

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 24, 2012

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, September 24, 2012.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr. and James Starling, Sr.

City Manager Richard Carmean, Police Chief E. Keith Hudson and
City Clerk/Recorder Terri Hudson

City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 7:05 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling.

RECOGNITION

No special guests in attendance.

COMMUNICATIONS & CORRESPONDENCE

Included in packet.

UNFINISHED BUSINESS

Adoption of Ordinance 2012-16/Chapter 79/Animal Code/Leash Law Amendment

City Manager Carmean explained this is a revision to an outdated ordinance that requires cats be on leashes when outside. He said that years ago, the city had an animal control official and those duties are now contracted through the SPCA. This is a difficult regulation to enforce and for these reasons, he recommends the amendment be adopted.

It was confirmed the SPCA can still be contacts for cats that become a nuisance. In addition, our Feral Cat Program remains in effect.

Mr. Pikus moved to adopt Ordinance 2012-16, seconded by Mr. Gleysteen:

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

CHAPTER 79 - ANIMALS

Section 1. An Ordinance to amend the Code of the City of Milford, Chapter 79-Animals.

Section 2. Article I, §79-1 (Terms Defined) is hereby amended by adding the following definition:

ARTICLE I - Definitions.

§ 79-1. - *Terms defined.*

ANIMAL- Dog, cat and any species of mammals except human beings.

Section 3. Article II, §79-2 (*Running at large; Exceptions*), §79-3 (*Identification tag, violations and penalties*) and §79-4 (*Leash required; Exceptions*) are hereby amended as follows:

ARTICLE II - Control of Dogs, Cats and Other Animals

§ 79-2. - *Running at large; Exceptions.*

A. It shall be unlawful for any person or persons to permit any ~~dog or cat~~ animal owned, kept, maintained or in the custody or control of such person or persons to run at large either upon the public streets, sidewalks, highways, alleys or thoroughfares of the City of Milford or upon private property of any other person or persons **without permission of the owner of that property or of the person in possession of that property.**

(1) Exceptions:

- (a) **Such restriction shall not apply to cats.**
- (b) **Such restriction shall not apply to dogs owned by the Milford Police Department or other law enforcement agencies and maintained as police K-9 units while under the custody and control of the trainer or handler.**

~~§ 79-3. - Identification tag, violations and penalties.~~

~~A. Every person who owns, controls, harbors, possesses or keeps any dog or cat over the age of six months in the City of Milford shall procure an identification tag for said animal. Within 15 days after an animal reaches the age of six months, or within 15 days after any animal over the age of six months is acquired or brought into the City, its owner shall procure an identification tag for said animal. Any owner who fails to procure such an identification tag within the time allowed shall be subject to a fine of not less than \$25 nor more than \$300. The identification tag shall contain the name, address and telephone number of the owner of the animal.~~

§ 79-3 - Dog license required.

A. **The owner or lawful possessor of any dog shall obtain a license for his dog pursuant to the licensing requirements of the county in which the owner or lawful possessor resides. License must be kept current. Any owner or possessor who fails to comply with the provision of the applicable county shall be subject to a fine of not less than \$25 nor more than \$300.**

B. **The owner of the dog animal shall affix or cause to be affixed to said dog animal the identification tag associated with the license required in Section A. hereinabove mentioned, and Said dog animal shall thereafter, at any and all times, have attached to it said identification tag.**

§ 79-4. - *Leash required; Exceptions.*

A. ~~No dog, cat or other animal shall be permitted in or upon any public street, sidewalk, alley, park, parkway or other public place in the City or in or upon any property belonging to said City unless said animal is on a leash and is under the complete control of the person owning or, at the time, in possession of said animal.~~

~~(1) Exception.~~

(1) Exceptions:

- (a) **Cats are not required to be on a leash.**

(b) Feral cats that have been trapped, spayed or neutered and re-released are exempt from Subsection A. Each cat would be ear-tipped, clearly identifying it as a product of the Kent County SPCA Feral Cat TNR Program.

B. Notwithstanding anything in this article to the contrary, no person shall be compelled to keep any ~~dog, cat or other~~ animal in his possession on a leash while in or upon any public street, alley, parkway or other public place in the City if, at the time, said animal is securely confined in an automobile.

Section 4.

Dates.

Introduction: September 10, 2012

Adoption: September 24, 2012

Effective: October 10, 2012

Motion carried with no one opposed.

Adoption of Ordinance 2012-18/Chapter 58/Police Enhancement Fund

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

An Ordinance to amend the Code of the City of Milford, Part I, Administrative Legislation, by adding a new Chapter 58 entitled Police Facilities and Equipment Development Impact Fee.

Mayor Rogers called Randy Marvel to the podium to comment on the ordinance.

Mr. Marvel stated he is in the real estate business and is also a builder. His concern is the city is raising fees on new homes. Though he understands the intent of the ordinance and the needs of the police department, he has some concerns. He pointed out the amount of effort and money the city has spent on economic development. He feels this ordinance sends a mixed message because on one hand the city wants economic development but on the other hand continues to add fees.

Mr. Marvel said his customers will ultimately pay any fees associated with a house or new building. The city is already collecting a 3% transfer tax. He emphasized that the city gets 1.5% transfer tax any time a new house is sold. This adds another .5% which is typically \$300 to \$500 depending on the cost of the house.

He noted that people do not have to buy a house in the City of Milford and that there are places to build homes outside the city. The extra cost for a building permit in the city is about \$700. Once this is passed, the additional cost will be between \$1,000 and \$1,500 to build the same house that can be built in the county.

According to Mr. Marvel, most buyers today put very little value on the services the city can provide. He values the services but most home buyers do not see a big difference. However, they are aware that it is cheaper to live in the county. There are a number of extra costs associated with living in Milford including a recently increased property tax. Also, the majority of people perceive Milford's electric bills as the highest in the state. Mr. Marvel knows that is not true and other than Delaware Electric Cooperative, the city rates are competitive. There are also monthly water and sewer bills that city residents pay though people living in the county do not have those bills.

He reiterated that most people perceive it to be cheaper to live outside the city and believe they do not get anything for living in town. He noted that any home built outside the city is a loss of revenue through construction fees, transfer taxes, real estate taxes and electric profits. The end result is people who live outside of Milford still shop in town, eat in our restaurants and go to community events. The police services are still provided to those people though they do not contribute financially to the city in anyway.

Lastly, Mr. Marvel emphasized that this will bring in very little money and maybe \$25,000 to \$40,000 though he has been given different figures.

He said this will not solve the problem long-term of how to fund the new police department.

Police Chairman Morrow responded by stating this was discussed at the committee level. There would be no impact on the sale of existing homes or structures or most important, to our current residents. He said the police department has increasing costs and many are created by new construction and structural modifications.

This ordinance will mirror the fee that was put in place in 2005 for Carlisle Fire Company. He stressed that there is a tremendous impact on our police department as a result of new businesses. Presently, the police department and any equipment is funded through the general fund. Any additional monies must be taken from our reserve accounts.

He agrees with Mr. Marvel that this is a small amount and it is not expected to solely fund a new police facility. However, over time, this will help supplement the additional expenses incurred as a result of new construction and additions, for example to existing structures. There is the potential the fee could help keep our tax rates down which is something that is paid by every property owner. The fee would only apply when a building permit is obtained.

Mr. Morrow pointed out the fee has assisted Carlisle Fire Company and in one case, they were able to use these funds to purchase the house next to the fire company in addition to some other equipment.

It was noted that since 2005, the fire company fund has raised just under \$200,000.

Mr. Morrow does not believe this will have a negative impact on growth and that .5% will be insignificant to a developer who wishes to build in Milford.

Mr. Palermo asked if there are municipalities in Delaware that charge this fee; Chief Hudson stated yes, it has been discussed at the Delaware Police Chiefs' meetings and it is also under consideration by other towns.

He noted that in addition to the needs of new businesses after they open, during the construction phase at any site, there is often an increase in crimes. It is very common for thefts, burglaries and criminal mischiefs to occur while homes or businesses are being built. New business definitely has an impact on police services as calls for shoplifting, thefts, disorderly conducts and even accidents increase as a result.

He explained that the police committee came up with the idea as a way to assist in the increased number of calls.

Mr. Pikus said the pros and cons of the fee was discussed in addition to the amount of the fee. Originally, 1% was considered though the police committee felt that was a little high. On the financial side, there has been a lot of money transferred from our reserve accounts over the years. Council is becoming increasingly concerned over the amount of requests for budget requests from all departments. As a result, the accounts are being depleted over time. This fund will help should an unexpected expense occur in the police department during the year.

Mr. Pikus said he discussed this at length with Mr. Marvel who had some very valid points. But at some point, he feels there is a need for this type of impact fee. This can be considered either a rainy day fund or a fund where specific items would be considered by council upon request. Regardless, it would be handled in the same manner Carlisle Fire Company requests funds.

He said it is difficult to project how much money this will bring at this point because it will depend on the amount of the building permits.

Mr. Pikus feels a lot of people move to Milford because of the lower tax rate and the additional services offered by the city. He said that simply put, the cost to do business is increasing.

He agrees with Mr. Marvel that the police department will not get rich from the fund, but it will be a start.

He emphasized that public safety is an important service in this city. He recalls every council being pro police though we have to be more restrictive because funding is tight.

Mr. Morrow noted that when funding is needed, the only other option at this point is to raise taxes. This impacts every property owner in the city. There is a substantial impact on the police department as a result of growth and development.

Mr. Brooks emphasized the need for a new police facility adding that the current department is too small and outdated. There are problems when a victim is in the building and there is very little separation from prisoners. He feels we need to proceed with a referendum to borrow the money. The citizens can then decide how important public safety needs to be in Milford.

He noted that we have been discussing the location for the new facility for more than a year. The location has yet to be finalized. We need to find the funding and build it.

Mr. Pikus said the finance committee continues to investigate a number of funding options adding the key issue is how to pay for the new department. He said the city manager continues to work on the price of the land that is being considered.

Mr. Morrow and Mr. Brooks asked that a meeting be set up with the property owner to discuss the purchase of land.

Chief Hudson advised that a gentleman recently approached him who rides by the police department on a frequent basis and always thought it was a very attractive building. Recently, he had the occasion to enter the department and was shocked by what he saw and in particular, the lack of room and overcrowding. He said the outside of the building is deceiving and in no way depicts the security issues inside.

According to the city manager, the building was built for a maximum of twenty officers though there are currently thirty officers. Mr. Brooks pointed out there were four dispatchers at the time it was built and there are often two on duty now.

Mr. Morrow moved to adopt the ordinance.

Mr. Gleysteen then stated that he is unable to vote for the ordinance at this time. He agrees with Mr. Marvel and if his math is correct, over the past year, this would have brought in about \$40,000 which is about 1% of the overall police budget. He does not see it as an impact for the police though he agrees it could potentially have an impact on home builders, home buyers and anyone who wishes to remodel or add on.

Mr. Gleysteen recalled being told that the reassessment and tax increase would bring another \$500,000 into the city budget. He was also told it would address the transfers from the reserve funds into the police budget. He feels we need to pay as we go. He is not on the police committee and is unfamiliar with their budget so he can only compare it to other municipalities of the same size.

He was given Smyrna's budget and though he understands they have a couple less police officers, their budget is \$1 million less. Middletown is twice as big as Milford and has one more police officer. Their budget is also \$1 million less Milford's budget. Mr. Gleysteen believes there are good reasons though he was not provided that information.

Mr. Gleysteen added that as far as builders and developers, we have been waiving impact fees the past two years. This year, we stopped waiving impact fees on new construction. However, he did agree to extend the waiver for rehabs in the city. He is also concerned that as Mr. Marvel stated, the builders will pass the fee on to their buyers. This adds another fee on top of a tax increase and he feels this is not the right time.

Mr. Morrow moved to adopt Ordinance 2012-18 at .5% noting there is a need to begin somewhere and he feels this is appropriate and should not impact our present residents for the most part. Motion was seconded by Mr. Pikus based on the information discussed even though it is now controversial and there is a need to consider other funding options.

Mayor Rogers confirmed that the fee only applies to new construction.

Motion then failed by the following 3 to 4 vote:

No-Johnson, Grier, Gleysteen, Starling

Yes-Pikus, Brooks. Morrow

Mr. Johnson stated that a vote against the ordinance is not a vote against the police department. He believes that each councilperson values our police department and the job they do. There is and should be a priority on public safety. However, we are sending a message that we want people to live in Milford and from what he has heard tonight, this would create an additional roadblock for people to move here. He votes no.

Mr. Grier said this is tough and coming into the meeting, he was in favor of the ordinance. Right now, he has mixed emotions especially because he is an advocate for the impact fee waiver. He said he has worked hard to keep the waivers in place. He has considered the overall impact of the .5% which will only result in \$40,000. Considering the ongoing efforts to try and find funding to build this police station also weighs on him. Currently, he will vote no though he emphasized the need to keep working hard to find the money to build the new police station. At this point, he does not feel the .5% fee is the best idea.

Mr. Pikus votes yes based on the funding need and agrees it will not create a large sum of money. He recalled council starting a similar fund for Carlisle Fire Company which assisted them on several occasions. He stressed the importance of showing support to our police department and their needs.

Mr. Gleysteen said he votes no for the reasons he stated. He will also acknowledge that public safety is the number one priority in Milford. He brought questions here tonight and though he does not expect answers this evening, he would like them answered before he can consider this fee. Therefore, he is unable to vote in favor of this.

Mr. Brooks stated he is not a member of the police committee, but he is in favor of their recommendations. He agrees there is a lot of money currently invested in economic development and that we have hired a new economic development director who is working to bring new business to Milford. However, we also need to take care of our current citizens. He feels public safety is important to economic development too and is as important and supports the efforts of our police department and votes yes.

Mr. Morrow votes yes for the reasons he has stated. He feels public safety should be the number one priority. He pointed out that any new resident or new business wants to come to a safe city, they want to feel comfortable and want to be able to go to bed at night and not have to constantly worry about crimes that may be occurring. As has also been stated, this is a small amount which he feels will have a minimal impact on only new construction. It will not impact the sale of existing homes and businesses. This is a small beginning that could have a substantial impact in future years. He definitely votes yes.

Mr. Starling said he has listened to everyone's comments and feels that perhaps we should consider this a little more. Because it is not a large sum of money, it probably will have little impact. He continues to be very supportive of the police department but just feels we should study it a little more and will vote no at this time.

NEW BUSINESS

FY 2012-2013 Budget Adjustment/Public Works/Transfer from Municipal Street Aid

Mr. Dennehy submitted a memo stating that they ordered a new pickup for the Street Department in June that will be utilized in snow removal. At the time the truck was ordered, it was his intention to order a new spreader and plow at a later date. A quote for these two items totals \$9,980.

Finance Director Jeff Portmann recommends the money be transferred from the Municipal Street Aid Account.

Mr. Pikus confirmed this came in under budget; Mr. Carmean stated yes.

Mr. Pikus moved for approval of the transfer of \$9,980 from Municipal Street Aid, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

Bid Award/Southeast Milford Water Main Extension/Phase I

Erik Retzlaff of Davis, Bowen and Friedel (DBF) advised that four bids were received that vary in price from \$481,400.00 by Northwind Engineering to \$681,350.00 by George & Lynch. Three of the four bids were below DBF's estimate of \$604,025.00.

Due to their low bid in comparison to the other bids, Northwind Engineering was asked to provide additional information related to their experience and to the experience of their subcontractors. Northwind Engineering was determined to be an acceptable contractor. However, Subcontractor Larimore Construction Incorporated of Smyrna, Delaware failed to meet the criteria. It was determined they did not have the experience necessary to complete the jacking and boring of a 24-inch casing pipe below Route 1. As a result, Northwind Engineering was asked to provide an alternate bore and jack subcontractor.

According to Mr. Retzlaff, an alternate subcontractor is allowed per Section 6.06, page 23 of the Project Specification's Standard General Conditions. Because of the request for an alternate subcontractor, a change order can be submitted to cover the difference in cost between the original bid price and the costs associated with the alternate subcontractor. As a result, Northwind Engineering provided an alternate subcontractor, Spring & Associates, Inc. of Easton, Maryland.

DBF has worked with Spring & Associates on numerous projects and believes they have requisite experience and expertise needed to accomplish the Route 1 bore. Because of the change in subcontractors, Northwind Engineering submitted an increase in the unit price cost for the Route 1 jack and bore from \$200.00 per foot to \$309.00 per foot and overall bid amount from \$481,400.00 to \$501,565.00. Despite the increase, the revised per foot cost remains below the other unit prices bid on the same item.

Mr. Retzlaff recommends the S.E. Milford Water Extension-Phase 1 bid be awarded to Northwind Engineering, LLC of Shelocta, Pennsylvania in the amount of \$501,565.00 contingent upon the use of Spring & Associates, Incorporated as the bore and jack subcontractor and upon the approval of the funding agency.

Mr. Pikus recalled the work done at Northeast Tenth Street and Route 1 several years ago that created a major problem because the directional was off. Mr. Retzlaff agreed noting that is why they wanted to assure the contractor had the expertise needed to handle to project. In that situation, the bore was required to enter the manhole center point; however, it was off by a foot or more. In this case, this is no connection east of Route 1 so it will not make a difference.

Mr. Retzlaff confirmed the work will not require Route 1 to be shut down. The jacking and boring is out of the right of way on one side with the pipe popping up on the other side. The only difficult portion of the project is the crossing of Route 1.

He confirmed that all permits are in place. Once the information and documents are obtained from the contract, the agreement will be presented to city council for authorization. The initial notice to proceed will then be issued. The actual boring will only take a couple days.

The city manager explained that the intent was to do the work in two sections. However, DelDOT would not permit any work to be done in the median.

Mr. Pikus moved to award the SE Milford Water Main Extension Phase I bid to Northwind Engineering, LLC in the amount of \$501,565.00, contingent upon the use of Spring & Associates as the bore and jack subcontractor and award from the USDA, project funding agency. Motion seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Ordinance 2012-17/Floodplain Management Code

City Planner Gary Norris stated that he has concurred with the city manager who has agreed this will be revisited sometime in the future.

The proposed amendment began with Senate Bill (SB) 64 after a review of floodplains throughout the state. SB 64 calls for local ordinance and capacity review to be undertaken by local governments. Milford's existing floodplain ordinance has been assessed by DNREC to determine whether it contains the recommended standards.

They have recommended several definitions be changed and in particular in the base flood elevation and the flood insurance rate map. New construction had to be redefined and a revised definition for historical structures was needed. Also recommended were changes to existing language; several dates referenced in the code were also changed.

The revision was also reviewed by FEMA and a copy sent to the city solicitor. Once the amendments are finalized, it will be introduced in the proper ordinance form.

Mr. Pikus reported that Randy Marvel provided him a copy of the floodplain areas in Milford and questioned several areas that appeared to have very little chance of flooding. He asked if the map has been changed; Mr. Norris said he has attended numerous meetings in Kent and Sussex County where floodplain boundaries were under review. He verified that those maps are being revised.

Mr. Pikus said he has questions from citizens who have land in the floodplain area. He had asked Mr. Marvel to review it because he has a lot of property in that area.

Adoption of Resolution 2012-13/Halloween Events

Mr. Brooks moved for adoption, seconded by Mr. Pikus of the following resolution:

WHEREAS, it has been a custom for many years for children and adults to celebrate the Eve of All Saints Day by costuming, masquerading and fun-making; and

WHEREAS, we would like to continue the celebration in an orderly manner.

NOW, THEREFORE, BE IT RESOLVED, I, Joseph R. Rogers, Mayor of the City of Milford, do hereby request and urge the observance of this annual period as follows:

WEDNESDAY, October 17, 2012 starting at 6:30 p.m. and ending at 9:00 p.m. shall be the time for the Annual Community Parade.

WEDNESDAY, October 31, 2012 shall be the official date for youngsters to observe Halloween Trick or Treat Night.

AND, BE IT FURTHER RESOLVED THAT:

**Only celebrants of 12 years and under will be permitted to engage in Trick or Treat between the hours of 6:00 p.m. and 8:00 p.m.*

**All celebrants are requested to refrain from committing acts of vandalism or destruction.*

**Residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes so lighted.*

Motion carried.

Adoption of Resolution 2012-15/City of Milford Annexation (Final)

City Planner Gary Norris hand delivered the related Plan of Services to the Office of State Planning this afternoon. Through a conference call, Circuit Rider David Edgell informed Mr. Norris and the city manager there appeared to be no potential problems with the plan. He asked the resolution be adopted contingent upon the acceptance of the plan of services by the Office of State Planning.

City Manager clarified that though the resolution can be adopted this evening, it would be finalized as of the date that State Planning accepts the plan of services. In addition, we have not received the final word from the planning office on the comp plan amendment needed for the annexation to be approved. He recalled this land was purchased by the city over a year ago. At that time, the comp plan was inconsistent with the annexation which created the need for the amendment.

Mr. Pikus moved to adopt Resolution 2012-15, contingent upon the approval of the amended Comprehensive Plan and the acceptance of the Plan of Services by the Office of State Planning, seconded by Mr. Grier:

*Annexation/Lands belonging to the City of Milford
Tax Parcel 1-30-6.00-094.00 P/O (Former)*
Tax Parcel 1-30-6.00-099.02 (Revised-CURRENT)
3.23 +/- Acres (entire Parcel is 4.23 +/- Acres
Current Zone AR-1/Proposed Zone C-3*

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as legally described herein:

All that certain lot, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a plat titled Property Conveyances to the City of Milford by Bob Nash Associates, dated 29 July 2011, as recorded at the Sussex County Recorder of Deeds in plot book 161 page 54, lying west of but not adjacent to the westerly right-of-way line of U.S. Route 113, adjoining lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, lands now or formerly of Preston L. and Betty A. Nailor, residual lands of Calhoun Farms, L.P., lands now or formerly of the Delaware Solid Waste Authority, and being more particularly described as follows, to wit:

Beginning at a found capped rebar at a common corner for lands now or formerly of the Delaware Solid Waste Authority (DSWA) and lands now or formerly of Bruce N. and Susan P. Geyer and Joan L. Palmer, said point being distant 0.85 miles from the centerline of County Road 207; and following the common line between said DSWA lands and Geyer/Palmer lands North 84 degrees 40 minutes 57 seconds West 297.99 feet to the said rebar at a corner for said Geyer/Palmer lands and the point of beginning, thence following said Geyer/Palmer lands, South 42 degrees 57 minutes 23 seconds East 85.77 feet to a set capped rebar at a corner for lands now or formerly of Preston L. and Betty A. Nailor, thence following said Nailor lands, South 03 degrees 18 minutes 53 seconds East 29.42 feet to a set capped rebar at a point on line of said Nailor lands, thence leaving said Nailor lands and proceeding through said Calhoun lands with newly established lines the following three (3) courses and distances:

- 1) North 49 degrees 33 minutes 34 seconds West 214.02 feet to a set capped rebar,*
- 2) North 84 degrees 41 minutes 09 seconds West 608.14 feet to a set capped rebar and*
- 3) North 05 degrees 18 minutes 38 seconds East 406.86 feet to a found capped rebar at a corner for lands now or formerly of DSWA*

Thence following said DSWA lands the following two (2) courses and distances:

- 1. South 53 degrees 15 minutes 16 seconds East 808.47 feet to a found capped rebar and finally,*
- 2. South 42 degrees 57 minutes 23 seconds East 33.41 feet to the place of beginning, containing 3.230 acres of land, more or less,*

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation on whether or not to proceed with said annexation, having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code, having held Public Hearings on August 23, 2012 and August 27, 2012, having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code, the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in Sussex County, Delaware where said lands are situate.

The annexation area is contiguous to Ward 2 and City Council intends that this parcel becomes part of and be included within the Ward 4 area upon annexation.

Now I, Joseph Ronnie Rogers, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on September 24, 2012, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Adoption Date: September 24, 2012

Effective Date: October 4, 2012

Motion carried.

Policy Amendment/Administrative Fee/\$35 Reconnect Fee

City Manager Carmean referenced the \$35 reconnect fee that can be charged on delinquent accounts per our electric tariff which states as follows:

APPENDIX 1. FEE SCHEDULE

Connection Charges

Re-connection charges from delinquency disconnects (during hours of operation) \$35.00

He then read the following excerpt from the letter that is mailed to persons advising their bill is overdue:

When the disconnect list is distributed, the ENTIRE BALANCE plus and administrative fee must be paid. A \$35 administrative fee is required from 8:00 am to 4:30 pm, Monday through Friday at the Billing Office located at Public Works Facility.

He explained that at some point, the \$35 reconnect fee became a policy and was changed to an administrative fee. As a result, when the account was placed on the disconnect list (this is done the night before disconnect day), the \$35 was immediately added to bill. This occurred even if the customer paid their bill in full the next morning before they were disconnected. According to the billing department, the \$35 covers the administrative costs of the work required to prepare the list.

Mr. Carmean emphasized this is a policy and does not coincide with the electric tariff. He feels the tariff is very clear and if a person pays their bill prior to being disconnected, the city cannot legally charge the additional \$35. When this occurs, the billing staff can contact the metering staff and inform them the account is paid and not to disconnect the meter.

Mr. Pikus moved that a customer not be charged a \$35 administrative fee if they pay their bill before their electric is disconnected and that the \$35 fee is assessed as is spelled out in the electric tariff.

Mr. Starling explained that he is aware of a customer who was at public works before the city office opened to pay her delinquent account in full. At that time, she had not been disconnected. She was informed by the billing staff that they were unable to take the money without the additional \$35 administrative fee. He noted this is one of many complaints he has heard recently.

The city manager informed Mr. Starling he will reimburse the customer the \$35 fee.

He then asked Mr. Starling and other members of council to inform him of any similar incidents that need to be addressed.

Mr. Johnson seconded motion. Motion carried by unanimous roll call vote.

EXECUTIVE SESSION

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

Mr. Pikus moved to go into Executive Session reference discussions on a personnel matter, seconded by Mr. Grier. Motion carried.

Mayor Rogers recessed the Council Meeting at 7:58 p.m. for the purpose of an Executive Session as is permitted by Delaware's Freedom of Information Act.

Return to Open Session

City Council returned to Open Session at 8:24 p.m.

Mr. Pikus announced that no action is needed as a result of the discussion.

ADJOURN

With no further business, Mr. Pikus moved to adjourn the meeting, seconded by Mr. Gleysteen. Meeting adjourned at 8:25 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

*Parcel Number Changed to 1-30-6.00-099.02 During Annexation Process (by Sussex County)