

MILFORD CITY COUNCIL
MINUTES OF MEETING
March 24, 2014

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, March 24, 2014.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Bryan Shupe, Garrett Grier, 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

Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

Introduction of Milford Police Recruits

Chief Hudson introduced to city council two new recruits who recently graduated from the Delaware State Training Academy. The officers completed a twenty-one week program in the academy and have now been assigned to a Field Training Officer. After another thirteen to fourteen weeks in the FPO program, they will be assigned as solo patrol officers on one of the four patrol shifts.

The chief reported that Officer Danielle Allman, a native of New Jersey, lives in the Millsboro area. Officer Mikhail Stanton was raised in Dagsboro and also lives in the Millsboro area.

Chief Hudson advised they now have thirty-two officers.

COMMUNICATIONS

Milford Community Prayer Breakfast

Mayor Rogers reminded council the annual Prayer Breakfast will be held Saturday, March 29th. Those interested in attending should contact either Terri Hudson or Katrina White.

UNFINISHED BUSINESS

Adoption of Ordinance 2014-02/Abolishing Metering Department

City Manager Carmean explained that Public Works Director Brad Dennehy sent an e-mail out to city staff stating that as of Monday, February 10, 2014, the meter department would cease to exist.

Since that time, the city manager has reconsidered abolishing the department. He feels that we could experience another building boom in the future and would need to re-establish the meter department at that time.

Mr. Carmean said the ordinance can either be adopted and the department re-established in the future through a new ordinance or leave it as a standing department with no employees.

Council felt it was easier to leave the department in place should it ever be needed again.

Public Works Committee Chairman Brooks said when Mr. Carmean called him to discuss it, he also agreed it should be left in place.

Mr. Brooks then moved to withdraw Ordinance 2014-02, seconded by Mr. Morrow. Motion carried.

NEW BUSINESS

Adoption/Resolution 2014-06/Board of Revision and Appeal for the 2014-2015 General Assessment

The following resolution, required by Article VII of the City of Milford Charter, relates to taxation and the appeal process:

WHEREAS, the provisions of Article VII, Section 7.06 of the Charter of the City of Milford state that Council shall cause a copy of the General Assessment to be hung in two public places in the City of Milford and there to remain for the space of ten days for public information; and

WHEREAS, attached to said copies shall be notice of the day, hour and place that Council will sit as a Board of Revision and Appeal for said General Assessment.

NOW, THEREFORE, BE IT RESOLVED, that on Monday, June 23, 2014 at 7:00 p.m., the City Council of the City of Milford will sit as a Board of Revision and Appeal for the 2014-2015 General Assessment.

Mr. Pikus moved to adopt Resolution 2014-06, seconded by Mr. Gleysteen. Motion carried.

Utility Agreement/Lighthouse Christian Center

Mr. Carmean presented a utility agreement noting that construction is slated to begin on the Lighthouse Christian Center Church east of Route 1. He said this agreement mirrors the verbiage of other agreements though there may be some minor differences.

The agreement spells out what Lighthouse has to do with utilities on the site according to Mr. Carmean. It requires the utilities be built to the city's specifications and needs.

The city manager noted that the city solicitor has reviewed and approved the agreement.

Mr. Rutt then stated that he read it and that it lays out the obligation of the property owner and that the city does not have to accept their utilities until they are completed. The designs also have to be approved by the appropriate departments including state and county agencies.

Mr. Pikus moved to approve the Lighthouse Christian Center agreement, seconded by Mr. Grier. Motion carried.

FY2013-2014 Budget Adjustment/Transfer of Funds/Sewer Reserves/Lighthouse Christian Center Project

Lighthouse Christian Center Project

Mr. Carmean reported that the Lighthouse Christian Center approval process has taken more time than normal and their approval deadlines have expired. As a result, the city manager asked that Davis, Bowen and Friedel review all the engineering, utilities and infrastructure on the site. He did not know when this would need to be done which was the reason he did not add it to his budget.

He said that DBF found some items that the city required be changed. Some of the associated costs will be charged to Lighthouse Christian Center. Additional work will also be needed though these fees cover the cost of the current work needed at the center. A future pump station and sewer work are also required.

Mr. Pikus moved to approve \$12,700 out of sewer capital reserves to cover the cost of the work needed at Lighthouse Christian Center, seconded by Mr. Morrow as noted below:

DBF Invoice Totals	\$10,172.75
Estimated Additional Review Costs	\$2,527.25
RECOMMENDED TRANSFER AMOUNT	\$12,700.00

Motion carried.

Introduction of Ordinance 2014/False Alarm Code

Mr. Morrow introduced the following ordinance:

Section 1. That Article I, Chapter 75 of the City of Milford Code is hereby amended.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 2. That Section 75-1, Definitions, of the above-entitled ordinance be amended to read as follows:

§ 75-1. Definitions.

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

~~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. **The period beginning January 1 and terminating on December 31, both dates inclusive.**~~

~~FALSE ALARM — The activation of an alarm system through negligence of the alarm user "without cause" that forces causing the police, fire company or other emergency personnel to respond. Negligence "Without cause" 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, **will not be assessed a civil penalty.** Beginning with the fourth false alarm, any false alarm, including those caused by such mechanical failure, malfunction or improper installation, ~~within the calendar year, that occurrence, and each occurrence to follow, shall constitute negligence. **shall be assessed a civil penalty according to the schedule identified in §75-4(A).**~~~~

Section 3. That Section 75-4, Violations and Civil Penalties, of the above-entitled ordinance be amended to read as follows:

§75-4. Violations and Civil Penalties.

A. Any ~~person~~ **alarm user** violating any provision of this article, ~~and upon conviction thereof,~~ shall be subject to a ~~fine~~ **civil penalty** 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 Civil Penalty 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:~~

Section 4. That Chapter 75 of the City of Milford Code be amended by adding thereto a new Section 75-5 to read as follows:

§75-5. Notice of Violation.

A notice of violation shall be sent by Milford Police Department to the alarm user for each false alarm. The notice shall contain the number of false alarm violations by that alarm user for the calendar year and the corresponding civil penalty being assessed, if any. The notice of violation may be issued by mailing such notice to the alarm user at the address where the alarm system is located or registered.

Section 5. That Chapter 75 of the City of Milford Code be amended by adding thereto a new Section 75-6 to read as follows:

§75-6. Payment.

All payments for civil penalties received under this article shall be delivered to the Milford Police Department (payable to the City of Milford) within thirty (30) days after receipt.

Section 6. That Chapter 75 of the City of Milford Code be amended by adding thereto a new Section 75-7 to read as follows:

§75-7. Procedure to Contest a Violation.

An alarm user who wishes to contest the validity of the false alarm violation under this article may contest the violation by appealing the decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal.

Section 7. That Chapter 75 of the City of Milford Code be amended by adding thereto a new Section 75-8 to read as follows:

§75-8. Failure to Pay Civil Penalty or Successfully Contest the Violation.

If the alarm user fails to pay the civil penalty within thirty (30) days from the time the notice of violation was mailed, Milford Police Department may enforce the civil penalty by any means available in law or equity, including but not limited to civil action in the Justice of the Peace Court, including seeking judgment and execution on a judgment against the alarm user.

Section 8. That Chapter 75 of the City of Milford Code be amended by adding thereto a new Section 75-9 to read as follows:

§75-9. Alarm System Registration.

A. An alarm user shall not operate, or cause to be operated, an alarm system without first registering the alarm system. A separate alarm system registration is required for each alarm system site.

B. The alarm system registration application form must be submitted to the Milford Police Department within thirty (30) days after the alarm system at a particular site has been activated or within thirty (30) days after a transfer in possession of the alarm system. Failure to submit a timely application will result in a non-registered alarm system. Use of a non-registered alarm system shall consider the first false alarm in a calendar year to be the fourth violation, with the civil penalty being assessed accordingly.

C. Each alarm system application must include the following information:

- (1) The name, complete address (including apartment/suite number) and telephone numbers of the person who will be the registration holder and responsible for the proper maintenance and operation of the alarm system;***
- (2) The name and complete address of the alarm system site, the classification of the alarm system site as either residential (includes apartment, condominium, mobile home, etc.) or commercial, and the name, address and telephone number of the person responsible for that alarm system site;***
- (3) For each alarm system located at the alarm system site, the classification of the alarm system (i.e. burglary, holdup, duress, panic alarms, etc.) and for each classification whether such alarm is audible or silent;***
- (4) The mailing address, if different from the address of the alarm system site;***
- (5) Any dangerous or special conditions present at the alarm system site;***
- (6) The names and addresses of at least two (2) individuals who are able to, and have agreed to:***
 - a. Receive notification of an alarm system activation at any time and who can respond to the alarm system site and, upon request, gain access to the alarm system site and deactivate the alarm system if necessary; or,***
 - b. Receive notification of an alarm system activation at any time and who has access to the alarm system user for purposes of deactivating the alarm system, if necessary.***
- (7) Type of business conducted at a commercial alarm system site;***
- (8) Signed certification from the alarm system user stating the following:***
 - a. The date of installation, conversion or transfer of the alarm system, whichever is applicable;***
 - b. The name, address and telephone number of the alarm system inspection company or companies performing the alarm system installation; conversion or takeover of the alarm system installation company responsible for providing repair service to the alarm system;***
 - c. The name, address and telephone number of the monitoring company if different from the alarm system installation company;***
 - d. That a set of written operating instructions for the alarm system, including written guidelines on how to avoid false alarms, has been left with the applicant by the alarm system installation company; and,***
 - e. That the alarm installation company has trained the applicant in proper use of the alarm system, including instructions on how to avoid false alarms.***
- (9) Acknowledgment that any delay in law-enforcement authority response time may be influenced by factors including, but not limited to priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, etc.***
- (10) Any false statement made by an applicant for the purpose of obtaining an alarm system registration shall be sufficient cause for refusal to issue a registration.***
- (11) An alarm system registration shall not be transferable to another person or alarm system site. An alarm system user shall inform the alarm system administrator of any change that alters any of the information listed on the alarm system registration application within thirty (30) days of such change.***

Section 9. Dates.

Introduction March 24, 2014

Adoption Date April 14, 2014

Effective Date April 24, 2014

Mr. Rutt referenced the ordinance noting this has been discussed at a couple previous council meetings. The suggested additions and deletions are highlighted in the ordinance.

Specifically, he noted the definition for calendar years has been changed. The false alarm definition has been changed with the most notable change being this is no longer a criminal charge but a civil penalty.

One option considered was to set up an administrative appeal board at city hall. The board would then determine if the penalty should be waived or imposed. This ordinance directs the appeal to the Justice of the Peace Court which Mr. Rutt recommends as the more common method.

Mr. Morrow emphasized the need to keep the city out of the politics and allows the court to determine the outcome. Mr. Pikus agreed adding that would eliminate the city from becoming involved.

Mr. Rutt then continued the review by referencing the provision to pay the penalties.

He explained the ordinance also contains a new section regarding alarm system registration as is required by state code and other municipalities. This will require businesses to register alarms with the police department which facilitates an effective and prompt response.

Mr. Carmean said that he and Chief Hudson agreed the fines should be mailed to the police department who will turn them over to the finance department as has been done in the past. However, he said they can also be sent to the finance department to handle though they will work that out.

Chief Hudson added that currently, the fines are received at the police department and sent to the finance department as is done with any monies received by the police department.

The ordinance is scheduled for adoption at the next meeting.

EXECUTIVE SESSION

Executive Session - Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed (Previous Employee Discussions & Correspondence)

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

Mr. Carmean advised that Kent County Engineer Hans Medlarz remain in the chambers during the executive session.

Mayor Rogers recessed the Council Meeting at 7:18 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 8:10 p.m.

FY2013-2014 Budget Adjustment/Electric Reserves, General Fund Reserves & General Fund Economic Development Fund (Wawa Account)

Ms. Wilson moved that the city solicitor proceed as was discussed in executive session, seconded by Mr. Starling. Motion carried.

Mr. Pikus moved that transfers of \$8,563.65 are made from Electric Fund 205-5050-432.1010 to 205-50505-432.10-11, \$7,298.42 be transferred from the General Fund Economic Development Account and \$56,143.74 transferred from General Fund Reserves as discussed in Executive Session, seconded by Mr. Grier. Motion carried.

ADJOURN

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

The Council Meeting adjourned at 8:12 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Terri K. Hudson". The signature is fluid and elegant, with a large initial "T" and "H".

Terri K. Hudson, MMC
City Clerk/Recorder