

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 27, 2014

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, January 27, 2014.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Bryan Shupe, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson
City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk/
Recorder Terri Hudson

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 7:00 p.m.

PUBLIC HEARING

Mayor Rogers reported the Public Hearing for the Hickory Glen Preliminary Major Subdivision was postponed until the following month.

The application was submitted by Eric Dunn of Dunn Development LLC on behalf of Walter N. Thomas II.

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests in attendance.

COMMUNICATIONS

Included in packet.

UNFINISHED BUSINESS

No items to be discussed.

NEW BUSINESS

Adoption/Resolution Proposing \$3.5 Million Borrowing and Scheduling Public Hearing/Water Projects

City Manager Carmean advised this is a resolution to allow the city to borrow \$3.5 million and to schedule a public hearing for water projects.

Mr. Gleysteen moved to adopt Resolution 2014-03, seconded by Mr. Pikus:

City of Milford
RESOLUTION 2014-03

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$3,500,000
MAXIMUM PRINCIPAL AMOUNT OF A GENERAL OBLIGATION BOND
IN ORDER TO FINANCE COSTS ASSOCIATED WITH IMPROVEMENTS TO
THE WATER DISTRIBUTION SYSTEM OF THE CITY OF MILFORD AND
ESTABLISHING THE TIME AND PLACE FOR A PUBLIC HEARING THEREON

WHEREAS, the City of Milford (the "City") pursuant to Article 8 of 72 Del. Laws Ch. 148, as amended (the "Charter") proposes to issue up to \$3,500,000 maximum principal amount of the City's general obligation bond (the "Bond") in order to (i) finance the construction costs associated with the City's approved water distribution system improvement projects to remove and replace faulty valves throughout the existing water distribution system, create operational and efficiency improvements through the integration of a SCADA system and install supplemental water supply facilities and associated treatment upgrades to replace older, failing equipment; and (ii) pay the costs of issuance of the Bond (collectively, the "Project");

WHEREAS, the City has applied for a loan through the Delaware Department of Health and Social Services (the "Department") in order to provide funds to pay for the Project;

WHEREAS, the Department, in conjunction with the Delaware Department of Natural Resources and Environmental Control, has issued a commitment letter, dated September 17, 2013, to lend the City, from the Delaware Drinking Water State Revolving Fund, up to \$3,500,000 in the aggregate principal amount for the Project at an annual interest rate of 1.5% for a period of twenty (20) years; and

WHEREAS, to authorize the borrowing of up to \$3,500,000 through the issuance of the Bond for the Project and in order to comply with the requirements of Article 8 of the Charter, the City Council, through its adoption of this Resolution, hereby gives notice to the electors of the City that the City Council proposes to borrow an amount of money, not to exceed \$3,500,000 principal amount, to fund the Project, which is a permitted purpose under Article 8 of the Charter, and hereby establishes that a public hearing on the matter be fixed on February 10, 2014, at 7:00 p.m., prevailing time, in the Council Chambers at the Milford City Hall located at 201 South Walnut Street, Milford, Delaware 19963.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milford as follows:

1. The City Council of the City of Milford hereby gives notice to the electors of the City that the City proposes to borrow an amount of money, not to exceed \$3,500,000 principal amount, to fund the Project.
2. Pursuant to Article 8.03 of the Charter:

Amount of Borrowing: Total principal amount not to exceed \$3,500,000.

Rate of Interest: The interest rate for the loan shall be 1.5%.

Manner of Securing the Same: the City will borrow the funds through the issuance of a general obligation bond of the City to finance the Project and the full faith and credit of the City will be pledged to pay the principal and interest on the Bond.

Manner of Paying or Funding: the Bond shall be paid or funded from water and tax revenues of the City.

Purpose for Borrowing: The City Council hereby finds that the Project constitutes the following, which is a permitted purpose for which money may be borrowed under Article 8 of the Charter:

Finance the construction costs associated with the City's approved water distribution system improvement projects to remove and replace faulty valves throughout the existing water distribution system, create operational and efficiency improvements through the integration of a SCADA system and install supplemental water supply facilities and associated treatment upgrades to replace older,

failing equipment. Such costs, including the costs of issuance of the Bond, are estimated not to exceed \$3,500,000.

The City Council hereby establishes that a public hearing upon the Resolution and the proposed borrowing described herein shall be held on February 10, 2014 at 7:00 p.m., prevailing time, in the Council Chambers at the Milford City Hall located at 201 South Walnut Street, Milford, Delaware 19963, and hereby directs that notice of such hearing be published and posted as required by Article 8.04 of the Charter, by:

(i) Publication in one (1) issue of a newspaper published in the City at least one week before the time set for the public hearing; and

(ii) Posting copies thereof in five (5) public places throughout the City at least one week before the time set for the public hearing.

3. The City Council hereby directs that this matter be placed on the agenda for the regular meeting of the City Council on February 10, 2014 at Milford City Hall to determine whether to proceed with the proposed borrowing described herein.

ADOPTED AND RESOLVED this 27th day of January 2014.

By: s/Joseph R. Rogers
Title: Mayor

Attest: s/Teresa K. Hudson
Title: City Clerk

Motion carried.

It was noted the public hearing will be held February 10th at 7:00 p.m.

DBF Engineering Proposal/Sewer Improvements/Route 1 East & Shawnee Acres

The city manager advised that Davis, Bowen and Friedel have submitted a proposal for the surveying, engineering and permitting services for the sewer work being done East of Route 1 and Shawnee Acres. The project includes:

Design of Route 1 East Sewage Pump Station and associated force main on lands owned by Key Properties Group, LLC: The associated 8-inch sewage force main will extend from the station approximately 8,700 feet northwest along Beaver Dam Road, across Route 1 and then southwest along Kirby Road and temporarily connect to the gravity sewer system within the Meadows at Shawnee development.

The Design of Shawnee Acres Pump Station replacement and associated improvements: To accommodate the increase in flow due to new developments, the existing Shawnee Acres Pump station will be replaced with a new pump station.

The estimated cost of the work is \$166,400.

Mr. Carmean explained this will complete the engineering and sewer design east of Route 1 and back down to Shawnee Acres and Fisher Avenue pump station.

Because of the age of the Shawnee Acres pump station and anticipated growth east of Route 1, there is the potential for capacity problems in Shawnee Acres. Therefore, it is recommended the Shawnee Acres pump station be designed first.

Erik Retzlaff of Davis, Bowen and Friedel explained that during the Southeast Master Planning project, they estimated different amounts based on the number of potential units that could be added. A plan to serve all the properties was then developed. There were two distinct phases of the improvements that needed to be done. The sizing and design of the area

east of Route 1 required a place to go so the Shawnee Acres pump station required upgrading. He further explained that regardless of what occurs east of Route 1. Step one needs to be accomplished first. Upgrading the existing facilities will then allow them to accept any new development in that area.

He said the Shawnee Acres pump station could be at a point where it needs some upgrades. Negotiations will include the cost of the sewer design east of Route 1 because we will need that property dedicated before any permits can be obtained.

Mr. Pikus asked if easements are needed; Mr. Retzlaff said we will need them before permits are obtained. However, the designs can be accomplished in advance. No approvals will be granted to the city to construct on another property owner's land.

It was confirmed that no easements in place at this time.

It was noted that the design will determine the location of the easements. Solicitor Rutt said the city needs to ensure the location of the easements and what is out there and where the utilities will go.

Mr. Pikus confirmed that to do this, we must be first upgrade the Shawnee Acres pump station. Anything that occurs on the east side of Route 1 will need easements. Mr. Retzlaff added that until designed, we will not even know how largely the easements need to be. There may be issues with a storm drain that could end up against a street and may need to be placed further back into the property. We will not know exactly what is needed until the design is completed.

Mr. Pikus said at this point, we are approving the upgrade to the pump station at Shawnee Acres and East of Route 1; Mr. Carmean clarified us will not do the work but might as well approve the money.

The city manager also noted that he is meeting with Milford Housing Development who is considering starting construction at their land that fronts Wilkins Road and Cedar Creek Road. With the Wickersham and Milford Housing Developments, it will be important to make sure the Shawnee Acres pump station can accommodate all the new development.

Mr. Pikus confirmed that we are approving the engineering on the Shawnee Acres pump station and we will then proceed with the design. Mr. Carmean stated yes, if we are able to get the easements, we will begin the engineering work east of Route 1. Mr. Retzlaff emphasized the need to get easements in place.

Mr. Pikus moved to approve the engineering design of the pump east at Shawnee Acres be done immediately and to keep the funding in place so the work needed on Route 1 can be done as soon as we are ready to proceed, seconded by Mr. Gleysteen. Motion carried.

Mr. Morrow moved that the cost of the project, estimated to be \$166,400, is to be paid from sewer reserves, seconded by Mr. Starling. Motion carried.

Mr. Carmean said that though he never presented it, he had two engineering firms looking at the east of Route 1 work and the proposed engineering cost just for east of Route 1 engineering was \$128,000. He believes the price DBF is giving us to do both projects is more than fair.

EXECUTIVE SESSION

Land Acquisition-Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements.

Mr. Morrow moved to go into Executive Session reference discussions on site acquisitions, seconded by Mr. Grier. Motion carried.

Mayor Rogers recessed the Council Meeting at 7:21 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 7:27 p.m.

Approval/Land Purchase/Parks and Recreation

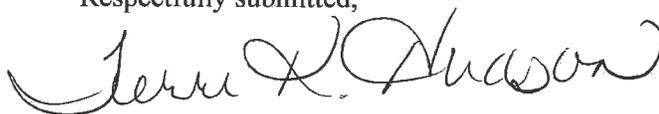
Ms. Wilson moved that council proceed with the agreement to purchase the land in the name of the Trust of Littleton Mitchell at 216 Southeast Second Street as requested by Parks and Recreation Director Gary Emory, seconded by Mr. Grier. Motion carried.

ADJOURN

With no further business, Mr. Pikus moved to adjourn the Council Meeting, seconded by Mr. Gleysteen. Motion carried.

The Council Meeting adjourned at 7:28 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Terri K. Hudson". The signature is written in a cursive, flowing style.

Terri K. Hudson, MMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 27, 2014

The City Council of the City of Milford met in Workshop Session on Monday, January 27, 2014 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Bryan Shupe, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

The Workshop Session convened at 7:28 p.m.

False Alarm Ordinance Discussion (Mills Brothers Market and Abbotts Grill Complaints)

Police Committee Chairman Doug Morrow recalled that at the last council meeting, it was decided the police and finance committee would have a joint meeting to discuss Paul Mills and Abbotts Grills' concerns regarding alarm fines. Mr. Morrow referenced the documents in the packet related to the history of the ordinance that was originally created in 1985. It appears to have been amended in 2001 after which time the penalties and fines were amended. That brings us to the current ordinance which is included in the packet.

It was agreed by council to review the fees other towns are charging and to discuss any recommendations.

Mr. Morrow recommends that because the ordinance is from 1985 and the early 2000's, it be forwarded to the city solicitor to ensure it is current with any other laws that have changed overtime.

Mr. Pikus then explained to those council members who did not attend, a meeting was held at the request of two businesses—Abbotts Grill and Mills Brothers Market. They initially wanted to meet with several council members at Abbotts Grill. Because more council members became involved, he asked the city manager and city clerk's opinion and both felt that because city business was being discussed, we should always err on the side of caution and recommended it be moved to city hall.

Mr. Pikus said that both Mr. Mills and Kevin Reading (Abbotts Grill) discussed the amounts of their alarms. He said that occurred as a result of excessive alarms that our police department responded to properly, in a timely manner and handled exactly as they were supposed to do. Mr. Reading stated he would pay his fines, but both Mr. Mills and Mr. Reading suggested they look at the fine structure to determine if it was excessive.

He agreed with Mr. Morrow that it should be placed in the hands of the police and finance committee, but was later decided a workshop discussion would be more appropriate.

City Solicitor Rutt said that he has reviewed the ordinance and the way it has been handled historically is not in accordance with the ordinance. Mr. Rutt emphasized that no one is at fault here and no blame is being placed. He said the ordinance discusses the activation of an alarm system through negligence. Then it gives the owner the right to essentially rebut negligence.

He said there is a problem in Section 75-4 which reads that any person violating any provision of this article and upon conviction shall be subject to a fine. He believes that could be unconstitutional because conviction is not defined in the Milford Code. The Delaware Criminal Code states it is a punishment that maybe inflicted after a judgment of conviction by a court having jurisdiction. At the time the ordinance was written back in the 1980's, Mr. Rutt said there should have been a hearing. He said this section also references an Alderman even though there are none in Milford. In his opinion, it should go to the Justice of the Peace.

Mr. Rutt has since reviewed ordinances in other jurisdictions identified in the fine comparison. Most of those ordinances were changed to civil offenses which eliminates the possibility of a trial. Some jurisdictions have the right to appeal to an administrative board. If someone is aggrieved by that, they then go to the Justice of the Peace.

He advised the State of Delaware has a section on false alarms. They also designate it as a civil penalty with a right to an administrative hearing and a right to appeal to a Justice of the Peace Court. Dover has a provision that if someone feels aggrieved, they must provide proof their alarm malfunctioned not from their own negligence. That is then reviewed by the City of Dover Fire Marshal. If the fire marshal decides it was a functioning system but this occurred through their own negligence, they are assessed a civil penalty which is similar to a tax, as opposed to a fine.

Mr. Rutt recommends the ordinance be rewritten and updated.

Mr. Morrow noted that the problem Abbotts and Mills Brothers had with the ordinance was the amount of the fines. In lieu of discussing this further and considering the entire ordinance is going to be amended, he recommends Mr. Rutt create a new ordinance to cover all the items in question.

Mr. Morrow reiterated that no one has done anything wrong and it was being enforced as it was written. It appears that one word seems to have caused a problem. He asked that Mr. Rutt look at it, update it and get us back on track.

Mr. Brooks said this was originally started when the fire company asked it be put in place. There were a couple businesses with excessive false alarms causing the fire trucks to be dispatched continuously. Firemen were leaving their jobs and getting out of bed all hours of the night to respond to a false alarm.

Mr. Morrow agreed adding that the city manager, who was police chief at the time, had indicated that the police were responding to just as many, if not more, which was causing a public safety and nuisance issue.

Mr. Grier noted that the concept of the ordinance makes perfectly good sense. Mr. Rutt then emphasized that the ordinance as written is valid, but there are a number of steps that makes the process burdensome. He said a \$50 fine does not cover the cost of a police officer being sent to a court for a hearing. In those cases, the city will lose money every time.

Mr. Morrow asked if Mr. Rutt will consider moving it to the civil side; Mr. Rutt stated yes. Mr. Grier agreed that it should be fine tuned and brought back to council.

It was noted that the only sections changed during the last amendment were the fines which were reduced and the number of no-fine or free false alarms increased.

Mr. Rutt said he will put together some alternatives because there are a couple different ways to go. In that manner, council can decide which procedure will work best.

Mr. Rutt he concluded by stating he will have something together in a week that council can circulate among themselves.

Adjourn

With no further business, the Workshop Session concluded at 7:58 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder

Attachment: False Alarm Ordinance

Milford, Delaware, Code of Ordinances >> PART II - GENERAL LEGISLATION >> **Chapter 75 - ALARMS**
>> **ARTICLE I False Alarms** >>

ARTICLE I False Alarms

[Adopted 6-11-2001 by Ord. No. 5-2001¹ ^a]

§ 75-1. Definitions.

§ 75-2. Excessive false alarms prohibited.

§ 75-3. Alarm maintenance.

§ 75-4. Fines and penalties.

§ 75-1. Definitions.

For the purpose of this article, the following definitions shall be applicable unless the context clearly indicates to the contrary:

ALARM SYSTEM — Includes any mechanical or electrical device used for the detection of burglar, robbery, fire or other hazard within a building, structure or facility or for alerting others to the commission of an unlawful act or hazard, or either or both, within a building, structure or facility, including all necessary equipment designed and installed for the detection of burglar, robbery, fire or other hazard in a single building, structure or facility or for alerting others of the commission of an unlawful act within a building, structure of facility.

ALARM USER — Includes any person, firm, partnership, corporation or other entity or any agent, officer or employee thereof on whose premises an alarm system is maintained within the City.

CALENDAR YEAR — January 1, 2003, through December 31, 2003, for the first year and shall be January 1 through December 31 for each subsequent year.

[Added 1-13-2003 by Ord. No. 2002-11]

FALSE ALARM — The activation of an alarm system through negligence of the alarm user causing the police, fire company or other emergency personnel to respond. Negligence does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes, mechanical failures, malfunctions, or improper installations. However, during the course of the calendar year, an alarm user that has had mechanical failures, malfunctions, or improper installations causing three false alarms, beginning with the fourth alarm, such mechanical failure, malfunction or improper installation within the calendar year, that occurrence, and each occurrence to follow, shall constitute negligence.

[Amended 1-13-2003 by Ord. No. 2002-11]

§ 75-2. Excessive false alarms prohibited.

Alarm users shall not cause more than three alarm signals within a calendar year that elicit notification to the Milford Police Department and/or the Carlisle Volunteer Fire Company where it is discovered that a situation requiring a response by the notified department does not exist, and that is further defined as a false alarm.

§ 75-3. Alarm maintenance.

Every alarm user shall maintain its alarm system in such a manner as to minimize the number of incidents of false alarms to the Milford Police Department and/or the Carlisle Volunteer Fire Company.

§ 75-4. Fines and penalties.

[Amended 1-13-2003 by Ord. No. 2002-11]

- A. Any person violating any provision of this article, and upon conviction thereof, shall be subject to a fine as set forth below for false alarms responded to by the Milford Police Department and/or the Carlisle Volunteer Fire Company within a calendar year.

Number of False Alarms	Fine Per False Alarm
4 to 5	\$50.00
6 to 9	\$100.00
10 to 15	\$200.00
16 and over	\$250.00

- B. Payment of fines shall be to the City of Milford and forwarded to the Milford Police Department within 30 days of the violation.

FOOTNOTE(S):

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Editor's Note: This ordinance also repealed former Art. I False Fire Alarms, adopted 2-10-1986. [\(Back\)](#)