

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 23, 2014

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, June 23, 2014.

PRESIDING: Mayor Bryan Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, 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 Shupe called the Council Meeting to order at 7:02 p.m.

SWEARING IN OF COUNCILPERSON

At the May 5, 2014 Organization Meeting, the following report was provided by City Manager Carmean:

"The Special Election scheduled on June 14, 2014, to fill the remaining term of the First Ward Council Seat left vacant by the election of Mayor Shupe, is not required to be conducted due to only one person filing for the office. Christopher H. Mergner, is therefore deemed elected, and shall take the Oath of Office in this chambers on June 23, 2014."

Mayor Shupe announced the Honorable William J. Walls Jr. of the State of Delaware, Kent County Family Court, was present to administer the Oath of Office. With his hand on the bible, Councilman Christopher H. Mergner was sworn in as Councilperson of the First Ward.

After its conclusion, the newly appointed First Ward Council Member signed his Oath of Office.

Mayor Shupe welcomed Councilman Mergner stating he knows he will do a great job representing Ward One. The mayor stated he met with Mr. Mergner prior to him deciding to run for office. At that time, Mayor Shupe believed he was focused on helping to advance our business-friendly environment and helping increase Milford's attractiveness to young families.

He wished the councilman the best of luck adding he knows he will serve Milford well.

BOARD OF REVISION AND APPEAL HEARING

Mayor Shupe announced the Fiscal Year 2014-2015 Board of Revision and Appeal originally scheduled for this date was canceled as a result of all property tax appeals being satisfactorily resolved by the city's tax assessor.

PUBLIC HEARING

*Matt Feindt on behalf of Legal Owner Matthew & Jennifer Feindt
Conditional Use & Minor Subdivision
303 Pierce Street
Tax Map MD-16-183.10-04-012.00*

Mayor Shupe reported that this matter was postponed due to some additional issues that came up during the related Board of Adjustment hearing. A new hearing date has been scheduled and council will see this application at a public hearing on July 28th.

Prior to that, the planning commission will review and make a recommendation at their July meeting.

INVOCATION AND PLEDGE

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

RECOGNITION

Councilman Starling reported that Councilwoman Wilson is having a surgical procedure tomorrow and asked that everyone keep her in their prayers.

COMMUNICATIONS

Included in packet.

UNFINISHED BUSINESS

Appointment/Planning Commission

Mayor Shupe advised that he has been in touch with Mike Yosifon of Knotts Landing and has asked him to consider filling the vacancy that currently exists on the planning commission.

The mayor reported that Mr. Yosifon is retired after more than forty years in the financial industry. The mayor is confident in his ability to assist the Planning Commission in overseeing land use and code changes specific to the subdivision and zoning of land.

The mayor will be meeting with Planning Commission Chairman Jamie Burk and Mr. Yosifon to discuss any concerns or questions he may have.

Reappointment/Planning Commissioners

Mayor Shupe noted that current Planning Commissioners Ed Holloway, Deborah O'Neill and Rae Mims' terms expire August 31, 2104. He is recommending another three-year term and asked for a motion from city council.

On motion by Mr. Pikus and seconded by Mr. Brooks, Commissioners Holloway, O'Neill and Mims were re-appointed to the Planning Commissioner for another three-year term. Motion carried.

Ms. Wilson asked the mayor to ensure the diversity of the commission when recommending new appointees; Mayor Shupe agreed that was important.

Introduction/Ordinance 2014-08/Chapter 193/Solid Waste Code Amendment

Mayor Shupe introduced Ordinance 2014-08 amending the city's Solid Waste Code (see attached).

He advised the ordinance is more or less revamping the solid waste code and will add the restrictions and guidelines that have been discussed and recently put into place. Most of the amended areas relate to recycling, yard waste and bulk pickup. It removes the commercial service though businesses still have the option of being provided two canisters in lieu of a dumpster they may have used previously.

The ordinance has been scheduled for adoption at the regular meeting of council in July.

Adoption/Ordinance 2014-09/Chapter 48/Parks and Recreation Commission

Mayor Shupe noted that the Parks and Recreation Commission has been inactive for numerous years. When Mr. Carmean became city manager, he placed the parks and recreation director and department under him which made the commission

obsolete.

Mr. Brooks agrees the commission has been inactive for years and moved to adopt Ordinance 2014-09, seconded by Mr. Morrow:

An Ordinance to amend the Code of the City of Milford by abolishing the Parks and Recreation Commission, Part 1, Administrative Legislation, Chapter 48, 'Parks and Recreation Commission'.

Whereas, the City Council of the City of Milford has analyzed and reviewed the dormant status of the Parks and Recreation Commission; and

Whereas, the City Council further believes that the citizens of the City of Milford will be better served if the Parks and Recreation Commission was abolished and duties pertaining to parks and recreation purposes and programs within the city be placed under the Parks and Recreation Department as authorized by the City Manager.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Chapter 48 of the Code of the City of Milford Code entitled "Parks and Recreation Commission" is hereby repealed and rescinded.

Section 2.

Chapter 48 of the Code of the City of Milford, is from the effective date following adoption of this ordinance, to be held reserved for future use by the City of Milford.

Section 3.

All ordinances, or parts of ordinances, which are inconsistent herewith are hereby repealed to the extent of their inconsistency.

Section 4. Dates.

Adoption 06-23-14

Effective 07-03-14

Motion carried.

Adoption/Ordinance 2014-10/Chapter 165/Adds New Chapter/Parks and Recreation

Mayor Shupe advised that the previous code, related to Parks and Recreation, is being replaced with Ordinance 2014-10 which will create a new Chapter 165. The ordinance officially puts in place the rules and fees for rental of the parks and other facilities that have been assessed for several years.

We will comply with the charter which requires an ordinance before a fee is charged. This ordinance is the result of discussions relating to people remaining in the parks throughout the night. Though posted signs state the parks are closed dusk to dawn, an official ordinance is needed. When that issue was being addressed, it seemed an appropriate time to address the fees and rules for renting our parks and recreational facilities.

Mr. Pikus asked if there any signs posted on the Southeast Front Street side of the bridge; Chief Hudson confirmed there is a sign as you enter the park from that side.

Mr. Brooks moved to adopt Ordinance 2014-11, seconded by Ms. Wilson:

*Ordinance 2014-10
Chapter 165-Parks and Recreation*

WHEREAS, the City of Milford owns and maintains various parks and recreation facilities for the use and benefit of the public; and

WHEREAS, portions of such parks and facilities are made available for the exclusive use of individuals and groups; and

WHEREAS, the City of Milford has a need to establish a rules and rental fee schedule for use of City Parks and Recreational Areas and Facilities which are scheduled by the Milford Parks and Recreation Department.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. An Ordinance to Amend the Code of the City of Milford by Adding a New Chapter 165 entitled Parks and Recreation.

Section 2. Article I-General-is hereby added to read as follows:

Article I - General.

§ 1.01. Definitions.

Direct Route: The shortest and most direct path a person may travel to access the pedestrian bridge for the purpose of reaching the opposite side of the Bicentennial Park without any detour or additional stop in the park along the way.

Park area: All city parks, playgrounds, recreation fields and areas.

Parks and Recreation Director: City of Milford Parks and Recreation Director and any employee or designee thereof.

Permittee: Person granted and receiving approved permit.

Special event: Any outdoor meeting, activity, parade, gathering or group of persons, vehicles, or a combination thereof having a common purpose, design or goal, upon any public street, sidewalk, alley, park, beach or other public property, place or building, which special event substantially inhibits the usual flow of pedestrian or vehicular travel or which occupies any outdoor area of any public area or building which results in use preempting normal use otherwise to be made of the area by the general public or which deviates from the established use. The term "special event" shall not be construed to include a funeral procession.

§ 1.02. Fees.

Fees for permits and services required by this chapter shall be established by resolution of City Council.

§ 1.03. Enforcement.

(a) The Milford Police Department, Code Enforcement Officials and Parks and Recreation Director shall enforce this chapter.

(b) Any city employee authorized to enforce this chapter, as provided herein, has the authority to eject from a park facility any person in violation of this chapter or any other law.

Section 3. Article II-Parks and Recreation Rental Rules and Regulations-is hereby added to read as follows:

Article II. Parks and Recreation Rental Rules and Regulations

§ 2.01. Purpose.

The purpose of this article is to establish rules and regulations governing the operation and use of park and recreation facilities including established and designated park, picnic areas, buildings and shelters devoted to recreational purposes, athletic fields, bocce ball courts and other recreational areas and facilities, and the parking areas provided in connection therewith which are located within the Milford City limits, for the end and purpose that the public may obtain the maximum enjoyment and utilization thereof in accordance with the purposes intended, and that the facilities may be conserved and protected for the public good.

§ 2.02. Hours.

All public parks, owned and operated by the City of Milford, shall be closed from sunset to sunrise daily, except where otherwise posted or permitted.

Exceptions.

(a) Bicentennial Park-Persons traveling by foot or bike from the Franklin Street area to the Northeast Front Street area, or reverse, shall only be by direct route and must immediately exit the park upon completion.

(1) Persons found congregating, standing, loafing or remaining in the park when required to take the direct route when the park is closed shall be considered in violation of this chapter.

(b) Parks owned by City of Milford but managed and operated by Milford Little League.

(c) Any other exception to the hours of operations shall require the approval of City Council.

(d) Notice of any permitted exception must be provided to the Milford Police Department.

Section 2.03. Rules and Regulations.

(a) Patrons shall remove all trash that is brought into the park.

(b) Dogs and other pets are not permitted in the parks during rentals or special events.

(c) Deposit shall be refunded only after buildings, grounds and/or equipment is inspected and found to be clean and without damage.

(d) No alcoholic beverages permitted. Refer to Chapter 77 of the City of Milford Code.

(e) The Parks and Recreation Director shall determine whether permittee is required to hire Special Duty Police Officers from the Milford Police Department.

(f) It is the responsibility of the permittee to rent portable restrooms if required.

(g) Noise levels must comply with Chapter 157 of the City of Milford Code.

(h) Special event hours are restricted to the following times:

(1) Monday-Saturday 9:00 a.m. to Dusk

(2) Sunday 1:00 p.m. - 6:00 p.m.

(i) Fire, health and safety regulations must be obeyed at all times.

(j) The Parks and Recreation Director reserves the right to refuse any application, revoke any approval of accepted application and/or cancel the proposed event which has been previously approved.

§ 2.04. Application

The Park, Pavilion or Equipment Reservation Application must be completed and signed by the applicant. Approval by the Milford Parks and Recreation Department is required.

§ 2.05. Hold Harmless Agreement

A Hold Harmless Agreement, releasing the City of Milford and its agents from all injury and liability of any kind arising from permittee's use and occupancy of city property must be signed by permittee and received by Milford Parks and Recreation Department before any permit will be issued.

Section 4. Article 111-Renting Prohibited-is hereby added to read as follows:

Article III. Renting Prohibited.

Facilities funded by a source other than the City of Milford shall not be rented for an exclusive use. Such facilities are considered open to the public and cannot be denied access.

Section 5. Article IV-Penalty for Violations-is hereby added to read as follows:

Article IV. Penalty for Violations.

Any person found violating any clause or provision of any section of this chapter shall be fined, not less than \$50.00 and not more than \$250.00, for each offense upon conviction thereof.

Section 6. Dates.

Adoption 06-23-14

Effective 07-03-14

Motion carried.

Adoption/Ordinance 2014-11/Chapter 176/Adds New Chapter/Public Peace and Good Order

Mayor Shupe recalled this discussion at the previous meeting noting that the ordinance speaks for itself. The police continue to receive complaints about loitering in the park and associated problems such as people who are seen publicly going to the bathroom. The state code is interpreted that a person cannot be arrested for indecent exposure unless a police officer actually witnesses the act. Most complaints are received from civilians and not a result of an officer witnessing the act.

It was noted that Milford is one of very few towns in Delaware that does not have this ordinance on the books.

Motion made by Ms. Wilson to adopt Ordinance 2014-11, seconded by Mr. Starling:

WHEREAS, the City Council of the City of Milford has the authority to pass regulations to protect the health and safety of its citizens; and

WHEREAS, the City Council desires to have and maintain a clean and safe community; and

WHEREAS, the City Council finds that it is in the public interest to prohibit public urination; and

WHEREAS, while state law prohibits indecent exposure, such exposure must be done in a lewd manner and the act of public urination or defecation does not uniformly constitute indecent exposure; and

WHEREAS, the City Council of the City of Milford finds that it is in the best interests of the public health, welfare, and safety to prohibit public urination and public defecation within the City of Milford.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD BY ADDING A NEW CHAPTER 176, Public Peace and Good Order.

Section 2. Article 1, Offenses Against Public Decency, is hereby added to read as follows:

Article I. OFFENSES AGAINST PUBLIC DECENCY

§176 -1. Public Urination and Defecation

§176 -1(a)-Definitions.

§176 -1(b)-Unlawful Act.

§176 -1(c)-Penalty for Violation.

§176 -1(a)- Definitions.

"Public Place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, bike trails, driveways, parking lots, automobiles whether moving or not, vacant land and buildings open to the general public, including but not limited to those that serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds enclosing them, and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

§176 -1(b)-Unlawful Act.

A. It is unlawful for a person to urinate or defecate in public places, other than when using a toilet, urinal or commode located in a restroom, bathroom or other similar structure enclosed from public view.

B. The provisions of this chapter shall apply to any person over five years of age.

§176 -1(c)- Penalty for violation.

Any person who is found guilty of violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or a term of imprisonment of not more than ninety (90) days or both a fine and term of imprisonment.

Section 2. Dates.

Adoption 06-23-14

Effective 07-03-14

Motion carried.

Adoption/Ordinance 2014-12/Chapter 197/Streets and Sidewalks/Adds Article II/Miscellaneous Provisions

Mayor Shupe noted that we are receiving complaints in various areas where kids, and in most cases teenagers and young adults, are playing games of sorts in the street which is an increasing problem for vehicles, pedestrians and area properties.

The problem has gotten worse with summer weather and Milford has nothing official on the books for our code officials and police officers to address the problem.

The ordinance also authorizes city officials to temporarily close streets and sidewalks as needed for public safety reasons and where utility work may be needed.

Mr. Grier confirmed this ordinance includes neighborhoods with cal-de-sacs where kids may be out in the street playing; Mr. Carmean stated yes. Mr. Mergner asked if this means no recreational games would be permitted in a cal-de-sac in the city.

Chief Hudson then explained that this ordinance is for the protection of the children and if the city allowed this to continue, the city would be liable should someone be injured as a result of this situation. He said there are occasions where people refuse to move from the street when a vehicle approaches. As Mayor Shupe stated, there have been actual situations where the participants are throwing balls over vehicles when they pass. Currently, city officials cannot remove a violator from the street and this gives them the authority if needed.

Ms. Wilson agrees it is needed but this is also difficult for her because there are numerous portable courts in the streets

of her neighborhood. She sees children playing ball almost on a daily basis and recalls when she played ball in the street as a youngster.

She confirmed they would be asked to move if a complaint was made to the code official or police department. When asked if they would be asked to move only, Mr. Grier noted there is a fine that could also be assessed.

Chief Hudson explained the manner in which it would be handled was at the discretion of the officer and/or code official.

Mr. Brooks emphasized the need to consider the safety of the children. If someone is playing ball in the street and they lose concentration during the game which he says is very possible, they may not see a vehicle coming and they could end up being hit by that vehicle.

Mr. Morrow feels that though the complaints will be handled, this provides a level of enforcement and gives the police and code officials some teeth in these situations. Presently, if they are asked to move out of the street and they refuse, they cannot be forced. He does not believe our officers will go out and become the basketball police. Adopting this gives them something to use in case they will not voluntarily move.

Ms. Wilson understands the need and right to move someone if it is causing a problem. She is only concerned about the children that play in her neighborhood who have no other place to play. There are no basketball courts and playgrounds in that area. She also pointed out that many of these children do not have backyards or a garage where a basketball hoop can be hung. She understands the need for safety and always supports the police, but in this case, she is concerned about the children and has mixed feelings.

Mr. Pikus added there are existing problem areas where the children will not listen to a neighbor who has asked them to move. When the police are called and ask them to move out of the street, they often disband but once the police car leaves the area, they return.

Chief Hudson explained that the code official and the officers have searched for an ordinance that prevents this type of situation. Mr. Pikus feels it is a problem especially when someone ends up getting hurt or even damages another person's property. He said it is very possible a car window could be broken out and no one is willing to take the responsibility. He agrees something needs to be in place when these situations occur and there is a problem being caused.

Mr. Pikus does not believe they are going to focus on a ten-year-old child or require three or four little kids to pay a \$50 fine.

Ms. Wilson agrees but added it could involve a smart-mouthed kid that the police know play in the street all the time. She pointed out that each officer is different and has a different tolerance.

Ms. Wilson's only concern is this will prevent our kids from being kids without a lot of rules pushing them toward becoming an adult.

Mr. Pikus would hate for a child to be hit by a vehicle and the city end up liable.

Mr. Brooks said he had rules growing up and raised three children all of whom were not permitted to play in the street. In addition, he does not allow his dog to run loose to prevent the dog from being hit. He witnessed a cat being hit by a passing vehicle the other day and believes this would help prevent a child from being injured.

Ms. Wilson said she grew up in the projects at Banneker Heights and someone placed a basketball court there and that is where the children played every day. Because of that, she sees things in a different perspective and mainly because she has not always had a yard appropriate for a basketball court. When her children were little, she was able to move and provide them with a property that was more appropriate.

She is only considering those children who do not have a driveway or a sidewalk and does not want to forget them. She hopes the officers are a little sensitive in those situations though she clearly understands the need and agrees with what has been said.

Mr. Mergner does not understand the difference than a child riding their bike in the street. Mr. Morrow pointed out there are specific laws related to a person riding a bike in the street. Mr. Brooks agreed adding that they are required to ride with traffic, use hand signals and children must wear helmets.

Mr. Pikus moved to adopt Ordinance 2014-12, Chapter 197, seconded by Mr. Gleysteen:

WHEREAS, Chapter 197 of the City of Milford Code governs street and sidewalks regulations in the city; and

WHEREAS, there is a need for miscellaneous regulations to be added to Chapter 197 to balance the requirements of public safety, code enforcement, our resident's right to quiet enjoyment and the health and safety of our city.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

A new Article II, entitled Miscellaneous Provisions, has hereby been added to Chapter 197 as follows:

ARTICLE II. MISCELLANEOUS PROVISIONS

197-15. Authority to temporarily close streets and sidewalks.

Both the city manager and/or designee and chief of police and/or designee shall have the authority to temporarily close streets, sidewalks or private entrances onto public streets to vehicular and pedestrian traffic when necessary for the public safety or convenience or to conduct work on streets or sidewalks.

197-16. It shall be unlawful for any person to cast, throw, drop, place, or otherwise cause or permit to be located upon, in, or about any public street, sidewalk, alley or any private or public property adjacent thereto, any litter, refuse, or debris.

(a) Exception.

Items permitted and regulated in Chapter 193.

197-18. Throwing and kicking objects and playing games in streets. It shall be unlawful for any person to throw, kick or project, in any manner whatsoever, any stone, ball or other object in the city streets, or to play or practice athletic games, pitching pennies and like games on the city streets, unless a specific area has been officially designated for those purposes by the city manager.

Section 2. Dates.

Adoption 06-23-14

Effective 07-03-14

Motion carried.

NEW BUSINESS

Adoption/Resolution 2014-10/Adoption of City of Milford FY2014-2015 Budget & Capital Plan

Finance Chairman Pikus reported the Finance Committee met and reviewed the proposed budget on June 17th and June 18th. They are recommending a balanced budget for Fiscal Year 2014-2015 with no tax increase.

On motion by Chairman Pikus, seconded by Mr. Grier, the following resolution was introduced and adopted Resolution 2014 as follows:

*ADOPTING THE CITY OF MILFORD
FISCAL YEAR 2014-2015 BUDGET & CAPITAL PROGRAM*

WHEREAS, the operating and capital budgets of the City of Milford for the Fiscal Year 2014-2015 were prepared and submitted to the City Council by the City Manager in accordance with Article VI Financial Procedures

of the City Charter; and

WHEREAS, the City Council was presented with the proposed budget after the Finance Committee made a comprehensive study and review during meetings on June 17, 2014 and June 18, 2014; and

WHEREAS, in the opinion of the City Council, the budget accurately, as possible, reflects the city's anticipated revenues and expenditures for the fiscal year beginning July 1, 2014 and ending June 30, 2015.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILFORD, that the City of Milford's Operating Budget for Departments shown under General Fund as Administration, Planning and Zoning, Code Enforcement and Inspections, Finance, Information Technology, Tax Assessment, Council, Police, Streets, Parks and Recreation and Engineering; and the Water Department, Sewer Department, Sanitation Department and Electric Department was adopted and approved as the budget of the City of Milford for Fiscal Year 2014-2015 in the following amounts:

*Operations and Maintenance - \$37,691,325
Debt Service - \$1,944,705
Capital Program - \$1,720,945
Total Expenditures - \$41,356,975*

A copy of said budget is on file in the Office of the City Clerk as was passed and adopted by the Council of the City of Milford on the 23rd day of June 2014 by an 8-0 vote.

Motion carried.

Adoption/Resolution 2014-09/Parks and Recreation Permit & Service Fees

Mayor Shupe noted that this resolution establishes fees which will allow the Parks and Recreation Department to collect those fees for permits and services. The resolution is required by Ordinance 2014-10 which was adopted earlier this evening.

Ms. Wilson moved to adopted Ordinance 2014-09, seconded by Mr. Starling:

*SECTION 1.02 OF CHAPTER 165 OF THE CITY OF MILFORD CODE
ENTITLED PARKS AND RECREATION
AUTHORIZES CITY COUNCIL, THROUGH RESOLUTION,
TO ESTABLISH FEES AND CHARGES FOR
PARKS AND RECREATION PERMITS AND SERVICES*

*RESOLUTION 2014-09
Parks and Recreation Permit & Service Fees*

WHEREAS, the Charter of the City of Milford provides that all administrative fees be set by Ordinance; and

WHEREAS, a user fee schedule currently utilized by Milford Parks and Recreation needs the approval of Milford City Council; and

WHEREAS, Chapter 165 of the City of Milford Code entitled "Parks and Recreation" authorizes City Council to establish fees through the adoption of a Resolution.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Mayor and Council of the City of Milford, the following Parks and Recreation Permit and Service Fee Schedule is hereby authorized:

Parks and Pavilions: \$50 Deposit Required

*Bicentennial Park Pavilion (located next to public parking lot on Northeast Front Street)
\$50 Rental Fee*

*Memorial Park South (located along the Mispillion Riverwalk near Salvation Army and Calvary United Methodist Church off Southeast Second Street)
\$75 Rental Fee*

*Optional:
+\$25 Rental Fee - Basketball Court*

*Marvel Square Park & Pavilion (located behind the Milford Parks & Recreation Department at 207 Franklin Street)
\$75 Rental Fee*

*Riverwalk Basketball Court (Memorial Park South along the Riverwalk) (One Court)
\$25 Rental Fee*

*Banneker Basketball Court & Park (Banneker School Park off of 4th Street & North Street
(Two Courts)
\$50 Rental Fee*

*FIELD NEAR BOYS & GIRLS CLUB _____
(to be determined and approved by council at a later date)*

BE IT FURTHER RESOLVED that the following Parks and Recreation Permit and Service Fee Schedule shall be effective June 23, 2014.

Motion carried.

Davis, Bowen and Friedel Proposal/NW Milford Water & Sewer System Evaluation

Erik Retzlaff of Davis, Bowen and Friedel (DBF) stated that he met with City Manager Carmean and Public Works Director Brad Dennehy to review the proposed subdivisions expected to develop in the northwest section of Milford and in particular, the Amberwood, Homestead (old Fry farm) and the new Hickory Glen subdivisions. Mr. Retzlaff advised there are several proposed pump stations planned for that area and instead of adding three to four additional facilities, it was decided to evaluate and regionalize the system. This would expand the sewer and water utilities which they feel would be the best way to provide services to that area. He said this is similar to what was done in the southeast area in conjunction with the overpass work being done by the state.

They will determine what is needed and develop a phase approach based on the number of units proposed.

An application was submitted by DBF for funding assistance and \$15,000 has been approved from DNREC Wastewater Planning Grant.

Mr. Pikus confirmed the total evaluation cost is \$35,000 of which \$15,000 will be funded through DNREC. Mr. Retzlaff stated yes.

Mr. Pikus asked how many developments are in the area and asked if Baltimore Air Coil (BAC) would be included. Mr. Retzlaff reported that BAC has an existing pump station which will be accounted for. Amberwood and Homestead both are recorded subdivisions. Mr. Pikus asked if there are any plans for construction in either development; Mr. Retzlaff stated no but reiterated they are approved subdivisions.

When asked, Mr. Carmean said the Amberwood subdivision was approved in 2008 and Homestead was approved approximately the same time. Mr. Pikus expressed concern that nothing has occurred since that time.

Mr. Retzlaff reported the approved plans for the Amberwood subdivision show a pump station discharging to the existing US Cold Storage station, which is already too small. The approved plans for the Homestead subdivision show another pumping station whose discharge extended down Airport Road into the existing Milford Crossing pumping station, which currently flows to the gravity main in Masten Circle. Sewage flows from those subdivisions and any additional would have significant impacts downstream. Two areas already known to have limited capacities are the pipes crossing Route 113 and the force main discharging from the existing Truitt Avenue pumping station. He emphasized there could be a lot of downstream improvements required to provide sewer service to the number of potential units associated with the development of all the properties that have been annexed in recent years.

Mr. Grier asked how long the approvals are valid; Mr. Retzlaff said they still need to bring their final site plans to the city to secure a construction permit. At that time, the city will determine what sewer improvements are needed though sewer capacity cannot be reserved forever.

Mr. Pikus asked because the Fry Farm was approved back in 2008, will they need to reapply or will the approval be perpetual; Mr. Retzlaff explained once the plans are recorded the plan is final. However, sewer capacity cannot be determined until they request a construction permit.

Mr. Brooks then recalled the developer of the Fry Property abandoning the undeveloped land; Mr. Carmean agreed and added that he walked away from the project.

Mr. Grier asked if the study will be based on the subdivisions proposed for development versus its current agricultural condition. Mr. Retzlaff advised they will consider the approved zoning and maximum allowable density. They will use that to estimate the number of units that would contribute flow. From that point, they will revise a plan on how to get to the final phase or complete build out.

Mr. Pikus believes another tower will be needed in that area considering the number of large subdivisions proposed.

Mr. Retzlaff commented that as this area grows, a separate zone will be needed because the elevations are thirty to forty feet higher than around the river, which is only eight feet. A completely isolated distribution system with a separate tank will be required as a result.

Mr. Retzlaff recommends that city council back charge the developers who will benefit from the study.

Mr. Pikus confirmed that \$15,000 of the \$35,000 will be paid through the DNREC fund and indicated there are additional potential funding sources. Mr. Retzlaff then explained that a \$15,000 match from the city was needed to qualify for the \$15,000. He agrees the developers should be responsible for the city money that is needed.

Mr. Grier confirmed this will be paid through impact fees; Mr. Retzlaff stated yes. Mr. Carmean agreed that is the methodology used. Everything does not happen at the same time and typically one developer installs a pump station in order to be ready to proceed. However, they have no interest in paying for downstream improvements. If the plan is in place, the city can insist they pay toward the improvements or they should not be able to build. When another developer begins to develop, they can expect a payback. He emphasized the original cost is normally borne by the first developer.

Mr. Brooks noted that though this is a \$35,000 project and the city is receiving a \$15,000 grant, five years from now it will cost twice as much and the grant money may not be available. Mr. Pikus said to keep in mind, the \$15,000 is matched by \$15,000 so the city is really only \$5,000 short which can be paid from reserves.

Mr. Pikus moved to approve the Davis, Bowen and Friedel Proposal for the Northwest Milford Water & Sewer System Evaluation in the amount of \$35,000, seconded by Mr. Gleysteen. Motion carried.

Mr. Grier asked if the motion should include the requirement to recoup the money from these developers through impact fees. Mr. Rutt stated no, that is typically factored into the cost through the permitting process. Mr. Carmean agreed that is how it will be handled.

Mr. Retzlaff advised this is a requirement of the DNREC grant which requires the formal adoption of a resolution.

Mr. Grier moved to adopt the following resolution, seconded by Ms. Wilson:

WHEREAS, the Mayor and Council of the City of Milford have approved a project to conduct a Regional Wastewater Planning Study for the Northwest Corridor of the City; and

WHEREAS, the State Department of Natural Resources and Environmental Control (DNREC) has funding available for such projects in their Wastewater Planning Matching Grant Program through the Clean Water State Revolving Fund (CWSRF) Non-Federal Administrative Account.

BE IT RESOLVED, the Mayor and Council of the City of Milford approve of submitting an application to the State Department of Natural Resources and Environmental Control for a Wastewater Planning Matching Grant to assist in funding the cost of the above-referenced regional planning study.

Motion carried.

Ratification/City of Milford 457(b) Deferred Compensation Plan

Mr. Carmean recalled the city's 457(b) plan that has been in place since the early 1990's which started as a 457. The ratification was needed because the teamsters requested a copy of the document explaining the plan and associated benefits including contributions, loans, etc. The city was unable to provide the document due to a number of changes that have occurred over the years.

Mr. Morrow moved to ratify the updated City of Milford 457(b) Deferred Compensation Plan , seconded by Mr. Brooks. Motion carried.

Introduction/Ordinance 2014-07/Matt Feindt & Jennifer Feindt/Conditional Use

Mayor Shupe introduced the following ordinance and explained this relates to the Matt and Jennifer Feindt land use application whose public hearing this evening was postponed due to some additional issues needing to be addressed. This ordinance does reflect the amended application which is for a new public hearing date and potential approval by city on July 28th.

Ordinance 2014-07

Matt Feindt on behalf of Legal Owner Matthew & Jennifer Fiendt for a Conditional Use

*AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE APPROVING
A CONDITIONAL USE TO ALLOW A SINGLE FAMILY SEMI-DETACHED DWELLING IN AN R-2 DISTRICT
AT 303 PIERCE STREET, MILFORD, DELAWARE. TAX PARCEL MD-16-183.10-04-12.00*

Whereas, the City of Milford Planning Commission reviewed the conditional use application at a Public Hearing on May 20, 2014; and

Whereas, the conditional use application will be considered by City Council at their June 23, 2014 meeting; and

Whereas, Ordinance 2014-07 will be reviewed by the Planning Commission on July 15, 2014 and a recommendation made to City Council; and

Whereas, Milford City Council will hold a Public Hearing on July 28, 2014 to allow for public comment and further review of the ordinance; and

Whereas, it is deemed in the best interest of the City of Milford to allow a Conditional Use for a single family semi-detached dwelling as herein described.

Now, Therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Matt Feindt on behalf of Legal Owner Matthew & Jennifer Feindt is hereby granted a Conditional Use Permit in accordance with the application, approved plans and any conditions set forth.

Section 2. Construction or operation shall be commenced within one year of the date of issuance of the permit or the conditional use becomes void.

Section 3. Dates.

Introduction to City Council: 06-23-14

Planning Commission Review & Public Hearing: 07-15-14

City Council Review & Public Hearing: 07-28-14

ADJOURN

With no further business, Mr. Pikus moved to adjourn the meeting, seconded by Mr. Morrow. Motion carried.

The Council Meeting was adjourned at 7:50 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC
City Clerk/Recorder

Attachment: Ordinance 2014-08 Solid Waste Code Amendment

Ordinance 2014-08
CHAPTER 193-SOLID WASTE

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Part II, General Legislation, Chapter 193 of the Code of the City of Milford entitled "Solid Waste"

Section II.

Amendments.

Chapter 193 entitled "Solid Waste" is hereby rescinded and replaced with a new Chapter 193 entitled "Solid Waste Management" to read as follows:

CODE OF THE CITY OF MILFORD
PART II - GENERAL LEGISLATION

CHAPTER 193 - SOLID WASTE MANAGEMENT

ARTICLE I. Miscellaneous Provisions

193-1. Mandatory Residential Collection. The maintenance of the public health, safety, sanitation and aesthetics requires that all residential properties in the City of Milford accept, arrange and pay for solid waste collection and disposal services in accordance with this chapter. Said mandatory service includes the collection of residential solid waste.

193-2. Non-Residential Services. Solid waste services through the City of Milford are optional for non-residential entities. Upon request containers may be provided, in accordance with the fee established in Section 193-11. Those opting not to utilize solid waste collection through the city shall be required to make arrangements for the disposal and/or collection of the same by a private collector/hauler at no cost to the city. The city reserves the right to restrict the services of a private hauler in order to promote the public health, safety and the general well-being of the community.

193-3. Containers Required. The city shall specify the type of container to be used for each specific collection. Use of any other type container than specified by the city is prohibited. Items piled alongside the container will not be picked up, nor will containers not provided by the city. If any container is lost or destroyed, another container shall be provided at cost to the customer.

193-4. Special Collections. Special collections will be held one week in the spring and one week during the fall of each year. Customers shall be able to put out additional items, including bulk items, during these weeks without an additional charge. Adequate notice of the special collection dates and details shall be provided to customers.

193-5. Bills and Payments

- A. The rates as established shall be an assessment and shall be billed to the resident of the property on a monthly basis. All bills for service are due and payable each month for normal and additional services performed. Monthly charges, if not paid by the due date, shall accrue interest at the rate of 1 1/2% per month until paid.
- B. Bills are rendered for any indicated period of service, either special or monthly, and will show the proper charge as determined by the applicable rate schedule. Bills shall be considered as duly rendered when delivered at or mailed to the recorded address of the customer, as provided by him for that purpose. Non-receipt of a bill shall not constitute a waiver thereof. The city, on request, will issue a duplicate bill to the customer.
- C. The annual charge imposed under ordinance shall be a lien against the property served and shall be and remain a lien for ten years from the date of assessment of such charge. Such lien shall have priority over any other lien, encumbrance or conveyance even though such other lien or liens may be of a date prior to the time of attaching of this lien. The City Manager shall have the same authorities, remedies and powers with respect to the collection of this charge as are provided for the collection of taxes.
- D. Any customer, upon receipt of a bill, having reason to doubt its accuracy shall bring or mail the bill within five days to the city for investigation.

193-6. Violations and Penalties

- A. Unless otherwise prescribed herein, Any person ~~or any officer of any firm or corporation~~ violating any of the provisions of ~~this article~~ Chapter 193 shall, upon conviction thereof before a Justice of the Peace, be sentenced to pay a fine of not less than \$25 nor more than \$300, together with costs of prosecution.
- B. Every violation of this chapter shall be deemed a separate offense for each and every day a violation shall continue and shall be subject to the penalty imposed by this section for each and every such separate offense.

193-7. Supplemental Regulations

The City Manager is hereby authorized to make additional rules and regulations for the administration of the solid waste collection system, provided that such rule or regulation is not in conflict with the specific provisions of this chapter and is in no way inconsistent with the established policies of the City Council.

ARTICLE II. SOLID WASTE

193-8. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

SOLID WASTE-Commonly referred to as trash or garbage, consisting of everyday items that are discarded which may include food wastes, containers and product packaging and other miscellaneous wastes from residential or commercial sources. Solid Waste does not include yard waste, inert waste such as construction debris, hazardous waste, toxic waste or medical waste.

193-9. Unlawful Acts; Containment Required; Containers

It shall be unlawful to deposit or place any trash or garbage into any yard waste container or recycling container or on a city street or drainage gutter. Containers will be provided upon request. Multi-family dwellings may utilize a city approved dumpster.

193-10. Collection Procedures

A. General.

- (1) All collection of solid waste materials from residences and other approved establishments shall be by city public works crews or contractors hired or contracted by the City Manager.
- (2) It shall be unlawful for any person to place any solid waste container within any public utility easement or public way except on designated collection days at the curblin. All containers shall be placed just behind the curblin of the street abutting such property but shall not be placed where the containers will interfere with vehicular or pedestrian traffic.
- (3) Where solid waste is collected from the front or side street, containers shall be placed there no earlier than 3:00 p.m. of the day preceding the day of collection and not later than 7:00 a.m. on the scheduled day of collection and shall be removed to a point at the side or rear of the structure not later than 7:00 p.m. of the day of collection.
- (4) No solid waste or any other similar materials shall be placed in the street or on the sidewalk. No solid waste of any description shall be disposed of within the limits of the city in any manner other than that prescribed herein. Deposit of solid waste upon any land, alley, street, public place, vacant lot, watercourse, ditch or any other method of disposal not in accordance with this chapter shall be a violation as prescribed herein.

B. Bulk collection. Owners of multi-family units desiring to utilize containers for bulk storage may do so, provided that the container and the placement of the container is approved by the City Manager or his designated representative. In no case shall the container be in excess of three cubic yards' capacity.

C. Items Prohibited

- (1) The scope of the service rendered by the city in the collection and removal of solid waste materials is intended to serve the needs of its customers' related activities. It is considered to be beyond the scope of such service to collect or remove solid waste materials generated by clearing, construction, demolition and any other such activity producing quantities of solid waste.
- (2) Rock, scrap building materials, appliances containing freon or other trash resulting from construction, remodeling or destruction by fire, the elements, acts of God or other causes resulting from a general cleanup of vacant or improved property or trees, brush and/or debris cleared from a property in preparation for construction or landscaping shall not be collected and removed by the city. Such materials will be removed at the expense of the owner.
- (3) Tires will not be collected. Items too bulky or heavy to be removed during the regular city collection may, at the discretion of the City Manager, be removed after special arrangements have been made by the owner.

D. Frequency and routes of collection. The City Manager shall divide the city into districts and shall schedule the collection of solid waste in these districts on the most efficient and convenient days and times. Adequate notice of the collection schedules shall be given to customers and any changes thereto.

193-11. Collection & Rate Schedule

- A. The city will collect solid waste as described in this Article II once every week.
- B. The City Manager shall divide the city into districts and shall schedule the collection of solid waste in these districts on the day or days and at the times that shall be most efficient and

convenient to the city. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.

- C. Residential properties
 - \$23.50 monthly - one container
 - \$47.00 monthly - two containers
- D. Non-Residential properties:
 - \$23.50 monthly - one container
 - \$47.00 monthly - two containers
- E. Multi-family units (including apartment complexes).
 - \$23.50 monthly - one container (per unit)
 - \$47.00 monthly - two containers (per unit)
- F. Individual containers may be replaced with a 3-cubic yard dumpster at City Manager's discretion.

ARTICLE III. YARD WASTE

193-12. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

YARD WASTE-Biodegradable waste consisting of leaves, grass clippings, twigs, small branches (less than four ft. in length), shrubbery, prunings and other garden material.

193-13. Unlawful Acts; Containment Required; Containers

- A. It shall be unlawful to deposit or place any yard waste or matter into any garbage container, recycling container or on any city street or in a drainage gutter.
- B. An additional yard waste container is available upon request. A one-time fee will be charged to the utility account. The fee is determined upon the size of container requested. The additional container is property of the City of Milford.

95 Gallon	\$65
65 Gallon	\$60
35 Gallon	\$55

193-14. Collection Procedures

- A. The city will provide for the collection of yard waste from April 1 through October 31 of each year, provided that such yard waste ~~refuse~~ is deposited into the yard waste containers issued by the city. Disposal of yard waste that will not fit into the container shall be the responsibility of the property owner.
- B. The city will provide for loose leaf curbside collection from November 1 through January 31 in accordance with the following conditions:
 - (1) Loose leaves shall be raked and placed behind the curb for removal by the city's leaf vacuum.
 - (2) Leaves must be free of stones, branches, brush and grass clippings or they will not be collected.
 - (3) It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.

193-15. Collection & Rate Schedule

- A. The City will collect yard waste as described in Section 193-14A once every two weeks.

- B. The loose leaf curbside collection as described in Section 193-14B will be collected once each week.
- C. The City Manager shall divide the city into districts and shall schedule the collection of solid waste in these districts on the day or days and at the times that shall be most efficient and convenient to the City. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.

ARTICLE IV. RECYCLING

193-16. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

RECYCLING-Trash including cardboard, glass bottles and jars (any color), junk mail and envelopes (all types), magazines and catalogs, metal cans (tin/steel/aluminum), milk jugs, bleach/detergent bottles and shampoo bottles, narrow-neck plastic bottles, newspapers and brown paper bags, paperboard (cereal/tissue boxes), plastic grocery bags, telephone and soft cover books, pizza boxes (free of food residue). Recycling materials does not include styrofoam (all types), hardback books (pages are acceptable, remove hard cover), light bulbs (all types), household batteries, electronics, broken glass/mirrors/window glass, empty aerosol spray cans, paint cans.

193-17. Unlawful Acts; Containment Required; Containers

It shall be unlawful to deposit or place any recycling material into any solid waste container or yard waste container or on any city street or in a drainage gutter.

193-18. Collection Procedures

The City will provide for the collection of recycling material, provided that such material is deposited into a recycling container provided by the city. Disposal of excessive material that will not fit into the container shall be the responsibility of the property owner.

193-19. Collection & Rate Schedule

- A. The City will collect recycling material once every two weeks.
- B. The City Manager shall divide the city into districts and shall schedule the collection of solid waste in these districts on the day or days and at the times that shall be most efficient and convenient to the City. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.

ARTICLE V. BULK ITEMS

193-20. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BULK ITEMS-Trash other than regular household trash, such as furniture, appliances, large items lawn mowers, barbeque grills, hot water heaters, air conditions, televisions, doors, cabinets, kid's toys or excessive amounts of household trash placed in bags or boxes.

Note: Bulk items does not include materials generated by clearing, construction, demolition and any other such activity producing quantities of solid waste, rock, scrap building materials,

appliances containing Freon or trash resulting from construction, remodeling or destruction of fire, the elements, acts of God or other causes resulting from a general cleanup of vacant or improved property or trees, brush and/or debris cleared from a property in the preparation for construction or landscaping, leaves, grass clippings, twigs, small branches, shrubbery, prunings and other garden material shall not be collected and removed by the city. Such materials will be removed by the owner.

193-21. Unlawful Acts

It shall be unlawful to place any bulk material or any hazardous chemical on a city street or near a drainage gutter.

193-22. Collection Procedures

- A. Customers are required to contact our Customer Service Department to schedule a pickup.
- B. Excessive household trash shall be bagged or placed in boxes.

193-23. Collection & Rate Schedule

- A. The bulk fee shall be determined on a sliding scale based on the amount of bulk trash or large items picked up from the residence as follows:
 - Trash- bagged or boxed:
 - 1 - 5 small pieces \$10
 - 6 - 10 pieces \$20
 - 11 - 15 pieces \$30
 - 16 - 20 pieces \$40
 - 21-50 pieces \$50
 - Over 50 pieces TBD by supervisor
 - Large Items (appliance, furniture, miscellaneous items) \$10 per item
 - A minimum of at least \$10 will be billed for each pickup
- B. The city will collect bulk material every Wednesday.
- C. The city will not collect bulk material on weeks when a holiday occurs.

ARTICLE VI. TEMPORARY SUSPENSION OF SERVICES

193-24 Authority

- A. The Public Works Director may suspend trash and recycling (and yard waste when applicable) collection services on an owner-occupied residence only if the home is unoccupied for a minimum of three months.
- B. A "Temporarily Suspend Garbage Service Application" must be completed in order to place the service on hold.
- C. A "Temporarily Suspend Garbage Service Application" must be received by the Public Works Department at least five business days prior to the start of the suspension period.
- D. The Solid Waste Department will collect the trash, recycling and yard waste (if applicable) containers at the start of the suspension and redeliver them on the expected date of return.
- E. The residence for which the suspension has been approved shall remain vacant during the suspension period.
- F. Service will automatically be reactivated at the end of the approved suspension period, unless a request for an additional period of temporary suspension has been requested and approved by the Public Works Director prior to the automatic reactivation. Failure to request an extension prior to the reactivation date will result in the resumption of the monthly solid waste

fee. To continue a suspension of service after reactivation, a new "Temporarily Suspend Garbage Service Application" must be filed with the appropriate fee.

- G. When a suspension is active, the customer may not use any other city trash/recycling/yard waste services, including someone else's container or bulk service.
- H. No credit will be issued should customer fail to submit and complete the "Temporarily Suspend Garbage Service Application."
- I. Partial or retroactive payments of monthly fees are prohibited.

193-25. Suspension Fee

- A. At the time of the suspension request, a service fee of \$35 will be charged for the removal, storage and redelivery of the containers.
- B. Service fee shall be paid at the time the "Temporarily Suspend Garbage Service Application" is submitted to the Public Works Department.

193-26. Noncompliance, Violations and Penalties

- A. Noncompliance of this article will result in the immediate reactivation of the solid waste services.
- B. The account will be billed the full service fees for the entire suspension period and a \$100 account reconciliation fee assessed for noncompliance.
- C. Violations and Penalties set forth in Section 193-5 shall also apply to Article VI.

Section III.

Dates.

Adoption 07/14/14

Effective 07/24/14