICE DISPATCHERS:

All banked, accrued holiday pay will be considered vested. Banked, accrued holiday pay may be used for vacation, extended medical leave/FMLA or when sick leave balance is exhausted. Employees working a holiday will be paid holiday pay in the pay period that the holiday falls. A police dispatcher may request to accrue his/her holiday pay to be used as vacation hours. New accrued holiday hours not used by December 15 shall be paid in the last pay period before December 31 at the police dispatcher's effective hourly rate in effect on the date of payment. Employees not on duty on a holiday, shall be paid for that day and will not accrue an alternative day off. An employee who is assigned to work on a holiday and fails to report and perform such work for any reason other than a reason covered by an approved leave, shall not receive pay for the holiday.

7.3.B. HOLIDAY SELL BACK-FULL-TIME POLICE DISPATCHERS:

Employees may elect to sell back up to 80 hours of holiday accrual hours during each fiscal year from the old holiday bank. Payment for holidays sold back will be made on the last pay date in July. To sell back holiday time, the employee must complete a City of Milford application for leave form, designed for holiday sell back, and submit this form to the Chief of Police office prior to April 1 of each year.

Section 3. The following text is hereby amended by inserting language shown as italicized and underlined and removing language indicated by strikethrough. as set forth below:

SECTION 12 - SAFETY AND HEALTH

12.3 VEHICLE USE / INSURABILITY

City of Milford employees are constantly in the public eye and those who drive a vehicle in the performance of their duties are representing the City. Employees are not only responsible for their own safety and security, but the safety and security of residents and visitors to the City. As a result, employees are required to exercise the utmost care and caution while operating a motor vehicle and other vehicle, tools and equipment on City business. Employees who operate City owned vehicles or personally owned vehicles while performing City business are required to abide by all applicable State laws in addition to the following rules and regulations.

City owned or leased vehicles are to be used for the following purposes:

- a. Transportation to conduct official City business during the normal working day.
- b. Transportation to conduct official City business before and/or after the normal business day.
- c. Transportation between the employee's principal work location and the employee's residence in order to facilitate quick response by those authorized and assigned to drive take home City vehicles by the respective Appointing Authority.
- d. Transportation to conventions, conferences, meetings and training programs. ~~If using a personal vehicle for approved City business when no City vehicle is available employees will receive the current mileage reimbursement at the mileage rate as determined by the Internal Revenue Service.~~
- e. Rental Cars may be used for both in-state and out-of-state travel, if authorized by the respective Department Director or Appointing Authority.

Use of City vehicles for day-to-day operations must be approved by the Department Director / Superintendent / supervisor. Assignment of a City vehicle to an individual for a continuous, regular or indefinite period must be approved by the Appointing Authority (~~please refer to the Use of Equipment and Vehicles Policy~~).

Employee Responsibilities: Those driving vehicles in the course of their employment:

- a. Must have a valid license for the type of vehicle being driven and must obey all traffic laws.
- b. Must provide a copy of their driver's license to their Appointing Authority when hired in order to verify that the driver's license is valid.
- c. Will have their driver's license reviewed at least annually to verify validity.
- d. Are responsible for ensuring a current, valid copy of their license is on record with the City.

Any employee who is required to operate a City owned or private vehicle to perform City business must immediately report any license suspension, revocation or serious violation to his/her supervisor, ideally within 24 hours of the action. An employee must immediately report to the Department Director any motor vehicle violations while performing City business, including parking, toll, and traffic violations incurred while utilizing a City vehicle before the end of the work day in which the violations occur. The employee will be responsible for all fines and fees associated with the violation. The supervisor will notify the Appointing Authority of any suspensions, revocations and violations that affect the employee's ability to drive. Any license suspension, revocation or serious violation not reported immediately to the supervisor will be subject to disciplinary action up to and including termination.

If operating a vehicle to perform City business, employees are required to be insurable through the City's insurance carrier.

Employees must wear a seat belt at all times when operating or riding in a City vehicle.

City vehicles and/or fuel shall not be used for personal use. Only City employees may operate City vehicles. No employee under the age of eighteen (18) is allowed to operate a City vehicle.

Employees are prohibited from transporting passengers except: 1) other City employees; or 2) individuals conducting business with or on behalf of the City.

Personal vehicles shall not be used to pull trailers or haul equipment while being used in City related business.

Employees are prohibited from making any modifications, alterations or additions to any City vehicle or equipment without the prior express approval of his/her supervisor.

Section 4. The following text is hereby amended by inserting language shown as italicized and underlined and removing language indicated by strikethrough. as set forth below:

SECTION 13 - ADMINISTRATION

13.1 TRAVEL ON OFFICIAL CITY BUSINESS

Whenever an employee travels for City-related business (training, meeting, seminar, conference, etc.) the employee must obtain prior authorization from ~~their supervisor~~, the Appointing Authority, including authorization of budget

expenditures for the estimated cost of the travel. Meal and Incident Expense (M&IE) Per Diem Rates (www.gsa.gov/perdiem) and Mileage Reimbursement Rates (www.gsa.gov/mileage) should be confirmed with the Finance Department by contacting the Accounts Payable ~~Administrator~~ Coordinator with the details which should include the date(s), location(s) of the travel and any services that will be included in any registration fees before processing a purchase order for the employee's M&IE and/or mileage reimbursement.

The City encourages the use of any authorized available City vehicle, especially for local travel; ~~however, if the employee has been approved to use their privately owned vehicle, they can request mileage reimbursement for the actual miles (round trip) between locations.~~ If a City-owned vehicle is not available, employees may use their privately-owned vehicle. An employee shall be reimbursed at the current Internal Revenue Service mileage reimbursement rate along with tolls and parking fees, if any. To receive reimbursement, the request must be submitted within seven (7) working days from the date of travel.

If an employee elects to drive a personal vehicle to an out-of-state conference, training or meeting, the City will compare the cost of airfare and driving and will reimburse the least expensive method of travel.

If more than one employee is traveling to the same event, the City encourages the sharing of vehicles to conserve fuel and City funds. When two or more employees travel together in a privately-owned vehicle, only one mileage reimbursement will be approved.

The City Manager may authorize a monthly vehicle allowance in lieu of regular use of a City vehicle for mid-management employees and above who are expected to travel frequently in Kent and Sussex counties in the performance of their duties.

When employees are booking hotel reservations, they should obtain the lowest rate possible. Some conferences have discounted blocks of rooms reserved and most hotels offer a government rate which may be lower than an advertised rate. After obtaining the hotel rates, the employee must obtain approval from their supervisor of the hotel expense prior to the final booking of the hotel reservation.

Employees must acquire receipts for any expenses (hotel, parking, gas, rental car, taxi, tolls, etc.), which are being charged directly to the City or those which will be submitted for reimbursement to the employee and that are not included in the M&IE allowance. The receipts with an itemized expense sheet should be turned in to the employee's supervisor immediately upon the employee's return to work. The supervisor, after the review and approval of the receipts, should complete a purchase order for any reimbursement due to the employee or for any expenses that had not previously been processed through the purchase order system. The supervisor should then submit the signed approved receipts to the Accounts Payable ~~Administrator~~ Coordinator to be processed for payment with the next payment cycle.

Employees receiving an M&IE allowance adhere to GSA and IRS regulations regarding covered incidental expenses. Accordingly, the following expenses will not be reimbursed by the City except under extraordinary circumstances and with approval of the Appointing Authority:

- All meals,
- Room service,
- Laundry, dry cleaning and pressing of clothing, and
- Fees and tips for persons who provide services, such as food servers and luggage handlers.

Employees travelling to conferences, training or other events that include meals which meet the employee's nutritional requirements for some or all days, should reduce the per diem accordingly based on the breakdown on the GSA website. In addition, the first and last days of travel are at a reduced M&IE rate. Please note that amount on the GSA website and on travel request forms.

Section 5: Dates.

City Council Introduction: September 9, 2019

City Council Review and Public Hearing: September 23, 2019

Effective: October 3, 2019

Motion carried.

Waiver/Sewer Extension Requirement/Chapter 200-Subdivision Code/Misphillion Landing

Planning Director Pierce explained this involves a revised Preliminary Site Plan, east of Rehoboth Boulevard on Northeast Front Street, behind the Chaney Shopping Center. The applicant had proposed 102 apartment units in the preliminary site plan reviewed by the Planning Commission on May 15, 2018. A year later, the Planning Commission granted a 12-month extension of the approval on May 14, 2019.

The preliminary site plan was subject to the findings of the Utility Feasibility Study prepared by the City Engineer in December 2017. The feasibility study required the applicant to extend the existing 12-inch gravity sanitary sewer main from the south to the north, across the frontage of their property along Northeast Front Street. The property owner is requesting a waiver from that requirement, as is allowed by Section 200-6 entitled Variances and Waivers.

Mr. Pierce provided the following information:

Section 200-5(H)(1)(i) states “all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.” Section 230-52, entitled Review Procedure for Site Plans, states that “the final site plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City.”

The extension of the sanitary sewer main is a requirement of the subdivision regulations for the City.

Section 200-6 states “applicants may request, at the time of application submission, the varying or waiving of the requirements of Chapter 200, and the Planning Commission may, at its own discretion, recommend to City Council the varying or waiving of said requirements, and request conditions that substantially secure the objectives of the requirements so waived.

In 2009, the City designed and replaced the 12” gravity sewer interceptor along Northeast Front Street from Brady Drive, to the front of the applicant’s property, essentially lowering the invert of the connection manhole from 7.07 feet to 5.34 feet. The City paid to replace the gravity line beginning just east of Milford Police Department, up and across Rehoboth Boulevard, lowering the line, thus allowing the applicant’s property to be served by gravity and eliminated the need for a new sanitary sewer pumping station for the Misphillion Landing project.

As a result, it is recommended the City require the extension of the 12” gravity sewer main across the property, as required by the City Subdivision Chapter, to preserve previous public investments and to maximize the sanitary sewer drainage basin along the Northeast Front Street corridor.

The Planning Commission reviewed the materials at the August 2019 meeting and recommended denial of the waiver request by a unanimous 6-0 vote of those present.

Mr. Pierce confirmed the members opinion was it did not meet the standards of Section 200-6, in relation to variances and waivers. He reiterated the staff’s opinion to preserve public investments with the lowering of the gravity line and extending it across the front of the applicant’s property to allow future development, east of this property to connect without disturbing any improvements at the apartment complex. If not required now, and it would need to be tied into at a later date, that developer/builder would then need to come across the entire frontage of the apartment complex with a significant sewer line improvement.

He pointed out it is normal to require a development to extend the sewer line through the property to aid future development areas and prevent later major disturbances within the existing development.

Solicitor Rutt then explained that procedurally, the applicant had preliminary site plan approval, which included the sewer line by the Planning Commission. Now they are asking for a revision to the site plan, by eliminating the sewer line across the frontage.

Mr. Pierce then added that the utility feasibility study was developed at the end of 2018. The applicant came through in May for their preliminary site plan which included the improvement, as was requested by the City Engineer. An extension was granted in May 2019 and since that time, a waiver was filed.

He also noted that several years ago, a site plan was approved, that did not require the sewer line improvement, though it expired after one year as a result of dormant construction activity.

Mr. Pierce then read the Planning Commission minutes that stated the Commissioners denied the request because the gravity main was required across the property by the City code, and that the request did not meet the hardship stipulations of Section 200-6.

When asked for an opinion, Acting City Manager Whitfield stated that as Mr. Pierce pointed out, the City had invested funding to accommodate this property initially. The ordinance is clear that the line must be extended to the edge of the property to serve any future development. He agrees the line should be installed, as were presented in the original plans.

Applicant representative Ring Lardner provided the following statement:

Good Evening, Mayor and Council. My name is Ring Lardner, a Principal and Professional Engineer with the firm Davis, Bowen & Friedel, Inc. With me this evening is Mr. Michael Simeone, one of the managing members of the ownership group and the developer.

As Mr. Pierce has mentioned, the Planning Commission reviewed our request on August 20, 2019 and did recommend a denial of the waiver. He will argue why he feels they erred and provide reasons for the denial.

As previously discussed, there is a history to this project that goes back to 2009. At the time, a pump station force main was required to serve this project. As part of the City's sewer improvements, one option was to lower the gravity sewer line. Though that eliminated the requirement for a pump station force main, it also reduced the City's perpetual maintenance costs associated with a pump station and force main.

In addition, the impact fee this property will pay will more than offset the costs of that improvement, including the lowering of the line by a couple feet. Furthermore, the line that was extended also has another stub of twelve inches continuing to the east to serve other future properties, should that ever be developed.

In exchange, there is an eight-inch connection provided to this property. The property also provided an easement to the contractor doing that work and laid out an area for that work to be done. This is also part of the compensation from the developer for the sewer main.

This property did have a site plan approval back in 2012 that did lapse due to the economic market at the time. He would be hard pressed to ask for seven extensions, which is the reason it was allowed to expire.

An application was submitted and the only change since 2012, includes a revision in the Code regarding sections of Chapter 185, entitled Utility Feasibility Study and Aid-in-Construction, that required the utility feasibility study. The study did identify the requirement to extend the twelve-inch sewer main be added and was agreed to, even though that does not mean all members of the LLC were aware of that requirement.

It was included it on the preliminary plan and subsequent construction documents in April 2018 and approved in May 2019. Comments were received in January 2019 at which time Mr. Simeone asked why the sewer extension was needed. Mr. Simeone reminded the design team that the plan did not require the pump station and that a ten-inch stub was provided to the east.

One of our arguments is why Mispillion Landing is required to extend a sewer that is not required to serve this project in anyway though the code says to extend it only for the purpose of benefiting any future development.

We argue that Chapter 185 should be invoked as this line serves future development, who should equally contribute as it will benefit their property values.

Another recent project was required to extend sewer to serve a larger basin and they were permitted to apply Chapter 185 in that situation.

They are arguing that Chapter 185 says if a future development should come to the table and either pay up now, or the City could require them to contribute to that cost and work it out from an EDU standpoint.

According to Section 9 of Chapter 200, City Council can waive certain requirements of this Chapter. We have reviewed the findings of the Planning Commission and believe their reasoning is flawed for the following reasons:

- 1) If the sewer main is not extended, it will not cause extraordinary and unnecessary hardship to the City. It will cause a hardship to future development and is part of their price for developing in the future. The citizens and visitors of Milford will be impacted if the sewer is extended is requested. The developer will need to dig up portions of the street to remove an existing alignment, re-core a manhole and re-install new installation. They will be disturbing Front Street to make the connection for future use, which may or may never happen. The larger pipes may or may not be needed because currently there are no known plans to develop the Hitchens Properties, the Tire Center at the end of the street, Wilkinson Property, Atlantic Concrete Properties, Warfel Properties, Sharp Property, Perdue Farms or the McColley Properties. This is a list of all properties to the east that have no known plans of development or expansion.
- 2) The waiver is not detrimental to public health, safety or general welfare. The extension is being requested just in case properties to the east are developed. We have ample frontage and easements that will have minimal or no impact on the 102 units being requested.
- 3) The waiver does not nullify the intent and purpose of the Official Map, Chapter 230 Zoning, the development plan or this chapter. The waiver will extend a sewer that does not need to be extended to serve this project. The sewer connection point is existing and has sufficient capacity to serve probable future development.

It is for these reasons that we believe the request to extend sewer is not in keeping with Section 8 of Chapter 200 and should fall under Chapter 185 that talks about future development and expansions.

We thank you for your time and can answer any questions that you may have.

It was confirmed the argument is being made from the City standpoint, that this is not in the spirit of the language. However, the developer is saying that would be an unnecessary cost burden on the developer that will not have any benefit to his community and only benefits future developer. Therefore, they should assume those costs, if and when that is ever developed.

Councilman Culotta said he agrees with the developer and that the City should be ok with this. Unless the City wants to install the extension at the City's cost for future growth, would he be willing to consider this. He does not want to add an unnecessary burden on the developer who already has spent plenty of money developing this land just because of the existing language in the code.

Councilman Boyle said he completely disagrees. He is going to side with the City Engineer and the Planning Commission's recommendation. He feels that because we don't know of anything that may be occurring right now, does not mean something will not be built in the future. He also noted that things have changed in the past ten years which is when it was originally designed and then went dormant. The City is moving forward and has installed a new sewer line from the west side of Rehoboth Boulevard along Front Street, anticipating growth. He believes growth will happen and there is sufficient property by the new intersection of the Route 1 flyover, that has the potential to develop industrially, and did not exist previously.

He also pointed out that near this project, there is land that will be developed, including the marina, where future commercial and residential development will materialize.

He opposes any action to grant a waiver.

Councilman James fully accepts what has been presented, which makes sense. What he wrestles with is making an exception to the code based on what was presented. In his opinion, it has not been demonstrated that this will create a hardship. It was known and agreed to in the past, and is what the City code requires. This body can choose to change the code or ignore the requirement. There have been similar concerns with other areas of the code he sometimes disagrees on, but it is the code and the way it is written today.

Mr. Lardner argued that the code states that all water shall be looped, and all sewer and stormwater shall be extended at a minimum slope. He believes that is very vague and feels anyone could be asked to extend all types of utilities. In this case, they are not extending anything though he would understand if the sewer had to be extended through their property and to the south for backflow purposes. But to extend the system for no other purpose makes no sense to him. To him that does not comply with the spirit of what the code is trying to say in this situation.

Councilmember Peel then stated that the issue at hand is that the City has made some investments and this could be disruptive. Acting City Manager Whitfield verified the City made a substantial investment in order to serve this property with a gravity sewer line, which eliminated the need for a pump station. The property owner has already benefitted from an investment the City made. Part of the City's purpose for the investment, was for future growth down the Front Street corridor. Anytime any property is developed along Front Street, the City would expect that developer to extend the sewer beyond their property to the next adjacent property for continuation purposes.

Mr. Whitfield said that has been the code and the way the City has operated in the past to ensure infrastructure is in place for the next property to connect.

It was confirmed that though this development is not benefitting for this extension, this property has already benefited from prior investments paid for by the City.

Mr. Lardner emphasized that impact fees will help recoup some of that money. In this case, the provision in the code in Chapter 200-8 has not changed. In 2012, they were not asked to extend the sewer any further even though there was a different Public Works Director and City Planner at the time. Half of Council was here when this went through though he still does not understand the logic of stopping at this point.

He said if that is the case, this project should have been asked to extend the sewer seven years ago or the City should have extended it that much further.

Solicitor Rutt pointed out the time lapsed and there was a need to reapply, and asked the date; Mr. Lardner said in 2017.

The Solicitor then pointed out that Section 200-9 clearly states that applicants may request at the time of their application submission, the varying or waiving of requirements of Chapter 200. Mr. Lardner agreed and said they could rescind the current application and restart the whole process and be here again in four months. Restarting the whole project is not something the applicants want. However, he has several choices based on the outcome tonight. If the waiver is denied, he can choose not to proceed with the project, do the project and pass the additional costs on to the tenants, or he can take a smaller profit on the project, or restart the process all over again, go back to the utility feasibility study, though Mr. Lardner feels that would be a waste of everyone's time.

Councilmember Boyle then referenced Solicitor Rutt's point that this was the governing ordinance at the time of submission and he sees no justification to do something different. Unfortunately, these are the kind of sins in the past that this Council is forced to live with today; Councilmember Peel agreed.

Councilman Culotta disagreed stating that a project and a development has a lot of moving part and sometimes things are missed and other things have to be considered by the developer after the fact. Though Council always has the right to say the code states this and that is fair. In this case, even though the City already made an investment, the developer is always required to pay impact fees which are extremely expensive and the City will eventually recoup the money. He sides with the developer because this will not benefit them and agrees that the next developer should be the one to assume those future costs.

Councilman Boyle repeated the concern that the next developer will have to tie in and cross this property.

Councilman James feels we cannot ignore the code though there are a lot of areas in the code he would like to ignore for a number of reasons. But the fact is, that is a slippery slope.

Councilmember Wilson feels there is a hiccup in the code and in this case, she agrees with Councilman Culotta. She is unsure why this developer is responsible for future development. Councilmember Boyle pointed out that is why the City initially installed the line at the City's costs.

It was again confirmed that the City installed the twelve-inch line up to their property line; Acting City Manager Whitfield concurred. Councilmember Boyle stressed that the line is at their property line and the City is asking them to tie into something that already exists at their property. Their engineering drawings have it coming across the front, which is a decision they made during the design. He asked who will pay for the next developer, then the following developer, and so forth, that need to connect to the line; now the new property owner will have to pay to have it brought across their property.

Another consideration Solicitor Rutt noted is if the line is not extended across the front of their property, and the next owner wants to connect, they will be required to acquire an easement or a condemnation will be required so the line can be built.

Solicitor Rutt referenced Section 200-9, that states: City Council may vary or weigh such requirement provided that such variance or waiver, shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the official map.

He stressed that is what Council needs to address.

Councilman Culotta agreed saying everyone is saying the code says...., but from what Mr. Rutt read there is no detriment to public welfare in his opinion.

Councilman Boyle pointed out that the code is written for the City and the residents' long-term welfare, meaning the line needs to be installed so that future developments can connect. The City has already invested a substantial amount of money in preparation for future developments down Front Street who will be able to connect to a twelve-inch main. If this is not done, the costs are being pushed onto future developers.

Councilmember Culotta commented they do not have to do the project or they can pass the cost onto the buyers.

Councilmember Peel pointed out that to Councilman Culotta's argument, if the City is encouraging investment and a business-friendly environment, this will discourage future investment knowing that someone will need to come in later to foot the additional bill. Councilmember Culotta said if the next person wants to develop that piece of property, that will be a consideration.

Mr. Lardner pointed out the developer has no way to recoup the money though the City has the ability through impact fees. This developer will never see a dollar back for this investment.

Councilmember James agrees noting that is true for every developer because the code applies to every developer. What the code does not address is who will pay. If Council allows this to be passed onto the next developer, and disagrees with the Code, then the Code must be changed. Right now, that cannot be done because those costs would then be passed onto every developer in the future. In his opinion, that is not what the City wants.

Mr. Rutt then referenced Section 230-58, entitled amendments:

(D) No proposed amendment, change, modification or repeal of any zoning regulation, restriction or boundary shall become effective until after a public hearing shall have been held by the City Council at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Milford. In case of an unfavorable report or

recommendation for denial by the Planning Commission, such amendment or change shall not become effective except by a favorable vote of 3/4 of the City Council.

He believes there are a couple procedural problems. First, this is not a public hearing. That would be required and have to be properly noticed and citizens would have the right to be heard. The Planning Commission has already recommended denial and to reverse that, would require a vote of least six Councilmembers to reverse that recommendation.

Mr. Lardner then argued that this does not fall under the Zoning Code and that the subdivision code contains the requirement that states the waiver can be requested. Mr. Rutt emphasized that should have been requested at the time of the application. If it had been, it would have been addressed during the preliminary site plan review before the Planning Commission.

The Solicitor clarified that a vote would be required to rescind the grant of preliminary approval and then vote to accept the amended preliminary approval.

When Mr. Lardner pointed out that would fall under the Planning Commission's jurisdiction, Mr. Rutt referenced Section 200-4 again, which includes City Council granting preliminary approval.

Mr. Pierce maintained this would not be subject to the subdivision code, other than they are requesting a waiver of the requirement. The original preliminary approval was just a by-right site plan reviewed by the Planning Commission. It would never have come before this body except they are now asking for a waiver from the subdivision code requirements.

Mr. Lardner added that the development requirements are within Chapter 200, but the site plan requirement are under Chapter 230, Procedure Requirements.

Councilman Boyle then moved to deny the request for a waiver to extend the twelve-inch gravity sewer main across the property as is required by Chapter 200, seconded by Councilman Marabello. Motion carried by the following 6-2 vote:

Marabello-yes
Boyle-yes
Peel-yes
Culotta-no
Brooks-yes
Morrow-yes
James-yes
Wilson-no

Introduction/Ordinance 2019-35/New Chapter 90/Business License

Ordinance 2019-35 was introduced by Mayor Campbell.

Planning Director Pierce reminded Council this was initially discussed by the Police Committee, followed by a review of the Community and Economic Development Committee. All comments have been addressed in the draft ordinance is in the packet.

This will be on the agenda for public comment, along with an updated fee schedule for review by City Council at the October 14th meeting.

ADJOURNMENT

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

The Council Meeting adjourned at 9:57 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder