

MILFORD CITY COUNCIL
MINUTES OF MEETING
April 19, 2012

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Thursday, April 19, 2011.

PRESIDING: Vice Mayor Katrina Wilson

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

ALSO: City Manager Richard Carmean, Police Chief Keith Hudson and City Clerk Terri Hudson

CALL TO ORDER

Vice Mayor Wilson called the Special Council Meeting to order at 5:39 p.m.

She then confirmed that everyone had reviewed the proposed ordinance.

It was noted the ordinance is being officially introduced this evening. The intent is to adopt it Monday night though it would not be effective for ten days.

Mr. Morrow then explained the purpose of the ordinance noting the only course of action for noncompliance is fines. He asked that if an establishment continually violates the ordinance, is it possible to suspend their operation for a period of time or take away its business license if the violations continue.

Mr. Rutt advised that the city does not have a business license so you cannot revoke something it does not have. He explained that what this includes besides the fines is the inclusion of additional expenses being charged including attorney fees, court costs and the cleanup and removal of debris.

Mr. Gleysteen asked if we can revisit the zoning or an approved conditional use.

Mr. Rutt said the city cannot unilaterally change the zone on a parcel. The problem is if it is in the downtown area, for example, a bar or tavern in the downtown area is permitted in that zoning district.

It was asked if an approved conditional use can be amended. Mr. Rutt believes it can be done though he needs to review that further.

Mr. Morrow believes the conditional use no longer exists when the property is sold. He also noted that the code states if the conditional use is abused or not adhered to, city council has the right to do away with the conditional use. He does not want to run anyone out of Milford, but feels a fine will not be enough depending on what kind of profit is made for the event. He feels that option is already on the table, though he knows the zone cannot be changed to disallow a permitted use in the current zone.

Mr. Rutt then explained the procedure. He said the city code official would cite them for a violation of the conditional use. They would then be required to come back through the process.

Council agreed the Teen Center ordinance needs to be updated.

Mr. Gleysteen feels that if an establishment has ongoing problems and is paying increasing fines and related expenses, they have no choice but to make some changes to correct the situation.

It was agreed the citation should be issued the following day versus at the time of the complaint. This would prevent any potential problems during the event which could cause the crowd to get out of control.

Mr. Rutt explained this ordinance was patterned after the City of Newark ordinance. This is called a 'first-bite' ordinance. The offender is issued a warning the first time. If it happens again within the 180-day period, they would receive a violation/fine. Mr. Rutt drafted it in that manner to prevent an establishment who never has a problem, but suddenly has an issue, from being penalized. The owner/manager then takes control of the situation and there are no further problems.

Any further occurrences after that and within the 180 days would be a violation.

He explained the 180 days is an arbitrary number noting that there was a question about possibly shortening the time frame to 30 days. He said that in that situation, at the end of the 30 days, the violator would receive another warning before there was a violation. The longer period allows for more fines and encourages more awareness during that time frame.

Chief Hudson explained that using a 30-day period would allow an establishment to have a disorderly event every 31 days and receive only a warning each time.

Mr. Starling then provided a scenario. He said an establishment is rented out and the attendees pay an entrance fee. A fight then starts and the police respond. He asked if the establishment or the people fighting are fined under this ordinance. Mr. Rutt explained that the person is defined as owner, owner's agent, manager, caretaker, tenant, occupant or person occupying or responsible for the premises. Therefore, any of those persons could be fined. In addition, the people fighting will also be arrested.

Mr. Rutt explained that the owner of the facility is also included. Though they may not be involved, a lien can be placed on the property for unpaid fines and expenses. In those cases, he feels the owner will address the issue through their tenant to prevent the lien.

Mr. Brooks recommends any concerns be discussed this evening so that it is ready to be adopted Monday night.

It was confirmed that the City of Wilmington has a similar ordinance. Ms. Wilson asked if the City of Dover has something similar noting they are experiencing the same problems. Mr. Brooks agreed adding that a number of towns are experiencing the same problems. Mr. Rutt referenced the recent ordinance adopted by Selbyville restricting the sale of alcohol to 11:30 p.m. and requiring bars to close at midnight. This was the result of a roving nightclub situation that caused these early closings for other bars that typically have no problems.

Chief Hudson then asked if it was appropriate to include a jail term if there was a constant, reoccurring problem. Mr. Rutt said he will look at the crime statute with the intent to tie it into a level two misdemeanor. The chief feels that could be could be an added deterrent.

Ms. Wilson asked how this affects the reoccurring house problems that are also occurring. Chief Hudson explained this ordinance covers those situations as well. This is not intended just for commercial establishments. She confirmed that the tenants of a home could receive the citation. The chief stated yes, though it can also fall back on the property manager.

For the record, Ms. Wilson stated the ordinance has been reviewed by council. She officially introduced it and asked that it be placed on the April 23, 2012 agenda for adoption.

With no further business, the Special Council Meeting adjourned at 6:12 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder