

MILFORD CITY COUNCIL

Minutes of Meeting

January 11, 2021

The City Council of the City of Milford convened their regular meeting by way of video conferencing on Monday, January 11, 2021. 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 White.

ALSO: 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 January 11, 2021 Council Meeting Agenda and Packet for additional information

CALL TO ORDER

Mayor Campbell called the meeting to order at 7:03 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Included in the packet were minutes from the November 17, 2020 Workshop/Retreat and December 14 Council and December 16, 2020 Special Council Meetings. Motion made to approve by Councilmember Boyle, seconded by Councilmember Fulton seconded. Motion carried.

RECOGNITION

Proclamation 2021-01/Honoring Martin Luther King, Jr. was provided.

PROCLAMATION 2021-02/HONORING DR. MARTIN LUTHER KING JR.

Whereas, Dr. Martin Luther King Jr. devoted his life to advancing equality, social justice, and opportunity for all, and challenged all Americans to participate in the never-ending work of building a more perfect union; and

Whereas, Dr. King's teachings can continue to guide and inspire us in addressing challenges in our communities; and

Whereas, the King Holiday and Service Act, enacted in 1994, designated the King Holiday as a national day of volunteer service, and charged the Corporation for National and Community Service with leading this effort; and

Whereas, since 1994 millions of Americans have been inspired by the life and work of Dr. Martin Luther King Jr. to serve their neighbors and communities on the King Holiday; and

Whereas, serving on the King Holiday is an appropriate way to honor Dr. King, meet local and national needs, bring our citizens together, and strengthen our communities and nation; and

Whereas, the King Day of Service is the only federal holiday commemorated as a national day of service, and offers an opportunity for Americans to give back to their communities on the holiday and make an ongoing commitment to service throughout the year; and

Whereas, King Day of Service projects are being organized by a wide range of nonprofit and community organizations, educational institutions, public agencies, private businesses, and other organizations across the nation; and

Whereas, each of us can and must contribute to making our communities better with increased opportunity for all our citizens, and

Whereas, the residents of the City of Milford have the opportunity to participate in events throughout our city on the King Day of Service, January 18, 2021, as well as create and implement community service projects where they identify the need.

NOW, THEREFORE, I, Arthur J. Campbell, Mayor of the City of Milford, Delaware, proclaim the Martin Luther King Jr. Holiday as a Day of Service in our City and call upon the people of Milford, Delaware to pay tribute to the life and works of Dr. Martin Luther King Jr. through participation in community service projects on Martin Luther King Day and throughout the year.

Public Hearings & Final Determination

ORDINANCE 2020-18

Mispiration Gateway LLC on behalf of Grant Shane, t/a Clear Definition Detailing, for a Conditional Use Permit to allow a Car Detailing Operation in a portion of an existing commercial building located at 301 Northeast Front Street. The property is currently zoned C-3 and consists of 1.494 +/- acres on the north side of Northeast Front Street between East Street and Northeast Fourth Street in Kent County. Present Use: Vacant Building Proposed Use: Car Detailing Operation Tax Map & Parcel MD-16-183.10-04-23.01

Director Pierce reviewed the staff report and application that was included in the packet. The applicant is seeking permission within a C3 Highway Zoning Commercial district to place a car detailing operation located at 301 NE Front Street.

Mr. Grant Shane was present to represent the application.

The Planning Commission reviewed the conditional use application at the December 15, 2020 meeting and recommended upon unanimous vote of five to zero to approve the conditional use with it being limited to the 3,000 square feet on the west end of the building as shown on the drawing.

When asked about the impact of water on the City's water system, Mr. Grant stated that the products he uses are environmentally friendly and do not contain hazard materials, which is standard in the industry today. He had a body shop at 110 North DuPont Boulevard where he has to have containers that contain chemicals that must be removed by a hazardous waste company.

Mr. Pierce noted that there is nothing in the conditional use or ordinance that would relieve Mr. Shane of any water or other ordinance requirements for illegal discharges. Those types of things will be reviewed during the building process though he does not anticipate any problems.

Councilman Marabello asked if there was specific drainage so that there will not be anything flowing out onto the street; Mr. Shane replied that the water will be mostly be contained within the building though he would be washing the vehicles inside the building through most of the car washing would occur at his other building.

Mayor Campbell asked if there was appropriate drainage in the building; Mr. Shane replied that there are functioning drains in the building that are already installed.

Councilman Culotta pointed out that in the application, it states that “the applicant may not store excessive amounts of vehicles on the property” and believes that statement is vague. He asked for a clearer amount so that it can be better understood by Council and the applicant.

Director Pierce replied that there are two overhead doors on the end of the building. All of the work will need to be done within the building. As discussed during the Planning and Zoning meeting, the cars are to be cleaned and moved off-site pretty quickly. The intent would not be to have vehicles stored outside for a long period of time.

Mr. Shane added that only one person can work on a vehicle at a time and there will be four employees at this location. As a result, there should not be more than ten cars in the shop at any time. Councilman Culotta asked if that was enough capacity to keep a steady flow of customers and Mr. Shane replied yes, he does not have a need for storage.

Councilman James asked if the ceramic seal or coating applied to the car is a hazardous material and Mr. Shane explained it is not and reiterated there will not be bottles of chemicals that will be sitting around.

It was confirmed the hours of operation would be 7:00 a.m. until 9:00 p.m. Solicitor Rutt then confirmed that Mr. Shane heard the presentation by the Planning and Zoning commission who recommended the conditional use to be limited to the 3,000 square feet on the west end of the building. He asked Mr. Shane if he agreed to that condition. Mr. Shane confirmed he agreed to that condition.

Mayor Campbell opened the floor to public comment; no one responded and the public hearing was closed at 7:23 p.m.

Councilman Fulton made a motion to adopt Ordinance 2020-18 for a conditional with a limit of 14 vehicles on site which coincides with the number of parking spaces available. Councilwoman Wilson seconded the motion.

Motion carried with the following 8-0 roll call vote:

Councilman Marabello voted yes due to it being approved by the Planning Board and it has no adverse effect on the surrounding area;

Councilman Boyle voted yes in agreement with the recommendation put forth by the Planning Commission and the terms stipulated in the motion;

Councilman Fulton voted yes as it is an acceptable use for the C-3 area and the Planning Commission voted unanimously for the conditions and limits for the stipulations that were set;

Councilman Culotta voted yes based on the Planning Commission's recommendation and the fact that Mr. Shane is a great businessman that already has a great business located around the corner from this proposed location;

Councilman Baer voted yes in support of the Planning Commission and agrees with the limitation of 14 parking spaces;

Councilman Marrow voted yes based on the recommendation of the Planning Commission;

Councilman James voted yes based on the conditions stipulated by the Planning Commission and agreed to by Council;

Councilwoman Wilson voted yes based on the recommendation of the Planning Commission.

ORDINANCE 2020-26

Davis, Bowen & Friedel on behalf of Milford Ponds LLC for a Final Major Subdivision (Phase II Only) of 28.06 +/- acres into 89 single-family units in R1, R2, and R3 Zoning Districts. Property is located along Patchwork Drive and Round Robin Drive in the Milford Ponds Subdivision, Milford, Delaware. Present Use: Subdivision known as Milford Ponds; Proposed Use: Same. Tax Map: 1-30-3.00-264.01, 1-30-3.00-558.00, 1-30-6.00-600.00 through -691.00

Director Pierce reviewed the staff report and application that was provided in the packet. The Planning Commission recommended approval of the final major subdivision upon a unanimous vote at their November 17, 2020 meeting. Director Pierce stated that the applicant has met all requirements that were requested of them by the Planning Department and the City Engineer.

Director Pierce asked for any questions from Council.

Councilman Fulton asked if they took care of the waterway problems that they were having; Director Pierce answered that they addressed all of the plan review comments. His recommendation was to separate any construction issues from the administrative process while reviewing the subdivision. He is unsure if they have reconciled their construction side though he sees that as a separate issue. He added that they will not be able to get any building permits issued until they get the utility and street issues addressed. Director Pierce feels that this application should be reviewed separately from any concerns.

Solicitor Rutt added that he agrees with Mr. Pierce; there is case law to the effect that if a site plan meets all of the technical requirements of an ordinance or code, then there is no basis to deny it. He added that the site plan itself meets those requirements and the approvals have been provided. The issue of the construction site can be dealt with through the issuance of the building permits or occupancy permits.

Councilman Boyle asked if a condition be added that no permits would be issued until those matters have been resolved and Director Pierce said the building permits are withheld until the streets and utilities are addressed in any subdivision in the City of Milford. These things are laid out in ordinances and construction standards and qualifications. Solicitor Rutt added there are separate sections of the code that address those issues.

Mr. Tim Metzner from Davis, Bown and Friedel was present to represent the application. He pointed out the owner and contractor have worked with the city and are working on fixing those concerns. They have begun to move forward with construction. He wants to stress there everyone is working together to resolve those earlier problems. As far as this application, they have received all the necessary approvals to proceed with the final.

Councilman Fulton asked if this was being connected with bike paths with the other areas and Mr. Metzner replied that a portion of the entrance plan approval for the overall development is to include a shared-use path connecting to the Simpsons Crossing Subdivision.

Mayor Campbell then opened the floor to public comment; hearing none, the public hearing was closed at 7:37 p.m.

Councilman Fulton made a motion to approve the final major subdivision through the adoption of Ordinance 2020-26, seconded by Councilman Marabello. The motion carried by the following unanimous roll call vote of Council:

Councilman Marabello voted yes because it conforms to the plan and is an enhancement of what they formerly had;

Councilman Boyle voted yes based on the recommendation put forth by the Planning Commission;

Councilman Fulton voted yes based on it meeting the requirements of the final major subdivision and because they are working on their construction issues;

Councilman Culotta voted yes based on the Planning Commission recommendation;

Councilman Baer voted yes based on the Planning Commission recommendation;

Councilman Morrow voted yes based on the Planning Commission recommendation;

Councilman James voted yes based on all conditions having been met;

Councilwoman Wilson voted yes based on the Planning Commission recommendation.

Staff Reports

Monthly Police Chief Report

Councilman Boyle provided the police department monthly activity report that was included in the packet.

City Manager's Report

City Manager Whitfield provided his report that was included in the packet.

Finance Report

Director of Finance Vitola provided the finance report that was included in the packet.

Public Works Report

Director Svaby provided the report that was included in the packet.

Councilman Boyle asked about the agreement made with DeIDOT for the overpass lights on Front Street that light up the Milford logo. At this time, there are some red lights there though it is not a good reflection of the City's image in his belief. He asked if there is anything that can be done to change them to white lights to light up the logo; Director Svaby replied

that he can look into that to change to something more presentable. City Manager Whitfield added that the City does have the capability of changing the color of those lights.

Councilman Culotta asked who was responsible for the lettering of the exits noting that the Milford logo on the northbound lane logo is extremely low and difficult to read and is often not seen because of the wild grasses and flowers that grow in that area. Director Svaby replied that it is a project that belongs to his department though it is through DelDOT and he will follow-up and express those concerns.

Parks & Recreation Department

Director Dennehy provided the report that was included in the packet.

Councilman Marabello asked when the handrail repair would be completed at the State Service building and Director Dennehy replied that the contractor was looking into it over the holidays. He will follow up with them to get some additional information on the timeframe.

Councilman James stated that he received a call from a resident that complimented the City on the work that was done on the basketball courts. He added that it would be a great area for pickleball courts as well. Director Dennehy replied that there is a Parks and Recreation Advisory Committee meeting scheduled this week and that is one of the items on the agenda.

Human Resources Office

City Manager Whitfield read the report that was provided in the packet.

Planning & Economic Development Department

Director Pierce shared the report that was provided in the packet.

Councilman Marabello asked if impact fees (water, sewer, and electric) were paid at the same time; Director Pierce informed Council they are paid at the time the building permit is issued.

Councilman Baer asked for an update on the bike survey for Marshall Street and Director Pierce replied that he has connected the University of Delaware with Life Cycle as was previously discussed. Once the project gets closer to rolling out, it will come back to Council for feedback.

Councilman Boyle made a motion to accept the monthly City Manager's report that includes the various departments, seconded by Councilman Culotta. Motion with all ayes.

MONTHLY FINANCE REPORT

Councilman James reported that the FY22 budget process is expected to start later than last year. The CIP information will start rolling out as early as March and the financials will come later. The RFP for audit firms will go out in February to allow for a transition period.

Finance Director Vitola then reviewed the monthly finance report included in the packet.

Director Vitola discussed the format of the reports in the future. Mr. Vitola pointed out that the amount in the reserve account is extraordinarily low. This is not a concern as interest income earned is not reported until the securities mature and there were none in November.

Councilman Marabello asked about the bond on page six and if the total is over \$4 million; Director Vitola stated that is the outstanding principal balance, but at the time of maturity, an additional principal payment will be made which will bring it down to \$1,060,000.

A discussion about interest, savings and capital reserve restrictions followed.

Councilman Boyle then made a motion to accept the Monthly Finance Report for November 2020, seconded by Councilmember Marabello. Motion passed with all ayes.

COMMITTEE & WARD REPORTS

Councilman Cullota received some emails that were forwarded to City Manager Whitfield that took care of those issues.

Councilman Fulton also received some emails concerning a solid waste pickup that was forwarded to the City Manager and he took care of the matter.

Councilman Baer reported that he is receiving emails regarding the upcoming police bond. Mayor Campbell replied that once everything is finalized, any new information will be presented to the City Council.

COMMUNICATIONS & CORRESPONDENCE

Scheduling Pre-Retreat Workshop (Public Safety & Infrastructure)

City Manager Whitfield reported that this was one of the last items of the strategic plan that has not been discussed. There has been some interest in having a pre-retreat workshop to cover these items. He recommended having the pre-retreat the week of January 19, 20, 21, 27, or 28th. He asked for follow-up by Council as to their preference.

Scheduling of On-Site Retreat

City Manager Whitfield has been in contact with the University of Delaware who has finally received the authorization. Tentatively, January 30, 2021 is under consideration. However, Council felt that January 21st may be more appropriate though they will check their calendars and let the City Manager or City Clerk know their availability.

UNFINISHED BUSINESS

None to report.

NEW BUSINESS

Bid Award/Milford NE Front Street Waterline Replacement Project

Director Svaby shared that in the capital improvement plan, there was a project replacing 35 linear feet of any water line. The funding for this project is coming from water reserves and it is estimated at \$1.5 million. The firm of Davis, Bowen and Friedel evaluated the seven bids received. The lowest bid received was from ECM Corporation from Port Washington,

MD in the amount of \$1,155,810. The construction for the project is expected to start after the pre-construction meeting with a project duration of 150 days. Staff is recommending to award this contract to the apparent low bidder with funding to be paid from water reserves.

City Manager Whitfield confirmed the project begins at Washington Street and extends to the other side of Rehoboth Boulevard.

Councilman Fulton made a motion to accept the bid from ECM Corporation for the Waterline Replacement Project for \$1,155,810.00 with funding from the water reserve account. Councilman Cullotta seconded the motion that passed with all ayes.

Adoption/Resolution 2021-01/DEMEC Executive Board Appointment

City Manager Whitfield reviewed the Resolution that was included in the packet. His recommendation was for the City Manager to continue as the Director and the Finance Director Lou Vitola be made the alternate.

Mayor Campbell asked for any public comment or questions on the resolution; hearing none he closed the public hearing at 8:38 p.m.

Councilwoman Wilson made a motion to adopt Resolution 2021-1 to reconfirm the City Manager serves as the Director representing the City of Milford on the DEMEC Board of Directors and that the Finance Director serves as the Alternate Director in the absence of the Director. Councilman Baer seconded the motion that carried with all ayes.

Adoption/Fund Balance Policy

Finance Director Vitola requested that it be postponed to a future meeting due to several revisions that are needed. e. Councilman Fulton made a motion to postpone any action, seconded by Councilman Morrow. Motion carried with no one opposed.

Police Facility Citizens Advisory Committee

Mayor Campbell informed Council that he will be appointing a group of seven people representing all four wards within the City to meet with the Police Chief, Finance Director and himself to discuss the numbers being considered in the upcoming January 26th police referendum.

Introduction/Ordinance 2021-01/Mahadev LLC on behalf of Comfort Inn & Suites at 699 N. DuPont Boulevard Request to amend a previously-approved Conditional Use Permit to allow a hotel on 2.287 +/- acres located along the west side of North Dupont Boulevard, currently zoned C-3 (Highway Commercial). Tax Map & Parcel MD-16-183.05-01-03.00

Director Pierce shared that this is an amendment to the previously approved conditional use permit for the Comfort Inn Hotel. It will be before the Planning Commission at their January 19th meeting and will be back before City Council on the 25th for a final review.

EXECUTIVE SESSION

Councilmember Wilson made a motion to go into Executive Session reference below statutes, seconded by Councilmember Culotta:

Pending Litigation:

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

Property Sale/Lease:

Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on-site acquisitions for any publicly funded capital improvements, or sales or leases of real property;

Personnel:

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

Motion carried.

Mayor Campbell recessed the Council Meeting at 8:43 p.m. for the purposes as are permitted by the Delaware Freedom of Information Act.

Council returned to Open Session at 9:27 p.m.

Mayor Campbell announced that no action was needed as a result of the discussions in Executive Session.

ADJOURNMENT

There being no further business, Councilmember Fulton moved to adjourn, seconded by Councilmember James. Motion carried. Mayor Campbell adjourned the meeting at 9:28 p.m.

Tracy N. Torbert
Transcriptionist