

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 22, 2020

The Annual Organizational Meeting of Milford City Council was held virtually on Monday, June 22, 2020.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Todd Culotta, Brian Baer, Douglas Morrow, Jason James Sr. and Katrina Wilson

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

COUNSEL: Solicitor David Rutt, Esquire

In an effort to adhere to social distancing protocols and best practices imposed by Governor John Carney's State of Emergency Declaration effective March 13, 2020, the City of Milford has canceled all public gatherings until further notice. See June 22, 2020 Council Meeting agenda(s) and packet for additional information.

Mayor Campbell called the Annual Organization Meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE

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

CERTIFICATION BY BOARD OF ELECTION

City Clerk Hudson referenced the Certification Letter included in the June 22, 2020 Council packet, submitted by the 2020 City of Milford of Elections stating as follows:

Dear Honorable Mayor and Members of City Council:

As members of the City of Milford Board of Election and in accordance with 15 Del. C. §7558(d), we hereby certify the results of the June 13, 2020 Annual Election, in which three offices were contested, and 671 total votes were tabulated, to be as follows:

Total Votes Cast for Ward One Council Seat:	_____335_____
Mike J. Boyle	___173_____
Michael D. Spillane	___162_____
Total Votes Cast for Ward Two Council Seat:	_____ 229_____
Andrew P. Fulton	___119_____
Joseph E. Wiley	___110_____
Total Votes Cast for Ward Three Council Seat:	_____107_____
Brian C. Baer	___57_____
Owen S. Brooks Jr.	___50_____

Hence, Mike Boyle, Andrew Fulton and Brian Baer have been officially declared winners of their respective races.

First Ward Councilmember Elect Boyle, Second Ward Council Elect Fulton and Third Ward Council Elect Baer will begin serving their two-year terms at the Annual Organizational Meeting on Monday, June 22, 2020 and commencing May 2, 2022.

There being only one candidate for each Office of Mayor and Councilperson in Ward Four, the Election Board of the City of Milford hereby declares the following candidates elected for a two-year term also beginning June 22, 2020:

Arthur J. Campbell – Mayor
Katrina E. J. Wilson - Ward Four

These two candidates are entitled to assume office without a formal election pursuant to 15 Del. C. §7555(j). All five elected officials will be sworn in by the Honorable Noel Eason Primos, who was appointed to the Superior Court of the State of Delaware by Governor John C. Carney Jr. on June 1, 2017.

Respectfully submitted,

City of Milford Board of Elections
s/Board Member Karen Boone
s/Board Member Joanne Leuthauser
s/Board Member Katrina White

ELECTION REPORT

City Manager Mark Whitfield then read the 2020 City of Milford Election results into record:

On behalf of the Board of Elections for the City of Milford, appointed by City Council of the City of Milford and comprised of Members Karen Boone, Joanne Leuthauser, and Katrina White, I am reporting the certified results of the June 13, 2020 City of Milford Annual Election.

With three contested City Council races, a total of 671 votes were tabulated, resulting as follows:

<u>Total Votes Cast for Ward One Council Seat:</u>	<u>335</u>
Mike J. Boyle	173
Michael D. Spillane	162
<u>Total Votes Cast for Ward Two Council Seat:</u>	<u>229</u>
Andrew P. Fulton	119
Joseph E. Wiley	110
<u>Total Votes Cast for Ward Three Council Seat:</u>	<u>107</u>
Brian C. Baer	57
Owen S. Brooks Jr.	50

After certifying the results of the Annual Election, the Election Board officially declared Mike Boyle, Andrew Fulton and Brian Baer the respective winners.

Given:

Mayor Arthur J. Campbell and Fourth Ward Councilmember Katrina E. Wilson each ran unopposed, an Election for those Offices was not required pursuant to 15 Del. C. §7555(j).

Each office carries a two-year term, commencing this 22nd day of June 2020, following the administration of the Oath of Office by the Honorable Noel Eason Primos of the State of Delaware Superior Court.

OATH OF OFFICE

Mayor Campbell then deferred to the Honorable Noel Eason Primos of the Delaware Superior Court, to administer the Oath of Office individually to the re-elected and newly elected members of City Council:

Mayor Arthur J. Campbell

1st Ward Councilmember Mike J. Boyle

2nd Ward Councilmember Andrew P. Fulton

3rd Ward Councilmember Brian C. Baer

4th Ward Councilmember Katrina E. Wilson.

Oaths will be signed by Judge Primos and sent to the City Clerk, for signatures by the newly elected and re-elected Councilmembers.

VICE MAYOR NOMINATION & ELECTION

Mayor Campbell then opened the floor to nominations for Vice Mayor:

Councilmember Wilson moved to nominate Councilmember Jason James Sr. Councilmember Culotta moved to re-nominate Douglas Morrow. Councilmember Boyle moved to nominate Councilmember Dan Marabello.

After a preliminary vote, the final vote resulted in a 4-4 tie vote:

<u>Morrow</u>	<u>James</u>
Culotta	Wilson
Morrow	James
Fulton	Baer
Boyle	Marabello

As is required by the City of Milford Charter, Mayor Campbell cast his vote for Councilmember James thus breaking the tie with a final 5-4 vote. As a result, Councilmember James was elected Vice Mayor effective this date.

CITY SOLICITOR APPOINTMENT

On motion of Councilmember Wilson, seconded by Councilmember James, David Rutt was reappointed Solicitor for the City of Milford with all present voting in favor and no one opposed.

CITY COUNCIL COMMITTEE APPOINTMENTS

Mayor Campbell announced that Committee Assignments will be announced next month.

ADJOURN

Mayor Campbell and members of City Council expressed their appreciation to Judge Primos for overseeing the annual Swearing-In Ceremony.

Mayor Campbell then adjourned the Annual Organizational Meeting at 7:25 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 22, 2020

The City Council of the City of Milford met virtually in a Workshop Session on Monday, June 22, 2020 beginning at 7:25 p.m.

PRESIDING: Mayor Arthur Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Todd Culotta, Brian Baer, Douglas Morrow, Jason James Sr. and Katrina Wilson

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

COUNSEL: Solicitor David Rutt, Esquire

In an effort to adhere to social distancing protocols and best practices imposed by Governor John Carney's State of Emergency Declaration effective March 13, 2020, the City of Milford has canceled all indoor public gatherings until further notice. See June 22, 2020 Council Meeting agenda and packet for additional information.

The purpose of the workshop was to allow representatives of organizations receiving financial support from the City of Milford to present their quarterly status reports to City Council.

Quarterly Update/Downtown Milford, Incorporated

DMI Executive Director Trish Gerken provided the following report, noting they had a number of cancellations due to COVID-19. In addition, the Bug N Bud Festival, which is their largest fundraiser, had to be canceled. Though the opening of the Farmers Market was delayed, it is now operating with attendance increasing each Saturday.

Board Updates:

- DMI has called for Nominations for Board members. 4 current board members up for re-election and 2 filling in positions with terms ending (eligible for election). The Board will vote on July 7th.

Organization Committee (Peg Reilly):

- Beginning early stage planning for a big fundraiser for 2021
- Pub Crawl, Irish Weekend, and Bug and Bud (DMI fundraisers) were cancelled due to COVID-19, Committee is trying to get creative in how to fundraise and solicit volunteers.

Promotions Committee (Nina Pletcher):

- All events in this quarter were cancelled due to COVID-19
- DE Turf Button Promotion continues (turf is open for clinics/camps)
- Riverwalk Farmer's Market opened May 16th under strict guidelines put out by the DDA. The number of vendors were limited to "essential" goods (no crafts/artisans/etc.) until further notice.
- Discussing future events and feasibility for this year (i.e. Santa House)

Economic Development Committee (Sher Valenzuela):

- Building Inventory conducted monthly
- Connecting with Rick Farrell to help support DDD development and recruiting new businesses
- Focus on creating a public/private partnership with DNS to create outdoor recreational activities to increase foot traffic to downtown
- Vinyard Shipyard:
 - o Build partnership with Delaware Nature Society (DNS)
 - o Trying to get Bond Bill funding to help with purchase costs

Design Committee (Joey Phillips):

- Awarded grant for 12 trees downtown from Dept. of Agriculture
- Installed flowers in hay baskets throughout town

- Fundraiser for Milford in Bloom (flowers in town) - We Are Milford signs (we still have signs available for \$5, if anyone wants to purchase)
- Joey continues to help watering the flowers as he can. Water reservoirs were installed last year to help with maintenance. Thank you to the Parks and Rec team for helping keep the flowers watered.
- Notified public that damaged memorial stones from a previous DMI fundraiser along sidewalks in town would be removed.

PERFORMANCE INDICATORS

- Community Clean up: Cancelled
- Bug and Bud Festival: Cancelled
- Shakespeare Day: Cancelled
- April 4rd Thursday: Cancelled
- May 3rd Thursday: Cancelled
- Farmer’s Market Attendance:
 - May 16 – 249
 - May 23 - 399
 - May 30 - 435

VOLUNTEERS

- Continuing use of signup.com to recruit and retain volunteers

CITY FUNDING

CURRENT QUARTER		YEAR-TO-DATE	
ITEM	AMOUNT	ITEM	AMOUNT
Salary Director	\$16,768.59	Salary Director	\$26,084.46
Salary Assistant	\$0	Salary Assistant	\$0
Phone/Internet	\$612.54	Phone/Internet	\$1239.22
PO Box Rental	\$0	PO Box Rental	\$0
Utilities	\$142.76	Utilities	\$326.90

UPCOMING EVENTS

Farmers Market – every Saturday 9-1

President Peggy Reilly added that the Farmer’s Market continues to build as was noted. Attendance was more than 400 at last count, even with a limited number of vendors.

When asked if the Community Clean Up is being considered for another date, Ms. Gerken said they are hoping to reschedule though there is no date at this point.

She concluded by announcing that DMI just received their twelfth National Main Street Annual Accreditation.

Quarterly Update/Milford Public Library

Director Kay Hudson provided a synopsis of the following report, sharing that they are proceeding with as many services as possible under the Covid-19 regulations:

OPERATIONS/PROGRAMS/SERVICES

- Beginning March 13, 2020, the Library closed due to Covid-19
 - Drop boxes were closed
 - Virtual Programming began in all areas-very successful results
 - Website, Facebook, Instagram, Adults, Young Adults, Children

Staff - Working from home; All staff were paid through this time; Required to do Personal Development Webinars

- o June 1, 2020 - Curbside Pickup
- o June 15, 2020 - All going very well; Safety Personnel will be on duty all hours of Curbside Pick-up
- o June 15, 2020 - 60 patrons utilized Curbside Pickup
- o July 15, 2020
- Possible official opening of Library if all regulations required are met
- Parking lots (Washington Street and Walnut Street) re-stripped
- Washington Street lot designated for curbside pickup
- Informational signage to designate
- Book Sterilization system purchased; All items returned to Library will be sterilized before checked in and placed on shelves
- PPE purchased to protect Staff
- Sneeze Guards to be placed around all check out desks
- Plexiglas on order
- Gates at Circulation Desks to prevent patrons from contact with staff
- CANCELLED: Music in the Park, All live programming
- Although the Library is not able to open the doors to the public, we are still able to serve the citizens of our community
- Patrons that cannot use internet are being contacted to make arrangements for pickup.
- Restrooms have been open to Public during outside events until Covid19 and will resume as soon as restrictions allow.

CITY FUNDING

CURRENT QUARTER

ITEM	AMOUNT
1 ST Quarter	\$4,465
2 ND Quarter	\$10,422
Used to purchase items associated with COVID-19 requirements.	\$10,113
TOTAL:	\$25,000

Additional Facts:

Stats are for the Month of May:

- Communication with our patrons and the public has only been through social media.
- 945 people used the website (www.milford.lib.de.us)
- 4,969 viewed Facebook
- 60% of subscribers read newsletter

Ms. Hudson thanked the City, Mayor and Council for their ongoing support to the library.

Quarterly Update/Milford Museum

Executive Director Claudia Leister commented that she has never heard the Oath of Office before and was impressed that it includes ‘the sharing of the rich historic and natural heritage of Delaware’ and believes Milford Museum is sharing the City’s very rich history as well.

She then provided the following report, noting the museum has been closed since March 23rd but reopened on June 2nd:

OPERATIONS/PROGRAMS/SERVICES

- 1) Extra cleaning of Museum building including carpet shampoo.
- 2) Many hours spent on re-writing 2010 Mispillion Greenway Walking Tour Booklet. Almost ready to go to printer.
- 3) Time spent editing Kenton reports on Milford people & houses to compile booklet to sell.
- 4) Met with HCA Deputy Director to request shelving and re-arranging of basement storage.
- 5) Received (from Auburn Heights) & painted new display case for Military Room.
- 6) Wrote CARES Recover Grant through DE Humanities Forum and received \$8,000 for operational expenses.

- 7) Received \$4,000 Lions Club Grant for electrical work and new lighting fixtures.
- 8) Held June Board Meeting and planned for 2020 Events.
- 9) Museum re-opened on June 2 with regular open hours Tues-Sat 10-3:30

PERFORMANCE INDICATORS

Museum closed to the public from March 23 to June 2

VOLUNTEERS

CITY FUNDING

CURRENT QUARTER		CALENDAR YEAR-TO-DATE	
ITEM	AMOUNT	ITEM	AMOUNT
Payroll	\$5,538.81	Payroll	\$14,626.05
Utilities	\$1,007.05	Utilities	\$4,471.88
TOTAL:	\$6,545.86	TOTAL:	\$19,092.93

UPCOMING EVENTS

The following Fundraising events are being planned for 2020:

- Saturday, August 22 HIPPIEFEST at Causey Mansion,
- Saturday, Sept. 12 South Milford Walking Tour
- Saturday, September 26 North Milford Walking Tour
- Saturday, October 24 Halloween Walking Tour

Ms. Leister then spoke briefly about the CARE Grant stating that is unusual to have grants related to operational expenses. For the most part, the museum is program-specific and receiving \$8,000 was a very welcome bonus because of the numerous fundraising events that had to be canceled this year.

She reminded Council the building is owned by the State of Delaware, Division of Historical and Cultural Affairs. Because the storage area needs to be updated, she met with their Deputy Director in hopes of getting additional shelving and the authorization to remove a wall of paneling in the basement. This should provide some needed space for storage purposes.

Plans are proceeding with the HIPPIE FEST which is the outside event at Causey Mansion. They believe the large yard will more than accommodate social distancing and any other needed restrictions.

She briefed Council about the upcoming Walking Tours, including one planned for Halloween.

When asked about the additional funding received, Ms. Leister confirmed the museum is not in a deficit, though the funding received goes mainly toward the salaries associated with the director and the three part-time employees. In addition, it helps cover the cost of utilities.

Quarterly Update/Carlisle Fire Company

No report.

There being no further business, the Workshop Session concluded at 7:49 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 22, 2020

The City Council of the City of Milford convened their regular meeting by way of a video conferencing website on Tuesday, June 22, 2020. The meeting was available for public view and participation as permitted.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilmembers Daniel Marabello, Mike Boyle, Andrew Fulton, Todd Culotta, Brian Baer, Douglas Morrow, Jason James Sr. and Katrina Wilson

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

COUNSEL: Solicitor David Rutt, Esquire

In an effort to adhere to social distancing protocols and best practices imposed by Governor John Carney's State of Emergency Declaration effective March 13, 2020, the City of Milford has canceled all indoor public gatherings until further notice. See June 22, 2020 Council Meeting agenda and packet for additional information.

CALLED TO ORDER

Mayor Campbell called the meeting to order at 7:49 p.m.

INVOCATION AND PLEDGE

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

PUBLIC HEARINGS

ORDINANCE 2020-05

Dunn Development LLC on behalf of Walter Thomas II for a Final Major Subdivision of 71.92 +/- acres into a 399-unit subdivision consisting of 159 townhouse units and 240 multifamily units in an R8 Zoning District. Property is located along the south side of Milford-Harrington Highway approximately 385 feet west of the Canterbury Road intersection addressed as 1335 Milford-Harrington Highway, Milford, Delaware. Present Use: Single Family Dwelling and Vacant Land; Proposed Use: Subdivision to be known as Hickory Glen. Tax Map: MD-16-173.00-01-21.00 & -22.00

City Planning Director Rob Pierce reviewed the final major subdivision application for the Hickory Glen Development proposed for a townhouse and multi-family unit subdivision. Preliminary site plan and preliminary major subdivision approval was received from the Planning Commission and/or City Council in 2014. Subsequent extensions were approved in February 2015, February 2016, January 2017, January 2018 and February 2019.

The final major subdivision and site plan includes 159 townhouse units and 240 multi-family units for a total of 399 dwelling units. Copies of related documents and agency approvals are included in packet.

The project requires some off-site improvements including a sewage pump station and force main, as well as some water main improvements.

The public notice was published in the Milford Beacon on June 3, 2020 and all properties within 200 feet of the parcel were mailed a copy.

The Planning Commission reviewed the application at their June 16, 2020 meeting and recommended approval by a favorable vote of 5-1.

Though this has been under review since 2014, nothing in the subdivision or zoning code has changed to the point the original approval would need to be readdressed. Despite that, the Planning Commission performed thorough reviews at the time of the various extension requests.

Solicitor Rutt then announced that because Councilman Fulton had participated in the June 16th Planning Commission as a Planning Commissioner, he will need to recuse himself from tonight's discussions and votes involving several matters.

Phillip L. Tolliver, P.E. of Morris & Ritchie Associates, New Castle, Delaware, spoke on behalf of the property owners.

He reiterated that the project has been on the table for some time, though they recently received the requisite letters of no objection and various agency and City department approvals. This is the last step in the process and they are prepared to move forward with recording the plats and starting construction in the near future.

Mr. Tolliver confirmed that some architectural details still needs to be worked out, though that is unrelated to the application before Council. Though it is difficult to provide an exact date, they would like to begin construction within the next year. The developer continues to work out some logistics that are beyond their control, though the City Code mandates that construction start within the five-year window of the approval.

Councilman Boyle referenced a statement about a provision being added to the deed alerting prospective buyers of the neighboring industrial sites. Mr. Pierce confirmed that was at the request of Baltimore Air Coil, though it was a general comment. However, both Mr. Tolliver and Mr. Dunn agreed to provide a disclosure to prospective buyers in the neighborhood.

Mr. Tolliver clarified that the disclosure would be included in the HOA documents which are distributed to all buyers at the time of settlement. Solicitor David Rutt recommended it be added to the covenants and restrictions, possibly in bold letters, as part of their package and toward the end with the miscellaneous documents.

Mr. Tolliver agreed that would be no problem.

Mr. Pierce verified that Chairman Sharp was the one negative vote, based on his belief this was not a good location.

It was confirmed that the developer typically controls the HOA until 75% of the properties are sold.

Parking meets the 2.5 off-street parking requirements per dwelling unit with 30-foot setbacks which is significant area for a driveway.

Also confirmed is Baltimore Air Coil and Nutrien Ag are both located on Holly Hill Road, south of this project. Mr. Tolliver also referred to the site plan which includes berms, a landscaping buffer parallel to SR14, with additional landscaping along Holly Hill Road.

Mr. Pierce confirmed that five extensions have been approved. However, what was granted during the preliminary approval still meets the construction standards, subdivision code regulations and off-street parking. Had the extension been denied, the same application could have been resubmitted because it meets all City codes.

Councilman Marabello then questioned the HOA fee; Mr. Pierce stated that is a decision of the developer. The City's only involvement with the HOA is to ensure their documents include language for long-term maintenance of their facilities.

The Planning Director then confirmed the sunset provision was adopted in November 2018, and begins with the final approval of a project, or the effective date of the ordinance. There are three options with the sunset provision. It can be reviewed again in five years; the Planning Director has the ability to administratively approve an additional period of time, or any minor construction details that may change that would not impact the number of units; any significant revisions to the ordinance would require the developer to go back through the process.

When the floor was opened to public comments, Patricia Marney of 1263 Milford-Harrington Highway, stated this development will be directly behind her property. She also spoke at the Planning Commission meeting and thanked everyone for their efforts to putting this together.

Ms. Marney pointed out the entrance from SR14 will begin at the farm house. She asked if a traffic pattern survey was completed through DelDOT or the City of Milford. She is basing that question on her residency at that location of fifteen years and the significant increase in traffic. She is three doors from the Canterbury and Holly Hill traffic light and traffic is frequently backed up to this proposed entrance.

She asked what measures will be in place to mitigate that and to assist those residents in the area.

Solicitor Rutt explained these are state-maintained roads and traffic issues are under the control of DelDOT. The City has no say in the design, redesign or improvements to the roadways.

Ms. Marney then asked City Council take into consideration this is a state-maintained highway that will be used by a large number of City of Milford residents. In this case, an additional 399 homes with 2.5 parking spaces per home, will result in more than 1,000 cars, thus having a massive impact on roadways that are already extremely busy.

Mr. Tolliver reported that the entrance on SR14 will be constructed to include a left-turn lane into the community and would have its own dedicated left turn lane. Also, an acceleration/deceleration lane would be part of the entrance off SR14. A dedicated left turn lane into the community will also be added off Holly Road, as well as acceleration/deceleration lanes.

They are also required to contribute to improvements at the intersection of SR14 and US Route 113 as part of the project.

He reported that a detailed traffic study was conducted, after which the developer worked with DelDOT to identify the needs in the area. All improvements on SR14 would be done before the Marney property. The striping would occur approximately where the Marney property line begins, but all the work on SR14 would occur within the existing right-of-way. Therefore, there would be no impact to the Marney property.

Ms. Marney concluded by stating she begs to differ.

Councilmember Boyle asked if the other three previous members of the Planning Commission should recuse themselves, considering Solicitor Rutt's earlier comment to Councilman Fulton. Mr. Rutt explained that because this has been through several iterations of the Planning Commission, and there have been many code changes, he only considers the last action of the application, which in this case was this past Tuesday, June 16th.

He also shared that Delaware Case law states that if a subdivision plan and final site plan meet all of the requirements of the City Code, there is no discretion to deny the approval. If the developer has met all conditions, they have an expectation the project will move forward. As a result, the City Planning Director has verified that the plan meets all the requirements in the subdivision code, zoning code and building code and is really a pro forma vote.

Councilmember Boyle said he understands, only asking from a procedural standpoint.

The Mayor then closed the floor to any further public comments.

Councilmember Boyle moved to adopt Ordinance 2020-05, authorizing the Final Major Subdivision of Dunn Development LLC on behalf of Walter Thomas II as presented, because it is compliant with Chapter 230 and Chapter 200 of the City Code, seconded by Councilmember Wilson. Motion carried by the following 7-0 roll call vote:

Culotta: yes, based on the advice of the Planning Commission.

Boyle: yes, for the reasons stated in his motion.

Marabello: yes, it is consistent with the guidelines of the Code and the recommendation of the Planning Commission.

Morrow: yes, based on the Planning Commission recommendation.

James: yes, because it has been approved by the Planning Commission and the project has reached the point of final submission for approval.
Wilson: yes, based on Planning Director Pierce and the Planning Commissions' recommendations.
Baer: yes, based on the comments already stated.

ORDINANCE 2020-06

Milford Ponds LLC on behalf of Ventures LLC and Milford Ponds LLC for an amended Conditional Use for a Planned Unit Development of 178.03 +/- acres into a 768-unit subdivision consisting of 504 single family units and 264 apartment units in R1, R2, and R3 Zoning Districts. Property is located along the east side of Route 113, 5,500 feet south of the Seabury Avenue intersection, Milford, Delaware. Present Use: Subdivision; Proposed Use: Subdivision to be known as Milford Ponds. Tax Map: 1-30-3.00-264.00, 1-30-3.00-264.01, 1-30-6.00-108.00, 1-30-6.00-167.00 thru -558.00, 1-30-6.00-601.00 thru -691.00

Planning Director Pierce recalled that in July 2004, City Council approved the annexation of four parcels with varying zoning designations including R-1, R-2 and R-3. The preliminary major subdivision approval and conditional use approval was authorized by City Council in September 2004 for a total of 722 units, involving 150 condominiums, 228 townhouses and 344 single family detached units. A list of other modifications was also approved and have carried thru with the original project.

Phase 1 was granted final approval June 5, 2006 and the developer began the construction of many improvements, including sewer, water, electric, streets, natural gas, etc.

A new developer purchased the property within the last couple years and came back before the Planning Commission and City Council in April 2018 to amend the master plan for the community, thus eliminating townhouse areas in phase 1. The single-family homes are currently under construction in the development. This resulted in a unit mix of 459 single family detached units, 91 townhouse units and 150 multi-family units.

The applicant is currently requesting the Planned Unit Development be amended by eliminating the townhouses and expanding the proposed multi-family uses. The proposed new unit mix would be 504 single-family detached dwellings and 264 multi-family apartments, for a total of 768 dwelling units.

The applicant is seeking approval of the revised Planned Unit Development in order to proceed with the preliminary major subdivision applications for Phase 2 and Phase 3.

He referenced the staff analysis in the packet, based on what has been presented and the criteria for Planned Unit Residential Development provided in Chapter 230-48.1.

Mr. Pierce also noted the proposed single-family detached, townhouse and multi-family housing uses are permitted within the City's residential districts and meets the requirement.

Mr. Pierce referenced the State agency comments that will be reviewed as well.

The public notice was published in the Milford Beacon on June 3, 2020 and all owners of properties within the subdivision and within 200 feet of the site were mailed a copy of the two hearings.

Planning Commission reviewed the application earlier this month and recommended approval of the PUD modification by a favorable vote of 6-0.

Councilman Boyle questioned the concern from KCI related to the change to the definition of the PUD and asked if that will impact the application. Mr. Pierce explained the PUD is supposed to provide a housing of various densities, lot sizes, lot coverage and types, including related recreational (pool house and clubhouse) and other community facilities.

He pointed out this includes a varying type of unit mix and basically has two zones--single family detached dwellings in phase 1, 2, and 3 and multi-family dwellings in phase 4. The townhouse units that were originally approved many years ago were eliminated and is the reason Mr. Pierce included the question in the staff report.

He felt that both the Planning Commission and City Council need to determine if this meets that definition.

When asked if the deviation has any impact considering there is still a mix of housing types, Mr. Pierce said the removal of townhouses is a fairly significant change though there was an intermediate change two years ago that eliminated the majority of townhouse units in phase 1.

Questions regarding parking were answered by Mr. Pierce who explained that the original plan in 2004 and amended plan in 2018, have been carried thru with no changes. He reviewed the site plan adding that there are two spaces per unit in the multi-family buildings, which is less than is required by ordinance. However, those amendments were approved prior to the PUD application. Construction had already been started in Phase 1, which is another reason it was agreed not to change positions.

Mr. Pierce then reviewed the street widths on the site plan, reiterating that he has not received any parking complaints.

Councilman Boyle recommends revising the City's parking requirements to address today's families that on average, consist of four members with four vehicles.

PE Ring Lardner of Davis, Bowen and Friedel, Incorporated was present on behalf of Ventures LLC and asked that Mr. Pierce's testimony be made part of the record.

He explained that Phase 1 has not changed other than moving one lot at the end of Central Parke Boulevard which would allow for the installation of a Chesapeake gas main. The area of Phase 2 remains unchanged although they are requesting the townhouses be removed. Phase 3 will be somewhat split in half as shown on the map. He also referenced half of Phase 4 on the map.

They are replacing the previous 25-unit buildings and are now proposing 24-unit buildings. There will be additional amenities to serve the entire complex.

A lot of the requests were changed from the previous plan and overflow parking is included in the open areas. Additional walking paths have also been added.

There are two reasons for moving the townhouses according to Mr. Lardner. It will allow the homebuilder to introduce a new single-family product, and while still a single-family home, it is a different product with the lots being a little wider and deeper.

Mr. Lardner said they also have learned townhouse market is not as strong in this area. Instead of being left with a lot of empty townhouses in the end, they are moving forward with the changing market.

He shared the new product is selling great in Milford Ponds and are ready to get the approvals and proceed.

Phase 2 comments will be made later on.

The infrastructure for Phase 1 is approximately halfway complete and they are currently working on Phase 1-7 and 8. They will pave all the way out to the Walnut Street entrance by the end of this year. The improvements will consist of eleven-foot travel lanes, five-foot shoulders, a protected left turn lane, right turn lane and a multi-use path which will be part of the Milford Bike Trail system. The improvements begin at the southern-most point of the left turn lane and will end at the northern point of the parcel currently owned by Key Properties, LLC.

The project is also located in Levels 1 and 2 of the 2020 State Strategies Map, is consistent with the City's Comprehensive Plan and is appropriately zoned for the proposed uses.

Also, in attendance is Developer Chris Kalil and Ted Ruberti on behalf of the homebuilder.

Mayor Campbell then opened the floor to public comment.

Jennifer Cinelli of 715 New Street thanked Mr. Lardner for bringing improvements to Walnut Street and especially the bike path.

Ms. Cinelli said if this an annexation to the City, she is only seeing one road that will connect them into Simpsons Crossing, which is also annexed into the City. She finds that typically the streets are more connected, with a little more grid pattern though she knows this was approved a long time ago. She is asking Council if they are aware that there is not a lot of interconnectivity with new neighborhoods that are being built which she believes is a concern.

She agrees with Councilman Boyle's concerns about parking and roads. She has driven in there and finds it very tight.

Ms. Cinelli reiterated there is a need to ensure what is coming into the City is similar to what our present City looks like.

No one else wished to comment and the comment session was closed by Mayor Campbell.

Councilmember Boyle moved to adopt Ordinance 2020-06 for Milford Ponds, seconded by Councilmember Culotta. Motion carried by the following roll call vote:

Marabello: yes, it conforms with the Planning Commission's decision and meets the meaning of the PUD from the past.

Boyle: yes, the plan is consistent with the provisions of Chapter 230.

Culotta: yes, based off the Planning Commission's recommendation.

Baer: yes, and agrees with the recommendation of the Planning Commission.

Morrow: yes, upon the recommendation of the Planning Commission.

James: yes, it is consistent with Chapter 230 and maintains the integrity of the definition of PUD.

Wilson: yes, based on the Planning Commission recommendation.

ORDINANCE 2020-10

Milford Ponds LLC on behalf of Ventures LLC and Milford Ponds LLC for a Revised Preliminary Major Subdivision (Phase 2 Only) of 28.06 +/- acres into 89 single family units in R1, R2, and R3 Zoning Districts. Property is located along the east side of Route 113, 5,500 feet south of the Seabury Avenue intersection, Milford, Delaware. Present Use: Subdivision; Proposed Use: Subdivision to be known as Milford Ponds.

Tax Map: 1-30-3.00-264.00, 1-30-3.00-264.01, 1-30-6.00-108.00,

1-30-6.00-167.00 thru -558.00, 1-30-6.00-601.00 thru -691.00

Mr. Pierce reviewed the application, noting this is the second part of this review.

The applicant is seeking approval of the revised preliminary major subdivision plans for Phase 2 of the Milford Ponds subdivision consisting of 89 single-family detached dwellings. The applicant has requested to amend the Planned Unit Development by eliminating townhouses uses and expanding the proposed apartment uses. The proposed new unit mix would be 504 single family detached dwellings and 264 multi-family apartments, for a total of 768 dwelling units.

The public notice was published in the Milford Beacon on June 3, 2020 and all owners of properties within the subdivision and within 200 feet of the site were mailed a copy of the two hearings. The Planning Commission recommended approval of the preliminary major subdivision upon a 6-0 vote.

Mr. Lardner stated that on behalf of applicant, he asks that the Planning Director's comments be made part of the record. He added that the phase 2 design is currently being reviewed by the various agencies. Pond 4 has already been constructed and Pond 3 is bigger than the area shown on the map. All the infrastructure is in place and has been through City and fire marshal review and approval is expected within the next thirty days. They hope to be back before Council within the next sixty to ninety days for the final approval.

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

Councilmember Boyle moved to adopt Ordinance 2020-10 for a revised preliminary major subdivision/Phase 2 of the Milford Ponds Community consisting of 89 single-family detached dwellings, which is consistent with the proposed PUD and Chapter 230 of the City Code, seconded by Councilmember Wilson. Motion carried unanimously by the following roll call vote:

Marabello: yes, it is consistent with the Planning Commission's decision.
Boyle: yes, in accordance with the Planning Commission's recommendation for approval.
Culotta: yes, based on the Planning Commission's recommendation.
Baer: yes, based on the comments from the Planning Commission.
Morrow: yes, based on the recommendation of the Planning Commission.
James: yes, it is consistent with the approval with the changes to the master PUD.
Wilson: yes, based on the Planning Commission's recommendation.

ORDINANCE 2020-11

Milford Ponds LLC on behalf of Ventures LLC and Milford Ponds LLC for a Preliminary Major Subdivision (Phase 3 Only) of 12.15 +/- acres into 52 single family units in R1, R2, and R3 Zoning Districts. Property is located along the east side of Route 113, 5,500 feet south of the Seabury Avenue intersection, Milford, Delaware. Present Use: Subdivision; Proposed Use: Subdivision to be known as Milford Ponds.

Tax Map: 1-30-3.00-264.00, 1-30-3.00-264.01, 1-30-6.00-108.00, 1-30-6.00-167.00 thru -558.00, 1-30-6.00-601.00 thru -691.00

Mr. Pierce reviewed the final application related to Ordinance 2020-11 for preliminary Phase 3 of the project. As noted previously, Phase 3 will consist of 52 single-family detached dwellings in the area as shown on the zoning map. A copy of the record plans is included in the packet, along with plan review comments and agency comments.

The application was reviewed by the Planning Commission on June 16th who recommended approval of the Phase 3 application by a favorable vote of 6-0.

The public notice was advertised in the Milford Beacon as required and all property owners within the subdivision and within two hundred feet of the site received a copy of that notice.

PE Ring Lardner again asked that the testimony of the City Planning Director from the two previous public hearings, and his related testimony, be incorporated into the record for this third and final application for Phase 3 of the Milford Ponds project.

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

Councilmember Marabello moved to adopt Ordinance 2020-11 for a preliminary major subdivision for phase 3 of the Milford Ponds Community LLC into 52 single family units, seconded by Councilmember Wilson. Motion carried by the following 7-0 roll call vote:

Marabello: yes, based on the 6-0 recommendation of the Planning Commission and because it meets all the code requirements.
Boyle: yes, based upon the recommendation of the Planning Commission.
Culotta: yes, based on the Planning Commission's recommendation and he also wants to state this development is in Ward 2 and recommends anyone that has not seen it, to ride thru as the building and developer are doing an exceptional job.
Baer: yes, and agrees with the comments of Councilman Culotta that it is a nice development.
Morrow: yes, upon the recommendation of the Planning Commission.
James: yes, based on the recommendation of the Planning Commission and because it is consistent with the prior approvals to the master PUD and concurs with the statement it is a nice development. He rides out there often and the homes are nice, in addition to the very friendly group of residents who stop and converse with him.
Wilson: yes, based on the Planning Commission's recommendation and she agrees it is a very nice project and believes people in Milford will be proud of this community.

ORDINANCE 2020-07

Mispiration Realty LLC for a Change of Zone of 0.30 +/- acres from R2 Zoning District to C1 Zoning District. Property is located along the southside of NW Front Street, approximately 1,700 feet east of the US Route 113 intersection addressed as 522 NW Front Street, Milford, Delaware. Present Use: Office Building; Proposed Use: Same. Tax Map: MD-16-183.09-01-62.00

Mr. Pierce reviewed the application sharing this is directly across the street from Parson Thorne Apartments and is the old L&W Office building that has been vacated for several years. The applicant is requesting the zoning be changed to neighborhood commercial (C1) and the property will be redeveloped by demolishing the existing legal non-conforming office building and constructing a new 4,320 square foot, three-story office building that would be conforming.

He agrees it makes sense this be zoned something other than residential, considering its previous and proposed uses.

The purpose of the C-1 district is to provide for limited commercial and professional service activities that can be compatible in a neighborhood setting to provide goods and services to local residents.

In addition to Parson Thorne Apartments across the street, the property to the east are Lakeview Apartments and to the west are smaller residential lots before it transitions into some commercial zoning as you get closer to the Route 113.

The applicant received variances from the Board of Adjustment for reductions in the front yard setback, rear yard setback and off-street parking requirements associated with the redevelopment of the site. Many of those were nonconformities the applicant will slightly improve with the revision.

Mr. Pierce then referenced the zoning map and the comprehensive plan future land use exhibit. The applicant provided both a conditioned survey and a proposed site plan for reference, included in the packet.

All properties within 200 feet of the subject parcel were mailed a copy of the public notice, which was also advertised in the Milford Beacon on June 3, 2020. The Planning Commission reviewed and recommended approval of the application at their June 16, 2020 meeting by a 6-0 vote.

Councilman Culotta pointed out that this new zoning is more conforming than the current residential zone by allowing a commercial use.

Mr. Pierce agreed adding that the current building encroached into the public right of way 5.5 feet. The redevelopment plan allows the building to be moved completely onto private property but is now only two feet off the right-of-way. The same applied to the rear of the property which now allows more clearance for traffic circulation behind the building.

Councilman Culotta also noted that the area is difficult for development due to the proximity of the railroad tracks.

Councilman James agrees the area needs improvement and asked the expected occupancy of the proposed office building. Mr. Pierce explained that would be determined by fire marshal during their review. However, the Board of Adjustment did grant a variance for the proposed square footage and a reduction in the parking calculation.

When asked about the sidewalk waiver, Mr. Pierce explained that will be addressed after the change of zone request is determined. The application is seeking a temporary waiver from the sidewalk installation requirement which is permitted by Chapter 197 of the City Code. Council has the ability to grant a temporary waiver until such time neighboring properties could provide connectivity.

Applicant Jamie Masten of Mispiration Realty LLC explained how the site is limited by its shape and size. He feels it is perfect for this application and will make the use conforming with the zoning though it is currently legal, nonconforming. It can be used as an office but the building is in very bad shape and was hit by a vehicle several years ago. He hears from residents on a regular basis who ask when the ugly building will be torn down, and his answer is always once he receives the new zoning.

He pointed out it is on the gateway into downtown and he would like to demolish that building and construct a state-of-the-art office building. Though they are locked into the existing site conditions with its shape and parking, L&W Owner Dave Wood maxed it out as best as he could.

Mr. Masten reported that during the variance hearings, they did offer some overflow parking of six spaces on the apartment site that will be accessible through an easement.

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

Mr. Masten responded to a question confirming his plans are to construct a three-story building with large office spaces.

Councilmember Culotta moved to adopt Ordinance 2020-07, approving the change of zone, seconded by Councilmember James. Motion carried by the following 7-0 roll call vote:

Marabello: yes, the change of zoning to C-1 makes the use appropriate and in line with what it has been used and believes it will be better overall.

Boyle: yes, the change is consistent with the 2018 Comprehensive Plan and it makes sense considering the current location and will help improve the visual impact coming into town on Northwest Front Street. The properties there are generally becoming more attractive and this will be a big help, as that building currently sticks out like a sore thumb.

Culotta: yes, based on the aesthetic improvement to the area.

Baer: yes, it will be a great improvement for the overall City.

Morrow: yes, it will be a great improvement as you enter into the City from the west.

James: yes, it is consistent with the Comp Plan and will become a conforming use/zone and does do a lot for one of the City's major gateways into the City.

Wilson: yes, based on the recommendation of the Planning Commission and she also agrees it will be an improvement and might encourage the post office to realize their building needs to be enhanced as well.

RESOLUTION 2020-12

Sidewalk Waiver

Mispillion Realty LLC

522 NW Front St

Mr. Pierce reviewed the request adding that with any redevelopment project, where there is a complete teardown, Chapter 197 of the City Code requires the developer to install curbing and sidewalks where it is not in place. The applicant is requesting a temporary waiver from that requirement associated with the redevelopment.

He said there appears to be sidewalks along the frontage of Lakeview Apartments, heading further into the downtown area. But once you pass Lakeview Apartments heading out of town, there are no sidewalks until you reach Walgreens at US Route 113.

The applicant is seeking a temporary waiver until such time, in its sole judgment, the City of Milford fights it appropriate to install sidewalks.

As discussed, Mr. Pierce explained that a lot of homes along Front Street close to the road with curbing being the only protection. There is a long-term vision of trying to do some streetscaping on this end of Front Street. Some initial concepts include eliminating the shoulders and creating sidewalks, grassy areas or shared-use paths. That would set the building back further and is still several years down the road.

Councilman Culotta stated that for recording purposes, there are sidewalks across the street that go all the way to the highway. Therefore, walkers have the ability to go up and down the north side of the street and are able to cross the street to access those sidewalks.

Councilman James noted that he walks that street a lot. He does not cross the street until he gets to the corner of Maple. However, there is sidewalks in front of the Lakeview Apartments next to this building and also recalled giving a waiver to the applicant on the same side of the street for two homes until further development takes place or the City determines that sidewalks need to be installed.

Councilman James then asked when will that occur and at what point will the City start requiring sidewalks be installed. He thinks it would be appropriate to start with this property. Right now, the City is on a path of waiving them, and it appears to be almost automatic the waivers will be granted. If that were to continue, sidewalks will never be connected or only completed on the other side of Front Street.

Councilmember Wilson agrees with Councilmember James. She was going to ask at what point sidewalks will truly be required. She feels Council needs to take a stab at one of these projects and asked why not let it be a commercial project so that all the other residential properties will have a sometime to gather their funding so they can be prepared to install sidewalks.

She also asked if the City is planning to put curbing there, because at some point, Council needs to put their foot down and say it is time. And for a larger commercial project, she feels there is no better time than now.

Councilman Fulton agrees with the statements from both Councilmembers, adding that the City is doing a lot of sidewalk work throughout the community. With that in mind, granting waivers is not really purposeful and in this situation, the project is a complete teardown and a perfect time to require sidewalks.

Councilmember Marabello then asked if the new homes closer to Walgreens have sidewalks; Mr. Pierce stated they do not and believes Councilmember Marabello is referring to the sites that City Council authorized temporary waivers at both 606 and 608 Northwest Front Street. These properties are across the street from Linstone Lane, adjacent to Carlisle Fire Company.

Councilman Marabello agrees with the statements of Councilmembers James, Wilson and Fulton. He said one of our goals is to make Milford a walkable City and to have to cross the street to access sidewalks on this State road can be dangerous and the traffic is often very heavy. He also agrees the move to make sidewalks mandatory needs to be made now.

Councilmember Baer added that he also agrees with comments of his fellow Councilmembers and favors the sidewalks.

Councilmember Boyle stated that he tends to agree as well, noting this property would be the logical one to connect the others. However, to Mr. Pierce's earlier point, it is a somewhat dangerous area, and he recommends a traffic engineer or someone with some expertise review it before a decision is made. The City of Milford provides the ability, as determined in its sole judgment for this project, and there are two houses close by that received a temporary waiver. Before jumping in, he thinks it needs a proper review to ensure it is done safely.

Mr. Pierce commented that any sidewalk construction will have to be reviewed by DelDOT's Right-of-Way Division to ensure it meets DelDOT standards. Similar to what has been done on a couple other projects on Rehoboth Boulevard or US Route 113, the new Surf and Turf Restaurant went through a complete review process with DelDOT's team to extend the sidewalk from Milford Gallery up to the entrance into Walmart. Though the City would review it tandemly, it still falls under DelDOT's jurisdiction.

Councilmember Boyle asked if there are any State projects pending that may involve the State to repave or recondition Northwest Front Street; Mr. Pierce said the City had prior discussions with DelDOT's Alternative Program (TAP project) about some streetscaping or traffic calming, along the entire State route corridor. However, that will be broken into several small projects, because of the financial cap. There may be some resurfacing work planned, but no modifications to the roadway unless it comes through the TAP project or a DelDOT capital project. He is unaware of anything that has been slated at this point and are still awhile from the Washington Street east to Rehoboth Boulevard section.

Councilmember Boyle said he would hate to be in a position where some type of work is planned two years after the City requires this particular sidewalk.

Councilman Culotta said he agrees with Councilmember Boyle and to repeat an earlier statement, there is an opportunity to do this. But it is a big deal for Milford to improve the look of an unsightly property for people driving into Milford. Putting Mr. Masten through this process with DelDOT, will delay this project.

He reiterated that there are sidewalks on the other side of Front Street that can be used and asked what the process is to mandate sidewalks and how can we require A&E Properties, what are further west, to install sidewalks. Councilman Culotta concluded by emphasizing this is a temporary waiver for this developer and asked the definition of temporary and whether it is one or two years or will it be based on the completed development on Front Street.

Councilman Morrow said he agrees with Councilmember Culotta and if Council requires sidewalks at the Masten property, it will still be a sidewalk that connects nowhere until the other lots are developed. He prefers sidewalks be installed as part of a large project.

Councilman Morrow also pointed out there are more and more people jaywalking down from Maple where people are now crossing at Maple because the sidewalk ends a little bit up from there. Extending a sidewalk down Front Street will only encourage people to cross the street just past the Masten lot because there will not be any further sidewalk.

Councilmember Wilson disagrees for the simple fact, that unless the City receives a grant, or State Legislators fund a sidewalk project, it will unfortunately not happen. Because this is not a development, if a decision is not made now to start requiring sidewalks, it will never happen.

Councilmember Wilson also pointed out that right now, we are billing our property owners throughout the City to pay for sidewalk repairs and installation. Many of those folks are on fixed incomes and cannot afford it and that granting this waiver will only send a bad message to those residents. It does not seem fair if we were to allow one commercial property receive a waiver especially when there are existing sidewalks on one side of this property.

Councilman Culotta said he disagrees adding that we already granted two waivers for sidewalks on the same street.

When asked about who is paying for the sidewalks on Southeast Front Streets currently under construction by DelDOT, City Manager Whitfield explained any sidewalk disturbed, either as a result of the curbing, water meter pits or sewer lines, are the responsibility of the City. There are a number of damaged sidewalk blocks that belong to private residents and once that project is complete, they will be notified to proceed with their own repairs.

Councilmember Marabello thinks it is very important that we proceed with the goal that Milford is a walkable City where people can walk from downtown to either Walgreens or some of the stores at the Plaza. He feels it might be a good investment for the City to install some sidewalks to complete connectivity to Route 113. He thinks they are needed for safety and exercise. He used to walk in the streets because there were no sidewalks.

Councilmember Culotta agrees that a walkable City is ideal. But to Councilmember Morrow's point, if this sidewalk is extended further toward the highway, it becomes a sidewalk to nowhere. If he were walking down that sidewalk, and suddenly realized the sidewalk was ending, he would have to cross the street past this property which is a much more unsafe area than where he could have crossed at Maple Avenue.

He agrees that the City should install the sidewalks and has always said he thought the City needed to pay for all of the sidewalks throughout the town.

Councilman Culotta also referenced Councilmember Wilson's point of those on fixed incomes who cannot pay for sidewalks. He recalled the program the City has for low income property owners who qualify for assistance. He suggests she make her constituents aware the City can pay for them, or at least has the ability to.

Councilman Culotta wants to have that building redeveloped by Mr. Masten as quickly as possible and now that DelDOT is involved, will cause the project to be held up because of the State's requirements.

Councilmember James thanks Councilmember Wilson and agrees with her comments. He recalled the length of time it took to get the sidewalk project moving and at the point, Council finally agreed to the language, which included the abatement amount for qualified property owners. He also thanks Councilmembers Culotta and Morrow for their comments, because they made his point that currently people are already crossing the street at a dangerous point in this roadway. Council needs to agree to bridge that gap and eliminate areas that do not have sidewalks. Otherwise, these gaps will never be filled and these safety issues will remain in perpetuity. If Council decides there should be some City contribution because of the public good, then that is a different conversation. But there is a current need to start bridging that gap where there are no sidewalks and stop kicking the can down the road with every project.

Councilmember Boyle said if sidewalks were installed in front of this building and the other two properties in the 600 block, there are still another half dozen or so properties without sidewalks west on Front Street. He is unsure the status and whether they had temporary waivers, or if they were grandfathered in, but still thinks this need to be examined in its entirety and not just this one property tonight, all the way to Route 113. If we are going to do it, he thinks it should be done where there is an end, which should be at the highway. Putting them in now does not achieve that, in his opinion, and he prefers to grant the waiver and get the study completed.

Councilmember Culotta agrees and if it makes sense to come back with a motion to pay for the sidewalks from this property all the way to Route 113, he is willing to do that because the parcel west of this is very narrow and will probably never be developed.

Councilmember Wilson believes that granting this waiver puts the public in harm's way and this provides an opportunity to start a sidewalk project in this area. The City can then work towards completing the project.

Councilmember James said he has taken into consideration Councilman Boyle's comments. However, if Council is really interested in sidewalks happening and to make Milford a true walkable City, he would rather table this as opposed to granting a waiver and allow a study be done. He also, does not want to hold the project up, but he is also not interested in kicking this sidewalk project down the road. He recalled the last time this occurred after he came on Council and they were at the point, the whole idea of sidewalks had gotten old and stale. As a result, he introduced new language in order to get the project moving, that eventually helped Council agree on how property owners would pay for their portion of the repairs.

He also emphasized that the sidewalk project is ongoing throughout the City and is really looking good and, in his opinion, has come a long way. Councilman James does not want to stop the process. If Council continues to grant waivers, there will never be connectivity for the next neighbor, next block, etc. A study is only going to kick that can down the road for who knows how long.

Mr. Pierce added the TAP Project for Milford is close to final design. The application was submitted in 2016 and involved a planning period of five years with construction scheduled in 2021. And that entails a very small segment of Northeast Front Street from Washington Street to Northeast Fourth Street and will cost the City slightly more than \$250,000.

Councilmember Fulton agrees that replacing this building will make a tremendous impact on that part of town but believes it will look even better and more inviting with sidewalks in front. In his opinion, it is a great time to move forward and completing it in the manner it was meant to be done. This will also keep the sidewalk project moving. He also agrees it is very important to keep in mind the residents who are paying for sidewalks throughout the City. He feels it is important to the overall City to get these sidewalks installed and stop kicking the can down the road, as Councilman James alluded to.

Councilmember Culotta said he doesn't necessarily disagree, but is concerned with the impact this is going to have on this particular project. Because this is a State road it is going to be a much more difficult and much longer process for the developer.

City Engineer James Puddicombe was in attendance and stated he is fairly certain the State could still require them to install sidewalks because it is in the State's right-of-way, though the City Planner is more versed in this area. He would suggest the developer reach out on that matter, while he is getting his approvals, because he could still be required by DeIDOT to install that sidewalk.

According to Mr. Pierce, he was not requiring a letter of no objection from DelDOT for this demolition and rebuild. In his opinion, the disturbance is very minimal and only a reconstruction. Therefore, he did not want to require him to go through the DelDOT approval process for the site plan. However, if the City requires sidewalks, it will need to be reviewed by DelDOT which might be a separate issue. However, as long as the developer follows through, it does not have to be tied to the building construction.

He added that if the waiver is not granted, Mr. Pierce is willing to work with the developer to prevent any delay to the project's timeline.

Councilmember Fulton then moved to deny the waiver of sidewalks at this time, seconded by Councilmember Marabello:

Property Owner: Mispillion Realty LLC
Address of Property: 522 Northwest Front Street
Milford, Delaware 19963
Tax Map No: MD-16-183.09-01-62.00

WHEREAS, the above stated property owner has requested a waiver of the provisions of Chapter 197-Streets and Sidewalks of the Code of the City of Milford requiring the installation of curbing and sidewalks; and

WHEREAS, there exists justifiable reasons to waive the installation of said improvements at the present time.

NOW, THEREFORE, Be It Resolved, by the City of Milford:

- 1. The required improvements for curbing and sidewalk as set forth in Chapter 197-Streets and Sidewalks of the Code of the City of Milford for the above property are hereby waived at the present time.*
- 2. When in the future it is determined by the City of Milford in its sole judgment that it is appropriate to install said improvements, the property owner, its successors or assigns, shall be required to complete said improvements at the owner's expense within the time required by the City of Milford.*
- 3. This waiver, as approved by the Milford City Council, on June 22, 2020, shall be reflected on the Site Plan.*

Applicant Jamie Masten then asked to speak, stating that it sounds like everyone is on the same page, and agreed there is a time and a place for sidewalks. He is not trying to get out of the sidewalk installation to save a little bit of money, though he agrees with what has been echoed by others that this sidewalk will go nowhere. Council is not helping City safety or the safety of the residents, but instead is creating the opposite of that. Because this will leave a sidewalk that goes nowhere that people will follow and when they get to the end, they have to place to go. He thinks it is misguided the City believes they can go to the neighbors between there and Walgreens and claim their property to have sidewalks installed. He knows the neighbor next door to this property very well. He has lived in that home for fifty years and told Mr. Masten he is going nowhere. He will not allow the City to take some of his land to install sidewalks though maybe DelDOT has the right to come thru. If this was a sidewalk that went anywhere, he would be more than happy to do it. But if he has to pay \$25,000 for an engineer to design a sidewalk in the DelDOT right-of-way, he does not think it makes any sense to do this. In his opinion, the City is on the right page as far as there will be a time and place, but Council has already granted waivers for properties down the street, and yet they want to require him to do this. It does not seem fair to him.

Lastly, Mr. Masten asked Council to remember these sidewalks don't last forever. They have a lifespan and he could install the sidewalks today, but if the neighbor doesn't agree to do it for the next fifteen years, his sidewalk will not be any good and will begin to buckle and crack and he anticipates a lot of problems of one kind or another.

He is not trying to save a few thousand dollars, and if it made sense, he would be more than happy to do it.

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

Councilmember Wilson said she is trying to visualize this area and asked if there is a sidewalk to the east of this property and a driveway. She also recalled this same argument became a major issue on Airport Road when Council wanted sidewalks extended to the Boys and Girls Club and they also stop abruptly. She is also aware of a few other places with similar situations.

She feels it is very important to enhance the City overall and recalls trying to get legislative funds to pay for sidewalk installation, but was unsuccessful.

When asked where the entrances are into this building, Mr. Pierce answered they will remain as they currently exist. He then referenced the two entrances on a visual, one being an enter only and one being an enter/exit. He explained that the entrance to the left includes a shared easement with Lakeview Apartments. Presently, the sidewalk stops at the east entrance and does not extend across the vehicular entrance into the building.

Councilman Fulton confirmed that if the sidewalk was installed, it would extend the present sidewalk in front of Lakeview Apartments west to the other side of this property, which would add a large chunk of sidewalk along that roadway.

Councilman James emphasized this will start the continuation of sidewalks westward. He also noted the only reason there is no sidewalk directly next to this property is because of the vehicular entrance/exit. Extending this sidewalk in front of this property will allow the continuation of sidewalks. If that is not done, that gap will never be filled and he believes this is a vital part of the City's sidewalk project and is very important.

Councilman Culotta argued that if the sidewalk is stopped past the entrance, anyone walking westward should have crossed Front Street prior to Lakeview Apartments, but now will be crossing in this area in order to get to the sidewalk across the street. He would like the Police Chief to comment on this being a safety issue, adding that this is a very busy roadway.

Chief Brown said he definitely sees a safety issue and doesn't want people crossing the road, especially as wide as this road is. But he pulled it up to view it on his computer and sees that the sidewalk already comes to the entrance of Silver Hill Apartments. He said we already have a current condition with that and adding this other sidewalk is just extending the same situation down a few more yards. He is not sure we are saving anything by not doing it, but it is a serious condition to be on that street and have a sidewalk just end, though it already exists the same way at the property just before this one.

Councilman James reiterated if we don't do this now, we never get connectivity and a continuation of sidewalks. From his observation, this is a key piece of land that is appropriate for sidewalk continuation westward on State Route 14.

When questioned, Councilman James added that he also crosses before the apartments because in that area, he is able to see traffic past the curve which is further east. As you proceed east and get closer to Maple Avenue, it is much more difficult to cross because there is less visibility.

Councilman Marabello asked if we can make an incentive to the developer to make it a win/win for the builder and the City; Solicitor Rutt reminded Council there is a motion on the floor and a vote needs to be taken. If it is voted down, a new motion can then be made.

It was reconfirmed the motion is to deny the waiver for sidewalk installation at this property.

The following roll call vote was taken:

- Marabello: yes, it is the right thing to do moving forward to be consistent with the sidewalk project for the future.
- Boyle: no, because we need to look at the entire stretch from where the current sidewalk ends, all the way down the road. This is just putting in another sidewalk and there is a big gap before the houses that received waivers. He does not think it will achieve the ultimate goal at this point and a concerted effort is needed which is why he votes no.
- Culotta: no, simply because this is a State road and the State will have to be involved which will delay the project for the developer and that is his bigger concern. He would like to work with the State to have sidewalks extended to the Route 113 and in this particular case, he will vote no in favor of the waiver.
- Fulton: yes, so that the sidewalks can be extended and does not want the waiver granted. If we don't start doing it, it will never get done.
- Baer: yes, he wants as many sidewalks as we can install in Milford.
- Morrow: no, because Mr. Masten is going to have a sidewalk that goes nowhere and the only thing, we are accomplishing is doubling the safety hazards by adding another place where pedestrian can potentially cross the road. He agrees we need to look at this and have the City install all the sidewalks at one time because it is a main entrance into

the City. We need to find a way to be able to walk from Route 113 to this spot, but not requiring this because we just gave two waivers up the street in front of two residences which does not make sense why it would be required at this property.

James: yes, to deny the waiver because if we do not require this section of sidewalk to be done, it will definitely delay the City's ability to go back to those that we did grant waivers to and require them to do it. Otherwise, we will never form connectivity and any continuation of our sidewalks.

Wilson: yes, based on the Sidewalk Enhancement Program for the entire City and she agrees with Councilman Fulton that if we do not set a precedence, this will never get done.

The vote resulted in the sidewalk waiver being denied by a vote of 5-3.

ORDINANCE 2020-08

First Baptist Church of Milford for a Change of Zone of Annexed Land of 1.14 +/- acres from MR Zoning to R1 Zoning District. Property is located along the north side of Old Shawnee Road, approximately 1,900 feet west of the S Dupont Boulevard intersection addressed as 6044 Old Shawnee Road, Milford Delaware. Present Use: Single Family Dwelling; Proposed Use: Same. Tax Map 1-30-3.06-125.00

Planning Director Pierce reviewed the ordinance involving an annexation application and change of zone requested by Pastor David Perdue. The Annexation Committee reviewed the petition in February and recommended proceeding. The application has been on hold because of the Covid-19 restrictions for public hearings.

He pointed out this will help square off the legal holdings in that area that presently contains a single-family detached dwelling, which will be kept in the near term. The church also wants to expand and consolidate some lots to provide additional parking in the rear of this parcel.

It complies with the future land use of the City's 2018 Comprehensive Plan showing low-density residential. The State Planning Office also certified the plan of services.

In addition, the annexation agreement has been executed and is on file.

All properties within 200 feet were mailed a copy of the notice, which was also advertised in the Milford Beacon on June 3, 2020. Planning Commission reviewed the application and recommended approval by a vote of 6-0.

Pastor Perdue added that Mr. Pierce's presentation was accurate and explained their plans. They plan is to leave the home though they want to use the rear of the property for parking. It will also square up the property and there will be no changes to the current entrance/exits.

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

Councilmember Boyle move to authorize that annexation of 6044 Old Shawnee Road Tax Map 1-30-3.06-125.00 and authorize the change of zone to R-1, seconded by Councilmember Culotta. Motion carried by the following 7-0 roll call vote:

Marabello: yes, there are no adverse effects by making this change.

Boyle: yes, based on the recommendation of the Annexation Committee and Planning Commission.

Culotta: yes, based on Councilman Marabello's comments.

Baer: yes, based on the recommendations.

Morrow: yes, based on the Annexation Committee and Planning Commission recommendations.

James: yes, based on the Annexation Committee and Planning Commission recommendations.

Wilson: yes, based on the Annexation Committee and Planning Commission recommendations.

ORDINANCE 2020-15

Code of the City of Milford

Part I-Administrative Legislation

Chapter 55-Personnel

City Manager Whitfield reported this ordinance involves a few clean-up items in our Personnel Code.

HR Administrator Jamesha Eaddy referenced the amendments, which are primarily housekeeping changes in Chapter 55. They align with current practices and reaffirms their intent at the time the manual was adopted in April 2018. This amendment will ensure the code is kept up-to-date.

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

Councilmember Boyle moved to adopt Ordinance 2020-15 amending the Chapter 55 Personnel of the City of Milford, Part I, Administration, seconded by Councilmember Wilson:

ORDINANCE 2020-15
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 of important information about the City's rules, policies, practices, and procedures, as well as educated them on their own privileges and responsibilities; and WHEREAS, from time to time there is a need to adjust language in the Chapter in order to remain current with human resources best practices.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. §55, Section 4.5 METHODS OF APPOINTMENT is hereby amended by removing language indicated by strikethrough as follows:

In the event that a vacancy must be filled immediately, the Appointing Authority may make an interim, temporary appointment, for a period of no longer than ninety (90) days; additional periods of temporary appointment, not to exceed ninety (90) days, may be granted only through written agreement and approval of the Appointing Authority. During the period of such interim appointment, the recruitment and selection processes will proceed ~~(refer to Recruitment Guidelines Policy)~~.

Section 2. §55, Section 6.11 PERFORMANCE REVIEW is hereby amended by removing language indicated by strikethrough and adding language shown underlined as follows:

The performance of all regular full-time and part-time employees will be reviewed at ~~approximately mid-point (3 months) of their introductory period and again prior to when their introductory period (6 months) ends~~ three (3) months of employment, and thereafter annually. Individual employees may be required to complete a self-appraisal as part of the overall performance review process.

Section 3. §55, Section 7.2 SICK LEAVE is hereby amended by removing language indicated by strikethrough as follows: ~~Employees that do not require the use of their sick leave benefit will be eligible for recognition through the Employee Recognition Policy.~~

Section 4. §55, Section 9.3 FAMILY AND MEDICAL LEAVE ACT PROCEDURE (FMLA) is hereby amended by removing language indicated by strikethrough and adding language shown underlined as follows:

While the Family Medical Leave Act provides for 12 weeks of unpaid job protection ~~the City permits the employee to use his or her accrued leave time in conjunction with FMLA leave in order to avoid a loss in wages~~ Family Medical Leave Act will run concurrently with any accrued forms of paid leave. Employees are required to use any available sick, vacation, or holiday time while covered under Family Medical Leave Act. The use of accrued leave does not extend one's FMLA leave. ~~Accrued sick leave may be used for any medical related absences and accrued vacation leave may be used for any non-medical absences.~~

Section 5. §55, Section 9.4 MILITARY LEAVE is hereby amended by adding language shown underlined as follows:

Any employee who is a member of a reserve component of the armed forces will be placed on unpaid leave for his/her annual two-week training or one weekend per month required duty. Benefit programs will be unaffected by the leave and the employee may elect to use any vacation entitlements for the absence. Training leaves will not normally exceed two weeks per year, plus reasonable travel time. Employees that serve in the military shall receive the difference between their military pay and their normal wages as if they had worked.

Section 6. §55, Section 11.5 OUTSIDE EMPLOYMENT is hereby amended by adding language shown underlined as follows:

Employees must notify their supervisor and Department Director of any outside employment. The City of Milford will not object to an employee having outside employment as long as the employee is successfully and competently performing his/her job duties as determined by the Department Director or Appointing Authority and without negative impact on attendance and so long as it would not create a potential conflict of interest. Secondary employment is prohibited if:

- The secondary employment is doing business with or seeking to do business with the City.
- Such employment will create a conflict of interest or the appearance of a conflict of interest.
- Such employment is a direct conflict with any municipal functions or ordinances.

The City will not be liable for any expenses, costs, or wage claims because of any injury or sickness incurred by outside employment.

Section 7. §55, Section 12.5 ALCOHOL & DRUG-FREE WORKPLACE is hereby amended by removing language indicated by strikethrough as follows:

The goal of this policy is to maintain a safe and healthy work environment. The successful implementation of this policy will also enable the City to provide quality service to the public by maintaining efficiency and productivity. The use of illegal drugs and/or the misuse of alcohol or legal drugs are inconsistent with this goal.

~~Employees will receive and acknowledge a copy of the Drug-Free Safety Program Policy during new employee orientation. Additional copies are available in Human Resources.~~

Section 8. §55, Section 12.5.B.4 POST-ACCIDENT is hereby amended by adding language shown underlined as follows: Each employee who operated a City vehicle while it was involved in a traffic accident which resulted in the loss of human life, disabling damage to any motor vehicle requiring tow away, ambulance service at the scene, or the issuance of a traffic citation, shall be tested for alcohol content and for the use of controlled substances.

Section 9. Dates.

City Council Introduction: June 8, 2020

City Council Public Hearing: June 22, 2020

Effective: July 2, 2020

Motion carried with no one opposed.

ORDINANCE 2020-16

*Wright Mortuary on behalf of Congregation of the Most High Yahvey Incorporated
Conditional Use to allow an Undertaker on 0.94 +/- acres in a C2 Zoning District.
Property is located at 9 SE Second Street, Milford, Delaware.*

Present Use: Church; Proposed Use: Undertaker.

Tax Map: 3-30-6.20-041.00

Mr. Pierce reviewed the ordinance on behalf of the applicant. He reported the applicant proposes to convert the existing 5,700 square foot (previous) church in downtown Milford into a funeral and memorial service establishment.

Chapter 230-13(C)(3) states “undertakers” require conditional use approval from City Council.

The building is directly across the street of the City Finance Building and east of Milford Museum on a very small parcel of land.

Mr. Pierce then also referenced a brief narrative submitted by the applicant Justen Wright:

The applicant proposes to use the existing sanctuary as a chapel for funeral and memorial services. Office hours are planned for Monday through Friday, 9 am to 5 pm. The applicant states there will also be a need to hold viewings and services outside the regular office hours. The property currently uses the downtown municipal lots and on-street parking throughout the downtown area. There will be two staff members on site during office hours, though that will increase to four to five employees during a memorial service.

Reviewed by the Planning Commission on June 16, 2020, approval was recommended by a 6-0 vote. The public notice was published in the Milford Beacon on April 29, 2020 and all properties within 200 feet were mailed a copy.

CFSP Wright shared they are seeking the approval for the property as Mr. Pierce described. The property is properly zoned, though the conditional use is needed before they proceed. They have been in this practice with several families and the funeral service administration since 1987. The family are Delawareans and he is a second-generation funeral director and will endeavor to serve those in the Kent and Sussex County area through this facility in Milford.

He added that parking is already grandfathered as part of Milford's business district. There will be no changes to the structure though cosmetic work will be done throughout the interior to make it conducive and more comfortable for such services.

Mr. Wright concluded by pointing out this property will change from a non-taxable property to a taxable property which will enhance the City's revenues.

Councilman Culotta noted the building is very old and it appears a lot of work is needed and asked if any improvements will be done to the exterior to enhance the structure; Mr. Wright said it may appear as though a lot is needed to someone that has not been in this industry or is not familiar with renovating facilities. Their initial funeral home was Kingdom Hall which they converted into a funeral home. They also have another location that was converted from a church and was upgraded to allow for funeral and memorial services. As a result, there will be windows replaced, painting, restroom restorations and other interior renovations so there will be money invested to beautify the building. He also plans to do some landscaping on the frontage, in addition to the repair of some brick work.

Councilman Marabello asked how the flow of the vehicles will be managed and what streets will be used during a funeral; Mr. Wright said at this point, that is difficult to answer though a lot of funerals are traditionally held in churches. If there is a service held at this site, they will determine the traffic flow based on the anticipated number of people. The hearse will need to be in front of the facility and the procession will be formed along the side, which often begins at someone's home. However, they will make the best accommodations and safest decision based on their experience.

Mayor Campbell opened the floor to public comment. With no one responding, the floor was closed.

Councilmember Boyle moved to adopt Ordinance 2020-15, authorizing the conditional use conforming with Chapter 230, seconded by Councilmember Wilson. Motion carried by the following 7-0 vote:

Marabello: yes, based on the favorable vote of the Planning Commission of 6-0.

Boyle: yes, it fits the requirements for a conditional use in a C-2 zone.

Culotta: yes, he is happy to see the building being sold and some improvements being made to enhance the overall downtown area.

Baer: yes, for those reasons previously stated.

Morrow: yes, based on the recommendation of the Planning Commission.

James: yes, based on the recommendation of the Planning Commission.

Wilson: yes, based on the recommendation of the Planning Commission and she agrees this will enhance the downtown area.

Sign Regulations

Planning Director Pierce provided history of the project and recalled the group that worked on the City's sign ordinance to update the document and provide recommendations to the Planning Commission throughout the 2019 summer. At the November meeting of City Council, there was a discussion about the prohibition of billboards within the City limits. Staff was directed to review and amendment that would address billboards and overhead banners.

Since that time, the Planning Commission has reviewed the two matters. Overhead banners were already addressed within the original draft and they agreed there was no need for any additional deviations or amendments. They were confident with the language in the current ordinance.

The proposed billboard amendment will allow billboards in the C-3 zone by conditional use and only on properties adjacent to roadways that have four or more lanes of travel, which primarily restricts them to Route 113 and Route 1.

Mr. Pierce reported the amendment is similar to what Sussex County has adopted in relation to the separation distances, setbacks and roadways with four lanes of traffic, though less strict than the requirements in Kent County.

The amendment was presented to the Planning Commission at their June 16th meeting. The notice was published in the June 3, 2020 edition of the Milford Beacon.

The Planning Commission recommended denial of the ordinance upon a vote of 6-0.

Councilman Culotta recalled a discussion in which it was recommended Council have a workshop to discuss some of the changes being considered, but that never came to fruition. He would have preferred addressing it in that manner.

He then asked the reasons the Planning Commission unanimously voted unfavorably against the ordinance.

Solicitor Rutt recalled the workshop discussion and the motion that was made and adopted by City Council that did not include bringing it back for a workshop. The motion was to direct staff to prepare the amendment and have it reviewed by the Planning Commission before it was brought back to City Council.

Councilman Culotta disagreed stating it was discussed that night and he encouraged other Councilmembers to speak on the matter and stressed the need for discussion at the committee level.

Councilmember James said he concurs with Councilman Culotta and though the idea was discussed, because we are going to no billboards at all, it was his impression it would end up in a workshop though he understands the procedural reason that did not happen.

Councilmember Morrow said he agrees with Councilmember Culotta's recollection.

Councilmember Boyle recalls the motion as well as the long discussion. However, the ultimate decision was to approve the ordinance that evening, and to require the Planning Director to go back to the Planning Commission and develop an alternate ordinance that would allow a conditional use, which he has done in this case. It appears the Planning Commission reviewed this in detail and rejected it by a unanimous vote.

Director Pierce recalled working with Assistant Solicitor Jamie Sharp to develop the entire sign code amendment. The working group did not feel comfortable making a recommendation about billboards and felt it was more of a political decision needing to be addressed by the Planning Commission and City Council. However, Assistant Solicitor Sharp did present a similar option to the Planning Commission last summer and after several discussions, they recommended prohibiting billboards. At that time, the billboard language was removed from the draft sign ordinance prior to Council review.

The Planning Director pointed out the minutes are included in the packet and the motion made in November directed him to return to the Planning Commission to work on a resolution based on City Council's conversation.

When asked the difference in Kent and Sussex County restrictions, Director Pierce reported that Sussex County is very similar to what is before Council and permits billboards through a conditional use is required within certain commercial/industrial zoning categories. They have different regulations for various size (lanes) roads, in terms of separation distances.

Mr. Pierce said Kent County's code allows billboards in limited industrial and general industrial zoning categories on divided highways with a minimum 1,200-foot separation. In their staff's opinion, there are very few parcels left that would meet the regulations in the unincorporated areas. What is in front of Council this evening is a 600-foot separation, or half of what is required by Kent County.

Councilman Culotta pointed out that billboards would only be permitted on four-lane highways, which only includes Route 113 and Route 1 in Milford. He thinks this is a reasonable ordinance and that the Planning Commission is being short-sighted because this would be limited to specific areas while providing an area for local businesses to advertise and attract business to the area. He agrees they can be unsightly, but these will be in area that are not adjacent to a business or house, and instead in an open area where they would be visible.

Councilman Culotta also added that by prohibiting this, we are limiting advertising opportunities for the small business owner in the City to utilize new billboards. The existing billboards in Milford have doubled and tripled their costs for any advertising. As a result, this is really hurting small business owners because this would provide a much more economical way to advertise on newer billboards.

Mayor Campbell then opened the floor to public comment.

Nina Pletcher of 428 S Walnut Street, said she attended all the meetings where was discussed over and over and at the end of the day, it comes down to what needs to be done to beautify Milford. Council just talked about not installing sidewalks to nowhere, but we also want to put up an office building that will welcome people to Milford and beautify that section of town. She does not see billboards as enhancing Milford.

Ms. Pletcher added that no small business owner can afford to use billboards for advertising and more than likely, the new billboards will not be used for businesses in Milford or direct people into Milford. Instead, they will promote those businesses at the beach.

She agrees there is a need to find ways to get people to come into Milford, but does not believe a billboard will do that. She then asked if anyone knows how much of Milford is in Kent County versus Sussex County. She feels that should be considered with Kent County being more conservative on their regulations.

Mr. Pierce believes there may be more land mass in Sussex County, though it is very close with the ward boundaries are pulled down to Second Street.

Ms. Pletcher pointed out that what is being considered are the four lane highways on Route 113 and Route 1 only and she is considering the river and county lines. She asked if what is being proposed is no signs on the Kent County side and instead making up for on the Sussex County side.

Councilman Culotta said that to debate whether billboards will be beneficial to Milford or other communities can be argued a long time with no answer. He agrees a billboard is not cheap, but it is like anything with supply and demand. If the supply is low, they are more expensive because there is very little competition.

He added that he is only talking about billboards on highways in undeveloped areas in the Hertrich Dealership area, which is still part of Milford. Councilman Culotta also has no problem with a more restrictive ordinance for the Kent County side of Milford, as long as the language is clear and consistent. He reiterated this will not impact downtown or residential areas.

Ms. Pletcher concluded by stating that DMI has more than once tried to get their merchants to collaborate on advertising, though they have a difficult time deciding what type of billboard would be appropriate to entice visitors to Milford. They admit they need one, but no one wants to pay for it. At this point, the working groups have said give it up, the sign companies

agreed it did not make sense and the Planning Commission has been over this at least twice. The City has used a lot of resources that still come up empty.

PE Ring Lardner with Davis, Bowen, & Friedel said he drove around this morning before he came to work to drive the corridors to see what billboards are there. Everyone keeps mentioning the three billboards in the area of the Waters Edge Community in Frederica, because they stick out like a sore thumb. He used that as his northern limit and rode down to the new Bayhealth Campus on Route 1, then to the electric substation on Route 113. He noticed there are billboards north of the Route 113/Route 1 split of various sizes. Some he did not realize were billboards until he made a point of really paying attention. About one-third of the billboards have public service messages and several advertise actual businesses in Milford and some may be in their location because the Route 1 corridor is an expressway.

He said that as everyone is aware, DelDOT is trying to eliminate all access off Route 1 and have made that a complete limited access highway. The billboards do help get people off an exit to find a business.

Most of the billboards on Route 113 are actually south of Route 36. There are some old abandoned billboards the Palace Restaurant is using right now and a smaller one across from Genesis. There are billboards by Milford Ponds and one in front of the electric substation on the righthand side heading out of town, just past the transfer station.

Mr. Lardner thinks the billboards are there and he agrees some can be unsightly though many are very useful. He explained that what is being talked about are static boards versus electronic message boards that can be programmed with different messages every minute, that help a number of businesses because of the shared costs.

He said that prior to billboards being prohibited, he does not remember a big influx of anyone wanting to bring billboards to Milford. Billboards have been on the books for awhile and what is being proposed is more restrictive than what was permitted previously. Because this will require a conditional use, there is no guarantee any billboard will be approved. The application is still required to come before the Planning Commission and City Council to get approval, at which time anyone opposing it has another opportunity to voice their opinion.

He believes that taking something that was permitted and making it prohibited is counterproductive when this ordinance does a good job of adding more restrictions and another layer of opportunity for Mayor and Council to decide whether the billboard is appropriate or not.

Mr. Lardner is also aware of some billboards in Kent County that are on general commercial land, though he agrees they are moving them toward industrial land. He agrees they have a good purpose, and need to be restricted to a certain size and height. The key to all this is no variances, in his opinion, and either the billboard meets the regulations or it does not.

He recommended riding down the highway and paying attention to the many billboards that actually blend into the surrounding commercial entity, they are geared toward.

With no one else wishing to speak, Mayor Campbell closed the public hearing.

Solicitor Rutt explained that under the Zoning Code Article 12 Amendments Section 230-58(f) this is the procedure:

If the proposal is denied or recommended to be denied, by the Planning Commission, it cannot be brought back for consideration unless City Council votes by a three-quarter vote of the entire City Council to overturn the Planning Commission's recommendation.

The Solicitor explained that at this point, if a motion is made to recommend the vote of the Planning Commission be reversed, six votes would be needed.

It was confirmed that six votes will still be needed even though Councilman Fulton is unable to vote due to his involvement as a Planning Commissioner when this ordinance was reviewed earlier this month.

Councilmember Boyle moved to reverse the Planning Commission's recommendation for denial, seconded by Councilmember Marabello.

After some discussion regarding clarification of the motion, Solicitor Rutt explained the motion is to reverse the Planning Commission's recommendation, and adopt the ordinance, and voting yes does that. To accept the Planning Commission's recommendation to deny the ordinance, the vote should be no.

He reiterated the vote on the floor is to reverse the Planning Commission recommendation, it accepts the language of the new ordinance:

*ORDINANCE 2020-04
CODE OF THE CITY OF MILFORD
PART II-GENERAL LEGISLATION
CHAPTER 230-ZONING
SIGN REGULATIONS*

WHEREAS, the regulating of signage throughout the City is necessary to balance the need to protect the public safety and welfare, the need for a well maintained and attractive community, the need for adequate identification, communication, and advertising; and

WHEREAS, Chapter 230 of the Code of Ordinances provides for such regulations; and

WHEREAS, after a review of sign regulations, City Council has determined it is in the best interest of the City to provide suitable circumstances for off premise signage.

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:

§ 230-24.19. Off-Premise Premises Signs.

~~*Off premises signs are prohibited.*~~

A. Off premises signs in the C-3 Highway Commercial District, are permitted provided a conditional use approval is obtained pursuant to Article IX of this chapter and that the standards of this subchapter are met:

(1) All off-premises signs shall meet the minimum principal building front yard and rear yard setback requirements for the C-3 zoning district and have a minimum side yard setback of 25 feet. An off-premises sign shall not be erected within 150 feet of property which is used as a dwelling, church, school, or public lands as measured on a radius from the edge of the off-premises sign. An off-premises sign shall not be erected within 50 feet of an on-premises sign but this separation requirement shall not preclude the erection of an on-premises sign within 50 feet of an off-premises sign.

(2) A single off-premises sign structure shall support no more than one sign per side and no more than two signs in total. Signs which are stacked or side-by-side on an off-premises sign structure are prohibited.

(3) All off-premises signs which are located on properties adjacent to roads which have less than four travel lanes (excluding turn lanes) shall be prohibited.

(4) For all off-premises signs which are located on properties adjacent to roads which have four or more travel lanes (excluding turn lanes), the following regulations shall apply:

(a) An off-premises sign shall not be erected within 600 feet of another off-premises sign. This separation distance shall be measured from the edges of the off-premises sign and shall apply only to signs which are located on the same side of the road.

(b) No off-premises sign shall exceed 35 feet in height from ground level.

(c) An off-premises sign shall not exceed 600 feet of sign area per side and shall not exceed more than 1,200 square feet of sign area per off-premises sign structure.

(5) An applicant for conditional use for an off-premises sign must, at the time the application is filed with the City, submit documentation from the Delaware Department of Transportation which confirms that the Delaware Department of Transportation does not object to the proposed off-premises sign.

B. No variances shall be issued from any of the regulations in this article for off-premises signs which have been erected or approved to be erected after April 2, 2020.

Section 2. Dates.

Planning Commission Review & Public Hearing: June 16, 2020

City Council Introduction: March 9, 2020

City Council Public Hearing: June 22, 2020

Effective: July 2, 2020

The following roll call vote resulted in a 4-3 roll call vote:

Marabello: no and agrees with the recommendation.

Boyle: no and accepts the recommendation of the Planning Commission.

Culotta: yes, adding that the Planning Commission is being shortsighted and not business friendly and thinks the language is very clear and fair as written by the Planning Director.

Baer: no based on the recommendation of the Planning Commission.

Morrow: yes, and agrees with Councilmember Culotta's comments and prefers the option to look at this as a conditional use.

James: yes, and thinks it is too far reaching and believes there could have been a better compromise that would have been more business friendly to allow it, while still having the oversight that was needed.

Wilson: yes, based on the positive comments before her.

The motion failed for lack of a two-thirds majority or six votes.

Solicitor Rutt added that the ordinance can be presented again for reconsideration after a year has passed.

RESOLUTION 2020-20

Acceptance of Milford Ponds Subdivision

Phases 1.1, 1.2, and 1.3/Water System and Sewer System

City Engineer James Puddicombe presented the request to accept the sanitary sewer and water lines at the Milford Ponds Subdivision for the three phases. However, this does not include the roads or sidewalks.

He noted this will be a final acceptance and would relieve the developer of any maintenance bond requirements.

Mr. Puddicombe added there are still two unrelated phases that remain under maintenance bonds.

When questioned about relieving the developer of responsibility, the City Engineer confirmed the bonds that remain are only for the structure within the future phases. The City maintains a 125% bond on the road surface that can be used for any issues within the phase, including road surfaces, sidewalks or adjustments to valve bodies.

It was confirmed that natural gas is provided by a private company and not a City utility and not part of the bond or inspections.

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

Councilmember Wilson moved to adopt Resolution 2020-20, seconded by Councilmember Fulton:

*Acceptance of Milford Ponds Subdivision, Phases 1.1, 1.2, and 1.3
Water System and Sewer System*

WHEREAS, Chapter 200 provides that public roads and public utilities shall be accepted into the City of Milford's street system and public utility system by Resolution of City Council; and

WHEREAS, the Public Works Director and City Engineer have determined the water distribution system and sewer system included in a portion of Phase 1 of Milford Ponds Subdivision have been completed in accordance to City standards and requirements; and

WHEREAS, the portion of Phase 1 to be accepted includes the utilities within the Right-of-Way ("ROW") and public utilities within associated open spaces adjacent to, but within the phases, as depicted on the phasing plan sealed and dated April 8, 2019 and recorded with the Sussex County Recorder of Deeds on Book 0271, Page 9; and

WHEREAS, the phase to be accepted are phase 1.1, 1.2 and 1.3 which encompass lots 314 through 322; 355 through 366; 473 through 480 and 511 through 530; and

WHEREAS, the utilities within the following rights-of-way are to be included: W. Heirloom Way from Route 13 heading East to the intersection with Clubhouse Drive up to the eastern most property line for lot 366; from the intersection of W. Heirloom Way and Clubhouse Drive along Clubhouse Drive heading South including the intersection with Patchwork Drive; beginning at the intersection of Patchwork Drive and Clubhouse Drive heading East until the eastern most property line of lot 511 to include Attic Window Court; Pinwheel Drive from the intersection of Pinwheel Drive and Patchwork Drive heading North including the intersection with Flying Geese Drive and that portion of Flying Geese Drive between Pinwheel Drive and Clubhouse Drive; and

WHEREAS, approval to operate these utilities has been obtained from the applicable State agencies; and

WHEREAS, this Resolution does include acceptance of the sidewalks or public streets within these phases; and

WHEREAS, Milford Ponds LLC has provided the City of Milford with a maintenance bond for 10% of the value of public improvements and public utilities warranting said improvements for one year from the date of acceptance; and

WHEREAS, the maintenance bond for the completed utilities is to be relinquished to the developer in an amount equivalent to that withheld for maintenance of the accepted utilities; and

WHEREAS, said developer has provided as-built drawings of the utilities to the City of Milford.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Milford, during a lawful session duly assembled on the 22nd day of June, 2020, by a favorable majority vote, accepts the water distribution system and sewer system in the Milford Ponds Subdivision, Phase 1.1, 1.2, and 1.3, that are being dedicated for public use into the City of Milford's public utility system.

BE IT FURTHER RESOLVED, that the City of Milford shall assume responsibility for the future maintenance and repair of the water distribution system and sewer system in Milford Ponds Subdivision, Phase 1.1, 1.2, and 1.3, as noted in this Resolution.

Motion carried by a roll call vote of 8-0 (no comments).

COMMUNICATIONS & CORRESPONDENCE

Councilmember Marabello reported that the Second Street Players Theater are replacing all their doors and were able to obtain grants from Milford Lions, Delaware Community Foundation and the Delaware Division of the Arts to cover the majority of costs, after they were able to raise some matching funds.

He also announced that the Santa House in downtown Milford will be opening soon as the North Pole Creamery under owner David Pickrell.

Councilmember Marabello announced the sad news that Joe Lear, Sr. passed away at the age of 95. In addition to being a member of several jazz bands and orchestras, Mr. Lear organized the Milford Community Band in the early 1990's.

He suggests a small donation be made in his name to the Community Band considering his lifelong commitment to music in the City of Milford.

NEW BUSINESS

Authorization/Alcohol Waiver/Chamber of Commerce Mixer

City Manager Whitfield the Chamber has planned an outdoor mixer on Wednesday evening, June 24th, in the area on Southwest Front Street. In order to do social proper distancing, they have asked for a waiver to allow alcohol be consumed in that public space. George Hufnagel from Wattay Accounting is on the line in case there are any questions.

There being no discussion, Councilman Culotta moved to authorize the alcohol waiver for the Chamber event, seconded by Councilmember Marabello. Motion carried.

EXECUTIVE SESSION

Councilmember Wilson moved to go into Executive Session reference the below statute, seconded by Councilmember Culotta:

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed.

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation position of the public body.

Motion carried.

Mayor Campbell recessed the Council Meeting at 10:47 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

Return to Open Session

Councilmember Boyle moved to return to Open Session, seconded by Councilmember Wilson. Motion carried.

Council returned to Open Session at 11:19 p.m.

Potential Vote/Personnel Evaluations

No action needed.

Potential Vote/IBEW Negotiations

Councilmember Boyle moved to authorize the IBEW Contract be executed as discussed, seconded by Councilmember James. Motion carried.

ADJOURNMENT

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

The Council Meeting adjourned at 11:21 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

