

*MILFORD CITY COUNCIL
MINUTES OF MEETING
April 23, 2012*

The Milford City Council held a Public Hearing on Monday, April 23, 2012 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to hear the application of:

Davis, Bowen and Friedel, Incorporated on behalf of Siobain-VI, LLC requesting a Lot Consolidation and Final Minor Re-Subdivision of 19.15 +/- Acres into three lots to be known as Cascades. Property is located in an R-3 District on the south side of Airport Road, 1,600 feet west of US Route 113, Milford, Delaware. Tax Map MD 16-173.00-01 - 04.03; -04.04; -04.05; -04.06; -04.07; -04.08; -04.09; -04.10; -04.11; -04.12; -04.13; -04.14; -04.15; -04.16; -04.17; -04.18.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr.,
Doug Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

City Solicitor David Rutt, Esquire

Mayor Rogers called the Public Hearing to order at 7:04 p.m.

City Planner Gary Norris reported that by a vote of 8-0, the planning commission recommended approval of the subdivision. He pointed out a development agreement will be done for a bypass lane on Airport Road as well as a utility agreement within the site.

Ring Lardner, P.E. of Davis, Bowen and Friedel, Incorporated then thanked City Manager Carmean, City Clerk Terri Hudson and Administrative Assistant Christine Crouch for accommodating their request to place this matter on tonight's agenda. He understands this is out of the normal cycle and appreciates the hard work by the staff to prepare the minutes and other documents needed for this hearing.

Mr. Lardner stated he is representing Siobain-VI LLC and requesting the lot consolidation and final subdivision approval of the three parcels. He explained the subdivision plan items approved as part of the amended PUD approval from Council in February. The application being presented will combine all seventeen parcels of the previously approved and recorded subdivision and then subdivide them into three lots.

He then referenced the six record documents noting the first plan is an overview of the site, maps and some signatory items. The second document contains additional information with general notes and tables encompassing the overall amended conditional use. It includes density calculations, parking space requirements, etc. He noted the maximum number of units is 142. Setback adjustments were reviewed in addition to the bypass lane which the developer is committed to completing prior to Phase II.

He has spoken with City Engineer Mark Mallamo who verbally approved the bypass lane. A written letter is anticipated within the next couple days.

The bypass lane will be included as part of the developer's agreement and is currently under review by city staff.

Mr. Lardner referenced the document showing the lot consolidation showing the subdivision approved in 2006, reconsolidated back to its original tract. It removes the right of way dedication, removes the previous easements recorded for utilities and drainage and will remove a much earlier easement for a sewer main and pump station. He discussed the plan with the city manager and Mr. Mallamo who have agreed the easement can be abandoned. Easements will be rededicated in the subdivision plan.

He then presented the three-parcel subdivision plan for council approval showing the right of way being dedicated back to the city. Easements will be reestablished for water and sewer. Also pointed out by Mr. Lardner were the pump station and force main currently existing at Milford Commons.

All agency approvals have been obtained. DelDOT is not needed because Airport Road is owned and maintained by the City of Milford.

He advised the bid set for the final site plan has been distributed with those bids due on April 26, 2012. With councils' approval this evening, all required signatures will be obtained and the documents recorded around May 1st. The goal is to break ground on June 1st.

The renderings of the buildings have been included in the submission.

When asked for questions or comments from council, Mr. Pikus stated he is pleased to see the bypass lane is included as was requested by residents in the area as a safety precaution; Ms. Wilson agreed.

Mayor Rogers then opened the floor for public comment. No one responded. The public comment session was then closed.

Ms. Wilson moved to approve the Lot Consolidation and Final Minor Re-subdivision of 19.15 +/- Acres into 3 lots to be known as Cascades, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Mr. Gleysteen voted yes, stating he is anxious to see the project to move forward.

With no further business, the Public Hearing was adjourned at 7:13 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/ Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
April 23, 2012

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, April 23, 2012.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

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

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

City Solicitor David Rutt

CALL TO ORDER

Mayor Rogers called the Council Meeting to order at 7:13 p.m.

(Councilman Grier arrived at this time.)

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests were in attendance.

COMMUNICATIONS

All communications were included in packet.

RECOGNITION

Mayor Rogers then surprised Vivian F. Ginn by presenting her with the following proclamation:

*TO HONOR AND COMMEND VIVIAN F. GINN
FOR MERITORIOUS SERVICE TO THE PEOPLE OF MILFORD, DELAWARE*

WHEREAS, Milford's heritage is based on citizen involvement and participation and is essential to its spirit; and

WHEREAS, it is fitting that the City of Milford salute those citizens, who, through their extraordinary efforts, have distinguished themselves as community leaders of whom we can be proud; and

WHEREAS, before moving to Milford in January 2006, Vivian F. Ginn volunteered at numerous women shelters and orphanages; and

WHEREAS, while raising two sons on her own, Ms. Ginn committed countless hours as a volunteer mentor to our nation's soldiers; and

WHEREAS, having earned the respect of those she worked with, Ms. Ginn received the distinct honor of being named the employee of the year at Fort Monroe, Virginia; and

WHEREAS, Ms. Ginn continues to dedicate her efforts to local organizations, most notably the Carlisle Fire Company and Elks Lodge No. 2401; and

WHEREAS, Ms. Ginn was presented the Elks Distinguished Citizenship Award for Outstanding and Meritorious Service to Humanity by Milford Lodge No. 2401 and the Grand Lodge Benevolent and Protective Order of Elks on March 31, 2012; and

WHEREAS, Vivian F. Ginn is always willing to give of herself to others who can benefit from her life-learned experiences and consistently demonstrates her unfailing support and assistance in providing a voice and help for those in less than fortunate circumstances and ideal situations; and

WHEREAS, her time, so willingly devoted over the years as a volunteer on various committees, organizations and humanitarian efforts has not only identified her as a person of character and humility but also as a compassionate, caring human willing to give to others, unconditionally.

In appreciation of her efforts to ensure the vitality of this community and her contribution to the citizens of Milford, it is hereby proclaimed by Joseph Ronnie Rogers, Mayor of the City of Milford, that the week of April 22 - April 28, 2012 is hereby declared "Vivian F. Ginn Appreciation Week" in the City of Milford.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 23rd Day of April in the Year of our Lord Two Thousand and Twelve.

s/Mayor Joseph R. Rogers

Ms. Ginn expressed her appreciation noting this has been a glorious and happy month for her. She celebrated a milestone birthday, received an award from the Elks Lodge and now the City of Milford.

UNFINISHED BUSINESS

None to report.

NEW BUSINESS

Bid Award/138 kV Substation, Switching Facilities, and 138 kV Tap Station

Electric Superintendent Rick Carmean was present.

Sealed bids were received, publicly opened and read on April 3, 2012 to furnish the substation and switching facilities for the 138 kV Tap Station and Delivery #2 Substation. Four bidders responded as was shown on the bid tabulation included in the council packet. Of those bids, Tatman Associates, Incorporated (Solon, Ohio) submitted the lowest cost proposal for a base bid of \$492,800.00. Also bid was an alternate for the solar, though that is not being presented this evening.

Following a review by the electric superintendent and Progressive Engineering Consultants, it is agreed and recommended that the city accept the proposal from Tatman Associates, Incorporated and purchase the substation and switching facilities in the amount of \$492,800.00.

Mr. Pikus questioned the approximate \$250,000 difference in the bids. The electric superintendent stated the base bid was higher on the alternate without any real justification. He assured council that Tatman is one of the oldest fabricators in the substation industry and well respected.

Mr. Gleysteen noted that under Tatman and delivery for anchor bolts, it states "static mast" 28 weeks and asked what that means. The electric superintendent will contact his engineering firm to confirm and provide that information to Mr. Gleysteen.

When asked the target date of being on line with the new substation, Rick Carmean advised the Delmarva Power is planning to tap the 138 by the middle of October. He confirmed that with the new purchase, the city will have four transformers in stock noting it takes a substantial amount of time to receive.

It was confirmed that Tatman would obtain a Delaware Engineers' license prior to starting the project.

Rick Carmean pointed out that with the new substation, this takes the city from 60 megawatts of capacity to 80 megawatts. Another 20 megawatts can be added to the old station if needed.

Mr. Brooks moved to award the bid to Tatman Associates, Incorporated and purchase the substation and switching facilities in the amount of \$492,800.00, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Bid Award/Mispillion Greenway Goat Island Nature Trail Design Phase

Parks and Recreation Director Gary Emory submitted a request asking that Landscape Architectural Services LLC receive the Mispillion Greenway Goat Island Nature Trail Design Project in the amount of \$114,984.00.

A letter from Principal Matthew Spang was included in the packet outlining the costs and plans.

Ms. Wilson moved that Landscape Architectural Service LLC be approved to provide professional services for the Goat Island Nature Trail in the amount of \$114,984.00, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

Workforce Development Commission/Delaware Community Foundation Agreement

William Pilecki, Chairman of the Workforce Development Commission, advised the commission met on April 18, 2012 at which time the contract was reviewed. By a vote of 6-0, it was recommended that city council consider approving the contract in order to allow the commission to move forward.

Mr. Pikus asked who is liable should a student be injured while employed under this program. City Solicitor David Rutt advised it would be the employer's obligation. Mr. Pikus confirmed there would be no recourse from the city; Mr. Rutt stated none that he can think of.

Mr. Pilecki emphasized the only role the city has is to forward and request money from the foundation.

With no other questions, Ms. Wilson moved for approval of the Delaware Community Foundation Agreement as presented, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Adoption of Ordinance 2012-8/Disorderly Establishments

Police Committee Chairman Morrow recalled this ordinance being introduced and discussed during a special meeting on Thursday, April 19, 2012.

Police Chief Hudson and council members agreed that the ordinance is appropriate and should be enacted.

City Solicitor Rutt noted that the agenda has the ordinance listed as Disorderly 'Establishments', though the ordinance is entitled Disorderly 'Premises'. He asked that be clarified in the motion.

Mr. Morrow moved to approve Ordinance 2012-8, to be entitled Disorderly Premises, as presented, seconded by Mr. Pikus:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD BY ADDING A NEW CHAPTER ENTITLED DISORDERLY PREMISES.

ORDINANCE 2012-08

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Amend the City of Milford Code by adding a new Chapter entitled Disorderly Premises to read as follows:

Disorderly Premises.

- A. For purposes of the "Disorderly Premises" ordinance, the following definitions shall apply:
- (1) "Person" shall be defined as "any owner, owner's agent, manager, caretaker, tenant, occupant and/or Person occupying and/or responsible for any residential, commercial or any other premises located in the City of Milford regardless of whether it be a Person or artificial entity.
 - (2) "Unauthorized Conduct" shall be defined as "any conduct which causes public inconvenience, annoyance, alarm or danger to a reasonable Person, has the reasonable likelihood of causing public inconvenience, annoyance, alarm or danger or disrupts the quiet use, enjoyment and good order of adjoining and surrounding properties including, but not limited to, engaging in fighting or in violent, tumultuous, or threatening behavior, making unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present, obstructing vehicular traffic or pedestrian traffic, creating a hazardous or physically offensive condition which serves no legitimate purpose or engaging in any unlawful conduct.
- B. It shall be unlawful for any Person to engage in any Unauthorized Conduct at any time on any premises located in the City of Milford. Any Person who fails to obey the order of a Police Officer to dispel and disperse or otherwise discontinue the Unauthorized Conduct may be cited for an additional violation of this Chapter.
- C. Any Person who occupies or exercises any control over the premises where the violation of Subsection B hereof has occurred, or where the violation of Subsection B originated should the violation move immediately to another public venue, shall be presumed to allow, suffer or permit such conduct after receiving notice that such conduct has occurred and shall be in violation of this Chapter if a further violation of Subsection B occurs within One Hundred Eighty (180) days of receiving said notice.
- D. Notice is properly served upon a Person if a copy of such notice is:
- (1) delivered to the Person personally;
 - (2) hand delivered to the Person's registered office;
 - (3) left at the Person's usual place of abode or business, in the presence of an employee or family member who has reached the age of majority, whichever the case may be, who shall be informed of the contents of such notice;
 - (4) sent by certified mail, return receipt requested addressed to the Person at the Person's last known address; or
 - (5) sent by certified mail, return receipt requested to the mailing address of the owner of the subject premises as recorded on the City of Milford Assessment Records.

After service of notice, the Person shall make a good faith effort to develop a plan of action with the City Council of Milford and the City of Milford Police Department to prevent further violation of Subsection B. Failure to make such effort to develop the plan shall be considered a violation of Subsection B.

- E. Any Person convicted of a violation of this Chapter shall be fined no more than one thousand dollars (\$1,000.00) for any offense but no less than one hundred dollars (\$100.00) for the first offense, no less than

three hundred dollars (\$300.00) for the second offense, and no less than five hundred dollars (\$500.00) for each subsequent like offense. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment of any and all fines assessed under this provision. In any prosecution for an offense under this Chapter, it shall be an affirmative defense, which must be proved by the preponderance of the evidence, that the tenant or occupant has been evicted and is no longer on the premises, or if there is pending at the time of trial an eviction action against the tenant or occupant of the premises which action is being pursued in good faith. Otherwise the fines imposed under this Subsection shall not be suspended.

- F. *Any Person convicted of a violation of this ordinance shall be responsible for any and all additional expenses incurred by the City of Milford as a result of the Person's Unauthorized Conduct and shall indemnify the City of Milford and its personnel from any claims for loss or damage to person or property (real or personal) that may directly or indirectly be occasioned by the Unauthorized Conduct. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment thereof.*

Additional expenses shall include, but shall not be limited to, attorneys' fees, court costs and expenses incurred in conjunction with any such claim, removal of all debris and litter from public property and surrounding properties affected by the Unauthorized Conduct, damage to personal property located on public property and surrounding properties, the cost of retaining outside law enforcement and/or other emergency assistance, the cost for police officers or other emergency personnel to appear in court, damages to personal or real public property, and personal injury damages (including death) to City of Milford employees and other outside law enforcement and/or emergency personnel.

- G. *In the event a Person convicted of a violation of this ordinance fails or refuses to comply with an order of the City of Milford Police Department and/or the City of Milford Code Enforcement Officer, after due notice thereof, either actual or constructive, to remit payment for any fines or additional expenses owed in accordance with Subsections E and F. hereof, said amounts shall be charged against the real estate upon which the violation occurred and shall be a lien upon such real estate. Upon certification of a lien to the appropriate City or official by the City of Milford Police Department and/or the City of Milford Code Enforcement Officer, the amount of such lien shall be recorded in the Office of the Recorder of Deeds in the County where the property is located. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or in the Court of Common Pleas in and for Kent or Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid additional expenses in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.*

- H. *This Chapter shall be enforced by the City of Milford Police Department and/or the City of Milford Code Enforcement Officer. Jurisdiction for violations of this ordinance shall be in the Justice of the Peace Court.*

Section 2. Dates.

Adoption: 04/23/2012

Effective: 05/03/2012

Mr. Brooks advised the president of Milford Little League contacted him after she was informed that this ordinance would impact their organization. He informed her he did not believe this would affect her and asked for councils' opinion.

Mayor Rogers deferred to City Solicitor Rutt for an opinion. Mr. Rutt stated that it would be like any other organization or owner who continually has problems and allows them to continue. Mr. Brooks noted that he has been involved in the league for many years and the few problems that have occurred are dealt with immediately.

Mr. Rutt explained this has a 'first-bite rule' and if there is a big problem, they are notified. They would then sit down with council or Chief Hudson to come to a resolution. He feels that as long as the problem is addressed and not overlooked, there should not be an issue.

Ms. Wilson said it applies to any organization in this city. She understands that problems can arise anywhere, but they need to be addressed, not overlooked and allowed to fester and become an even bigger problem. She agrees it was being portrayed that as soon as someone has a problem, they would be fined immediately.

She stressed this is a way for the city to help keep the community safe and simply encourages these establishments to keep order.

Mr. Brooks and Ms. Wilson agreed that the intent is to protect everyone equally and do what we can to prevent someone from being hurt in Milford.

Mayor Rogers asked if there were any comments from the public.

Chuck Rini of 119 Ginger Lane, Knollac Acres, stated that premises is being used instead of establishments. He asked if the ordinance will also apply to individual private residences should a home continually throw parties that result in ongoing problems.

The solicitor stated yes, it is defined as residential or commercial premises. Chief Hudson agreed referencing a similar reoccurring problem at a house in Milford.

Motion carried by a unanimous 8-0 roll call vote.

Mr. Gleysteen stated that fortunately, the ordinance is not necessary for the vast majority of businesses in town. However, there are a few establishments in town that will require this type of action. Because it is to protect the welfare of the local residents as well as the patrons and employees of Milford businesses and property owners, he votes yes.

Mr. Brooks votes yes stating he agrees with Mr. Gleysteen's comments.

Mr. Morrow votes yes for the protection and safety of citizens and visitors to the City of Milford.

ADJOURN

With no further business, Mr. Pikus moved to adjourn, seconded by Mr. Grier. Motion carried.

The motion adjourned at 7:48 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder