

MILFORD CITY COUNCIL

Minutes of Meeting

February 22, 2021

The City Council of the City of Milford convened in a Workshop Session by way of a video conferencing website on Monday, February 22, 2021 at 6:08 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Danial 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 February 22, 2021 Council Workshop agenda for additional information.

*City of Milford Audit Presentation*

City Manager Whitfield deferred to Director Lou Vitola for the purpose of providing an overview of the audit report. Due to health reasons, the city's auditors were unable to attend tonight's meeting. He said following the official review, the audit is planned for acceptance at the March 8<sup>th</sup> Council meeting.

Finance Chair James wanted to share a few comments before the Finance Director's review began. Councilman James said he will provide his information quickly, as the audit really falls under Mr. Vitola. He noted the report shows the City as being in great condition from his overall observation and believes Mr. Vitola has done great things since he was hired.

He talked about some of those changes, additions and enhancements that have been made. He is pleased with the disclosures and the items that have been broken out that were locked together in the past. In previous years, Chair James noticed that the bond rating went from double A minus to a single A minus and asked if the Finance Director to address that.

Though Chair James suggested he also talk about the change in the net position from last year of \$5.7 to this year's \$3.7, he believes that is the result of electric rates.

Chair James also asked the Director to speak about mix in the investments. He knows they both remain category ones, but there is a change in the percentage of the mix from CDs to money market.

Chair James complimented the note disclosures.

Director Vitola believes the bond rating may be an error in the presentation and believes the city has been a double A minus for several years now. He will determine that and make corrections to the report if needed. He emphasized that an A minus is an impressive rating, especially post 2008, and when compared to thousands and thousands of

municipalities across the country. There are only a very few triple A's, though he believes both Kent and Sussex County are, but under different factors.

Chairman James said he did go back and look at other reports which stated Milford is a double A minus so that may be incorrect. The Finance Director will doublecheck with our auditor to verify which is correct and will provide the updated information to Council in a memo in the March 8<sup>th</sup> packet. He pointed out that most of the audit was done and field work completed before he arrived last August.

Director Vitola will also go a little more in depth on the change in the investment position and update that note.

Director Vitola then provided the following information:

CPA Rob Griffin, is a partner at Gold Gerstein Group, and has overseen or been part of the city's audit services since 2011. He is the lead auditor and normally would handle this call. Unfortunately, he is unable to attend this evening and will not present the financials on March 8<sup>th</sup> either. Any questions that cannot be answered tonight will be taken to Mr. Griffin.

The audit process is one of the required disclosures to governance. It is broken into three major parts—the planning and preliminary procedures, testing (field work) and the reporting wrap up and quality control that occurs at the end.

Some of the planning and preliminary items are the development and coordination of an annual audit calendar, conducting preliminary testing, seminary field work on major items before the fiscal year ends, and other preparatory work like rolling over the financial statements schedule, so that the Finance Department is ready to plug in the new numbers and so forth.

Testing is a huge part and the main field work occurs after the fiscal year ends. Things like bank confirmations, investment holdings confirmations, account receivable confirmations, legal review, subsequent cash receipts and subsequent payments testing, reviews of council minutes and council action to check any items that may have been left out in error and should be included in the financials or in the footnotes, and the internal control testing.

For the wrap up part, the audit won't be finalized, signed, or dated by the firm until after Council's March 8<sup>th</sup> acceptance. The City Charter requires this annual independent financial audit be accepted by Council. There is really no time line and as long as FY20 is audited by an independent third party and approved by Council, it meets the Charter requirements.

The general obligation bonds issued in 2016 have a debt covenant attached to them, which is called the continuing disclosure requirements, or continuing disclosure agreement. That is a promise to the investors of those bonds that were purchased in 2016 to publicly disclose the results of the independent financial audit. The city is also required to provide supplementary information no later than 270 days after the end of the fiscal year or late March.

There is a website where municipal financials and audits need to be uploaded to a website (US Securities & Exchange Commission/SEC) to comply with the continuing disclosure agreement which is critical.

Due to Covid-19, the entire audit was performed remotely, which created some challenges, due to not being able to be on site, though Mr. Griffin was very proud of the process, much of which had been in place prior to the pandemic, but is even more improved now.

Mr. Griffin and his team were able to do the internal audit planning with the finance staff here and progress interviews with city employees. This year, the progress interviews were expanded to include an interview with Councilman

James, in his role as the Finance and Public Works Committee Chair. That essentially gives the Finance Committee an audience with the auditors without the Finance Department Staff and leadership present.

There can be situations where management gets entrenched, and issues of independence can arise. As a result, it is important to separate the fiduciaries and the finance team from the auditors, so that those responsible for oversight of the city's financials can understand if there any underlying issues or problems. In that respect, the progress interviews were expanded and made more comprehensive and meaningful this year.

Despite this year's issues and delays with the audit, due to the learning curve requiring some additional time, the city achieved the most favorable outcome possible in every area of the audit. First and foremost, an unmodified opinion was received. In the old days, this was called a clean audit letter which is always the goal of an audit.

Second, the auditors who reviewed our internal control environment revealed that there were no deficiencies in our internal controls that would give rise to what audit standards characterized as a material weakness.

Third, we were subject to what's called a single audit, which is a separate federal audit and is required if the city receives more than \$750,000 in federal grants and/or loans. This was needed in FY20 though it was not done in FY19. It was also performed in FY18 and 17. The city is familiar with the standards of a single audit whereby auditors review internal controls over federal loan and grant proceeds. It involves the way we segregate the funds to ensure they are used as intended.

A clean opinion was received in that area as well, with no deficiencies in controls that would lead to a material weakness in the federal grant management program either.

Finally, we received a clean management letter. It is the required communications to those charged with governance, which in Milford is City Council. It acknowledged the challenges of Covid-19 and the new independent standards, which means, for the first time, city management basically had to produce the annual report which is the document included in tonight's packet. That was compiled, produced, and developed in house and then audited by auditors in the past were basically were used for both a consulting firm and an audit firm. Number one, they would produce the financial statements and number two, they would provide the audit services.

Today, that is no longer appropriate with respect to independence standards. Now, there is a now a need to produce the financials and then have the auditors audit them. If we were unable to do that, we would have to hire another firm and would be putting out another RFP for that new firm to handle. They would take our accounting data and produce the report and then an independent third party would come in and reviews the accounts and audit our financials.

So, the challenges of Covid, the new independent standards, and a new finance director on a learning curve, all contributed to the delay.

The balance of the management letter is filled with clean comments in all other areas of the audit so it's very positive for Director Vitola to see this his first time around.

Councilman James referred to page 62 of the report, and the summary of all of those results that Director Vitola was referring to, with the unmodified opinion and no material weaknesses, the proper handling of the grant awards, and so forth.

Director Vitola added that the three-page communication to governance is not part of the of the annual financial statement package per se. Mr. Griffin mentioned that he found a typo in it, and the Director believes there was also a typo in another one of the auditing reports.

He informed Council that the version they see on March 8<sup>th</sup> will have some changes to it though nothing material. The financial statements and notes are done and subject to the audit and the audit materials are drafted, opinions rendered, so forth. That means the numbers won't change. There may be some updates if errors are found and any formatting corrected.

Director Vitola then shared his screen to point out an error that needs to be made in note nine/capital assets on page 41 of the packet or page 34 of the actual document. The opening balance of land was \$18.6 million, and there was no value in street improvements.

In FY20, there is an adjustment or a transfer from \$10.4 million out of land and into street improvements. This is correct because we were treating \$10.4 million worth of streets and street improvements as land. He explained that is not technically accurate and referenced pronouncement GASB 34 whereby the historical value of a city's old and long-lived infrastructure such as streets, dams, bridges, roads, etc. have to be shown on the financial statement, even if they are fully depreciated.

That is probably the original nexus for having \$10.4 million worth of streets on the financials. But they were lumped into land and while they were being depreciated, which is correct and accurate, pursuant to GASB 34 requirements, they were categorized as land and other non-depreciated assets, which is not correct.

The name in the streets section was just changed from land to street improvements which makes it look like the balance at the end of FY19 was \$10.4. It was corrected and there is a line for land that shows the \$10.4 million, and the street improvement line at zero, then the same transfers get corrected in the FY20 totals.

That is the biggest change though it is only a categorization change.

When asked to speak of subsequent events last year, Mr. Vitola stated that though he is not an expert of the materiality threshold, and what is supposed to be disclosed and subsequent events. And by design, the auditors don't want clients to know what the materiality threshold is because they know the clients will try to stuff the immaterial stuff away and instead only focus on the big stuff.

However, there are two clear ones that stood out and should be disclosed to stakeholders and people interested in the city's financials. Those are the results of the referendum because that empowers city council to borrow as much as \$20 million. That is material with respect to note 10, which discloses all of the city's existing debt obligations.

But it is not intended, nor required to include any future possibility of indebtedness and what the city's future plans are. Something as major as a referendum passing that authorizes the city to borrow \$20 million, is something that should be disclosing in subsequent events. That happened after the June 30, 2020 date of the financial statements, but before the financials were published.

It is also debt-related anytime potential liabilities of the city become impacted after the end of fiscal year, and really should not be disclosed in subsequent events.

In other parts of the financials, specifically note 10 with respect to debt and USDA loans, the \$1.6 million in sewer loans is discussed, though only \$600,000 of was advanced during the fiscal year. The other million dollars just closed on December 17, 2020. Even though this dates back to a USDA application for funding in 2015, and the

referendum was held in 2014 or early 2015, three resolutions were passed by Council in 2015. The actual loans didn't close until sometime in FY20 for \$600,000, and the last million closed in FY21 in December 2020. Noting the basic terms of the loan that closed after the fact, was important for our stakeholders.

Mayor Campbell then asked questions related to the 5% interest rate of the loan. Director Vitola explained that was taken directly from the language of the resolution. The consensus is that the \$20 million is artificially high to make sure we can borrow what is needed. The 5% interest rate is also somewhat artificially high to make sure we can proceed regardless of the rate, also unknown at the time the resolution was adopted.

There being no further questions, Councilman James recommended that anyone that may have questions, should forward them to Director Vitola so that they can be consolidated and the answers provided to Council as a group.

The Workshop concluded at 7:01 p.m.

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Tracy N. Torbert  
Transcriptionist

MILFORD CITY COUNCIL

Minutes of Meeting

February 22, 2021

The City Council of the City of Milford convened their regular meeting by way of a video conferencing website on Monday, January 25, 2021. The meeting was available for public view and participation as permitted.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilmembers Danial 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

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CALL TO ORDER

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

INVOCATION & PLEDGE OF ALLEGIANCE

The invocation was provided by Councilperson Wilson with the Pledge of Allegiance following.

PUBLIC HEARING

*ORDINANCE 2021-02*

*Windward on the River, LP/Residential*

*27.058 +/- acres of land located along the west side of Beaver Dam Road,*

*approximately 1,100 feet south of the Cedar Beach Road intersection.*

*Application Type: Conditional Use – Comprehensive Sign Plan*

*Comprehensive Plan Designation: Moderate Density Residential & Commercial*

*Zoning District: R-3 (Garden Apartment and Townhouse District); C-3 (Highway Commercial District)*

*Present and Proposed Use: Multi-Family*

*Tax Map & Parcel MD-: 3-30-7.00-033.00*

Director Pierce reviewed the staff report and analysis that was included in the packet.

The entire sign plan meets the current sign ordinance except for the proposed freestanding stand at the entrance. The current ordinance limits it to 4 feet; the one being proposed is 11 feet in height.

Nick Hammonds was present to represent the application.

Mr. Hammonds believes that for a development this size and scale, the entrance sign that is being proposed is needed. The entrance sign will not affect any sight lines for anyone entering or exiting the community. Proposed is landscaping and lighting for visibility in the evening. If approved, it is desired to install the sign in March.

Mayor Campbell, Councilman James and Councilman Culotta commended Mr. Hammonds on the development that looks very well done.

Mayor Campbell then opened the floor to public comment.

Kathleen Kunkle of 20052 Beaver Dam Road, Milford, commented that the complex is going along nicely so far. She added that she is not in favor of the oversized eleven-foot-high sign. The purpose of the sign code in Milford states that the regulations balance the need to protect the public safety and welfare, the need for well-maintained attractive communities and the need for adequate amenities, identification, communication and advertising. It also states that the objectives are to ensure that signs are designed, constructed, installed and maintained according to minimum standards to safeguard life, health, property and public welfare, to allow and promote positive conditions for sign communication, to reflect and support the desired ambience and development patterns of the various zones and districts and promote an attractive environment and to ensure the first protection rights for free speech.

Ms. Kunkle also points out that the code states that the standards for permanent signs in residential zones for subdivisions and apartments, multifamily dwellings, and condominium complexes, as noted, as one freestanding sign, not to exceed 64 square feet of area and four feet in height. This is the only entrance for the residential development and it opens on Beaver Dam Road.

She referenced Section 230-24.25 establishes the comprehensive signage for major subdivisions and complexes and it recognizes that large projects may need additional flexibility in signage. The major subdivisions and residential areas that are allowed to do one of these special signage plans are major subdivisions and residential developments involving 200 or more units, or one entrance, planned unit developments, shopping centers, groups of three or more non-residential principal structures, any institutional complex professional office medical or educational campus or business park.

Ms. Kunkle also referenced Section 230-24.25c provides that the plan shall comply with certain standards, including, if approved, the comprehensive plan may not be held to the size, height, numbers, and other regulations found in the sections of the signage article. However, they shall not be excessive, it must be in proportion to the scale of the buildings and the uses planned for the site.

She noted that several planning Commission members indicated a yes vote just based on the size of the building or size and height of the building project. She questions whether this section is interpreted to mean that a signage application for a three-story apartment building complex in Milford can expect to be exempted from the residential signage based solely on the height of the building.

Also, that section of the code indicates that the Planning Commission and City Council shall take into consideration the public health, safety, welfare, the comfort and convenience of the public in general, and the residences, businesses, and properties in the immediate vicinity, and in particular, shall ensure that qualifying developments are afforded adequate but not excessive signage.

Because approval of this signage triggers a conditional use, the criteria is separately set in evaluating proposed conditional use, the presence of adjoining similar uses. No, in an adjoining district in which the use is permitted. She does not know of an adjoining district. There is a need for the use in the area proposed as established by the comprehensive plan. She does not believe the developer will be harmed by conforming to a four-foot-high-end to end sign.

There is sufficient area to screen the conditional use from the adjacent other uses. The sign will be higher than the vinyl fence that serves as the property screening. The height of that fence slopes down close to the entrance area. The use will not detract from permitted uses in the district. That efficient safeguards such as traffic control, parking, screening, and setbacks can be implemented to remove potential adverse influences on adjoining uses.

She believes the Windward signage plan application for the eleven-foot-high-illuminated sign on Beaver Dam Road is inappropriate for this site. This type of sign is better suited for any signage directing traffic from the commercial part of the development which fronts on Rehoboth Highway. The placement of three-story buildings in an area of single-family homes alone will be obvious to visitors and those looking for the apartments. There was some discussion at the Planning Commission about oversized signs being used in areas either before this ordinance was established or in another community.

From Ms. Kunkle's research, both those projects were placed setback, with no real frontage and were on high traffic volume roadways and the one in Georgetown, in particular, is on the old truck route for Route 9 on South Bedford Street.

She concluded by thanking Council for the opportunity to provide her comments.

There being no further comments, Mayor Campbell closed the floor to public comment.

Councilman Baer asked why the developer feels the sign needs to be eleven feet tall; Mr. Hammonds replied that it is a large development with a large backdrop of 35-foot high, three-story buildings. He believes it is very much appropriate for a project of this type. He added that this has been used before in other developments and it goes well with what is being constructed.

Councilwoman Wilson asked the proximity of Ms. Kunkle's property to this proposed development. Director Pierce believes her property is south of the two entrances to Beaver Dam Estates and one of the three strip lots there. He said the proposed sign will be located along the northern boundary of this project. He thinks Ms. Kunkle's home is the first one closest to the entrance, not within the subdivision, though it may be the second one.

Councilman James asked Mr. Hammonds if there have been any complaints about the sign in the other similar development, regarding the height of the sign, or an adverse comments or complaints from either safety officials or the public with the taller sign creating an unsafe view of the road, of oncoming traffic or any unsafe conditions; Mr. Hammonds replied that he has not and in fact, have received several compliments on the look of the sign.

Councilman Marabello asked if the sign was lower, how would that adversely affect the community; Mr. Hammonds replied that each entrance monument is designed to have some presence. They like it to be a part of the look and feel as one enters into these communities. He believes that a four-foot sign in a project like this and in most projects, but especially a project, where the buildings are three stories, just does not have the presence that that we want for entry into a community like this one. They feel that the size is appropriate and has been used in other locations and other instances, and plays very well with this type of project, which is why they are proposing the same program.

Councilman Marabello appreciates the response, but is unsure if he agrees.

Councilman Baer asked how tall are the vinyl privacy fences were are located near the sign; Mr. Hammonds replied that he believes a little higher than six feet.

Councilman Boyle mentioned that the six-foot fence slopes down to about a four-foot fence. He likes the appearance of the sign but does have some concerns about the height of the sign. The idea is to be above the fence and perhaps it could be brought down a foot or two, which would be less intrusive on the neighbors.

Councilman James asked if Mr. Hammonds would be willing to take the sign down a couple of feet, as noted by Councilman Boyle's point relating to the slope. He also asked the Planning Director if that were the case, could action be taken tonight, or would it have to be postponed and readvertised for another meeting; Solicitor Rutt stated that Council has the right to reduce the height, but cannot increase it. Anything lower than eleven-feet can be approved this evening such as eleven to nine feet.

When questioned, Mr. Hammonds replied that he would be open to the idea and appreciates the positive comments made tonight. He would need to discuss this with his sign company but believes that he could make it work at nine-feet though it is not exactly what he wants, but workable.

Councilman Culotta said a normal ceiling is feet and eleven feet is not that big in his opinion. Mr. Hammonds pointed out that from a scale standpoint, what is being proposed for the sign height is appropriate when approaching the project, especially from the north. The buildings are a much greater size than the proposed sign. He believes the sign, to a scale standpoint, is very appropriate.

Planning Director Pierce pointed out that when you look at the rendering, there is about ten feet seven inches to the beginning of the second floor on the building. And if the sign were to be dropped, right now there is five and three quarters or five and two-thirds feet clearance between the ground and the bottom of his sign. And the privacy fence needs to be considered, which is behind it.

When the location was questioned, Director Pierce noted the original plan was for a two-sided sign to be located as he referenced on the site plan, adding there is a red line delineating its location and the pictures depict the area on the north side.

Councilwoman Wilson feels the sign must almost have to be higher and noted that it is difficult to differentiate the different developments, particularly as Milford gets more. With the privacy fence dropping down, the sign would need to be higher in order for passing traffic to see the names of the different neighborhoods. In order to be more visible, it needs to be higher to stand out more. Councilman Culotta agreed the signs needs to be at least eleven-feet high.

Councilman Marabello asked if the sign would be located at the end of the fence and Mr. Hammonds replied that it would be beyond the fence.

Councilman Boyle feels the eleven-foot-high sign is not as critical since there is nothing under. He uses that road several times a week and when he comes around the bend from the north, he sees the fence. The lower fence catches your eye

and somewhat stands out, and he believes that having a shorter sign would bring your focus to the sign as opposed to having to look up more.

Councilman Culotta said this is not a 20-foot fence or billboard and instead only an 11-foot sign. This is not excessive in his opinion.

Councilman Marabello spoke but was unintelligible.

Director Pierce shared that a typical stop sign is seven foot in height.

Councilman James suggested a compromise if the developer is willing.

Councilman Fulton suggested making a compromise to make the sign equate to the level of the first floor where it goes to the second floor or approximately 10.7 feet. Councilman Culotta pointed out that is the way the ordinance is written; up to 11 feet.

Councilman Boyle pointed out that this is somewhat a country road, and added that Knights Crossing will also soon be developing and this could be a precedent for future developments if it was reduced tonight.

IDA signs for that road could be set if this sign is approved tonight.

Councilwoman Wilson pointed out that the Planning Commission agreed to this sign height and if not, the standards need to be reviewed.

Councilman Culotta made a motion to approve Ordinance 2020-02 for Windward on the River for the allowance of up to 11 feet on the sign;

ORDINANCE 2021-02

Windward on the River, LP/Residential

27.058 +/- acres of land located along the west side of Beaver Dam Road,  
approximately 1,100 feet south of the Cedar Beach Road intersection.

Application Type: Conditional Use – Comprehensive Sign Plan

Comprehensive Plan Designation: Moderate Density Residential & Commercial

Zoning District: R-3 (Garden Apartment and Townhouse District); C-3 (Highway Commercial District)

Present and Proposed Use: Multi-Family Tax Parcel: 3-30-7.00-033.00

WHEREAS, Chapter 230-24.25 of the Code of the City of Milford allows major subdivision and residential developments involving 200 or more dwelling units to submit a Comprehensive Signage Plan for review as a conditional use application, subject to special conditions set forth by City Council; and

WHEREAS, the purpose of the Comprehensive Signage Plan is to allow flexibility in design standards outlined in Chapter 230 related to subdivision or site plan signage, including size, number, height and area regulations; and

WHEREAS, the owners of the property, as described herein, have petitioned the City of Milford to permit a Comprehensive Signage Plan on their 27.058 +/- acres of land; and

WHEREAS, the City of Milford Planning Commission will consider the application during their meeting on Tuesday, February 16, 2021, at which time interested parties will be permitted to publicly comment on the application so that an informed recommendation can be provided to City Council; and

WHEREAS, Milford City Council will hold a Public Hearing on Monday, February 22, 2021 to allow for additional public comment and review of the ordinance at which time a final determination is expected; and

WHEREAS, the notice as required by Chapter 230, has been published in the Milford Beacon on January 27, 2021, and was provided to property owners within 200 feet of the subject parcel; and

WHEREAS, this ordinance becomes effective ten days following the date of its adoption.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Windward on the River, LP/Residential is hereby granted a Conditional Use to allow a Comprehensive Sign Plan at their site located on the west side of Beaver Dam Road, approximately 1,100 feet south of the Cedar Beach Road intersection, that is currently zoned R-3 (Garden Apartment and Townhouse District) and C-3 (Highway Commercial), in accordance with the application, approved plans and any conditions set forth by City Council.

Section 2. Construction shall commence within one year of the date of issuance of the permit, otherwise the conditional use becomes void.

City Council Introduction: Monday, February 8, 2021

Planning Commission Review & Public Hearing: Tuesday, February 16, 2021

City Council Public Hearing: Monday, February 22, 2021

Councilwoman Wilson seconded the motion.

Ordinance was adopted by the following 5-3 roll call vote:

Councilman Marabello votes no because of the visibility of the sign and he is afraid of setting a precedent going forward; Councilman Boyle votes no though he likes the sign, and the look of it, but thinks where it is situated it is higher than it has to be. He is also looking at the future when we have other discussions with other developments that are on that road and we probably need to come up with some kind of a standardized dimensions.

Councilman Fulton votes yes because Planning Commission voted in favor and it is only a half inch difference in difference in all realty;

Councilman Culotta votes yes based on the advice of the Planning Commission. He also does not feel this is excessive and he appreciates Councilman Marabello and Boyle, but he does not see this as setting a precedent since each case is reviewed case by case basis.

Councilman Baer votes no because he feels that 11 feet is too high along that particular road and it would be more appropriate for Business Route 1 rather than that small road and it simply seems out of proposition in his opinion;

Councilman Morrow votes yes to support of the Planning Commission because they do a lot of behind the scene work on these controversial issues and he thinks Council needs to be support them;

Councilman James votes yes, he does not feel the height of 11 feet is not out of character for the project and with no safety issues based on a similar project in another town from safety officials or residents and he has no problem with the sign being 11-feet.

Councilwoman Wilson voted yes based on the Planning Commission recommendation and all of the other reasons stated.

City Clerk Hudson announced the motion carried on a 5-3 vote.

#### COMMUNICATIONS & CORRESPONDENCE

Councilwoman Wilson recognized Black History Month adding that it makes it somewhat special. She is grateful for those that came before her and would like to recognize them for allowing people of color to feel like they are a part of this Council. And she hopes the world will recognize each other as human beings and as one of God's children.

#### *Bug N Bud Festival Status 04/2021*

Information was received that the Bug N Bud Festival has been cancelled for 2021 due to ongoing Covid restrictions.

#### UNFINISHED BUSINESS

None.

#### NEW BUSINESS

#### *Ratification/Delaware Nature Society/Memorandum of Understanding*

Parks & Recreation Director Dennehy has been working with the Delaware Nature Society (DNS) on a program to utilize the Riverwalk for some educational programs. This is a great partnership that will allow them to come into the City to offer programs.

Director Dennehy noted that he and the DNS have been working on a memorandum of understanding which is basically a formal agreement between Parks and Recreation and the DNS. He believes they are very good provider of programming, specifically educational programming and anything around the water. Milford has invested a lot of money and building the infrastructure in terms of the Riverwalk over the years.

He believes it will behoove us to enter into this partnership and let them come into Milford and put on some really unique programming from anything from water tours to bird watching, or whatever it may be. You know, we don't necessarily have a playbook in terms of what all the types of events that they will put on or we will put on together. But this document, basically, is just formalizing that and includes components that are very basic.

It has been reviewed by the City Attorney.

Councilman James recalled when this was first introduced and the type of things that could take place were discussed, with the hope of enhancing activity in Milford and bring more people out to utilize our Riverwalk that we spent lots of money lots of time on.

He also thinks we discussed some of those people that are coming to Milford and this will bring local residents out and find a way to downtown Milford as well and thanks Mr. Dennehy for taking the lead on this and bringing it before Council.

Director Dennehy agreed whether its kids involved in programming, the greater idea is to get people downtown for a stroll on the Riverwalk, or to go to a restaurant or store, DNS has a proven track record. They put on some really good events, and he is really excited about the partnership and the program's intent.

Councilman Boyle to authorize the Mayor to ratify the Delaware Nature Society Memorandum of Understanding, seconded by Councilman Culotta. Motion carried with no one opposed.

*Appointment/Parks & Recreation Advisory Board*

This item will be added to a future agenda.

*Presentation/Revocation/Ordinance 2020-22*

*Cosmo Properties, LLC for a Conditional Use to allow a Daycare to be known as Triumph Youth Center on 2.08+/- acres in a C3 Zoning District. Property is located along the north side of State Route 14, approximately 2,200 feet west of Route 113 intersection, addressed as 350 Milford-Harrington Highway, Milford, Delaware. Present Use: Shopping Center, Proposed Use: Same with Daycare. Tax Map Parcel: MD-16-173.00-01-08.00*

Chief Brown explained that Mr. McGinnis has evicted the tenant which satisfies him. He is willing to withdraw his request because it is his understanding that the conditional use goes with the property and not the tenant. If the tenant is out, then he is satisfied that the public safety concern is mitigated here and no longer a concern.

Mr. McGinnis apologized for the actions of his tenant, adding that he was unaware of what was going on. The activity had nothing to do with the daycare use and after he recently talked with Chief Brown, they immediately took action to terminate the lease. However, they have invested some money converting the property from a retail space into a daycare and would like to work with another daycare operator. They believe it is a fair use of the property and they promise to do a better job of screening tenants in the future.

Solicitor Rutt clarified that the conditional use will stay with the property. However, the conditional use lapses within one year if the property is not used for the purpose of the conditional use.

*Vacancy/Planning & Zoning Commission*

Director Pierce shared that Mr. Robert Patella has resigned; a replacement is needed to fill that position. He asked Council to forward any recommendations or complete the application on line.

*Authorization/Land Transfer/Milford Public Library*

Planning Director Pierce referred to the packet containing information on a land swap between the City of Milford and the Milford District Free Library Commission. A survey was prepared back in 2004 showing the northern part of the library parking lot, shown as parcel E and owned by the City of Milford.

There is also a portion of the amphitheater shown as parcel D that is presently owned by the library.

Based on the notes at the bottom of that exhibit, there were conveyances that were to occur along with preparing this exhibit. The alleyway was eliminated per this plat and deeds were filed in the County's office to eliminate and convey that land to the library and the city. But the exchange of the parcel E from the city to the library and parcel D from the library to the city did not occur.

They have worked with Bob Nash, who was the original surveyor back under Charles Murphy and Associates, to get the legal descriptions put together. Solicitor Rutt has prepared the legal conveyance deeds that need to be executed in order to properly convey the ownership.

This was reviewed with the library board in January and the situation was explained since it has been fifteen years since a lot of this was done. The board agreed to move forward though there was just one condition that we add some language related to maintenance and other obligations. In addition, language was added as to how the library and Parks and Recreation Department will coordinate on the use of the amphitheater.

Staff is recommending the Mayor to execute the deed and the associated documents to convey Parcel E to the library, in exchange for Parcel D shown on the survey.

It was confirmed this change would make the city the owner of the entire amphitheater.

Councilman Fulton moved to authorize the Mayor to execute the deed and associated documents to convey parcel E to the library, in exchange for parcel D, as shown on the survey. Councilwoman Wilson seconded the motion that passed with all ayes.

#### *Preliminary Plan Approval/Extension Request/Milford Marina Enterprises LLC/Knight's Crossing*

Director Pierce reviewed the request for a one-year extension for the Preliminary Major Subdivision and Conditional Use/Planned Unit Development (PUD) approval for the Knight Crossing Subdivision City Council approved this back in February of 2020 originally for 417 dwelling units and a mixture of 87 single family homes and 30 townhouses.

At that time, the majority of the conditions of the PUD were approved, however, there were a couple that related to the separation between the units on the side yards were denied. The applicant has since revised the layout and is working with state agencies and the city engineer to get the construction plans completed.

The Planning Commission also reviewed the request and recommended approval by a vote of six to zero.

Mr. Stephen Gorksi was present to represent the application. He explained the plan changed last year based on comments received from the City Council in addition to the builder changing. Both delayed the project though the approvals are in the works. They are very close right now to approvals for phase one which is the first 24 lots. With the product broken into a couple phases, they hope to return to City Council for phase one final approval in April and phase two hopefully in the August timeframe.

Councilman Fulton made a motion to grant Knights Crossing a Preliminary Approval Preliminary Major Subdivision and the Conditional Use for a Planned Unit Development one-year extension. Councilwoman Wilson seconded the motion. The motion so passed with all ayes.

*Award/Architectural Design Agreement/Police Facility*

City Manager Whitfield shared that Becker Morgan Group has a contract with the City for \$149,000 for the preliminary design work for the police station. There are a number of items that do not need to be completed that resulted in a credit of \$31,000 that could be applied to the additional work based on the \$12 million building for a flat fee of \$720,000. This would bring the total contract amount to Becker Morgan to \$838,000, excluding reimbursables. If the contract construction of the facility excludes \$12 million, then Becker Morgan will submit an amendment for the additional services equal to 6% of that difference.

He recommends Council authorize the \$838,000 excluding reimbursables, to be paid from the police and general government facilities fund, adding that bond issued money is not needed for this phase of the project.

Councilman Boyle made a motion to authorize the Mayor to execute the amendment for the professional service agreement with Becker Morgan Group, Inc. in an amount of \$883,000, excluding reimbursables, to be funded out of the police and general government facility fund. Councilman James seconded the motion. Motion passed with all ayes. Councilman Culotta was not present for the vote.

## EXECUTIVE SESSION

Councilwoman Wilson moved to go into Executive Session reference below statues, seconded by Councilman Boyle:

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.

Motion carried.

Mayor Campbell recessed the Council Meeting at 8:24 p.m. for the purpose as is permitted by the Delaware Freedom of Information Act.

*Return to Open Session*

Council returned to Open Session at 8:38 p.m.

*Ratification/Teamsters Collective Bargaining Agreement*

No business from the Executive Session needed to be brought forward for Council action.

## ADJOURNMENT

There being no further business, Councilman Boyle made a motion to adjourn the Council Meeting, Councilman Culotta seconded the motion. Motion carried.

The Council Meeting adjourned at 8:38 p.m.

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Tracy N. Torbert  
Transcriptionist