

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 18, 2014

A Meeting of the Police Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, November 18, 2014.

PRESIDING: Chairman Douglas Morrow, Sr.

IN ATTENDANCE: Police Committee/Council Members S. Allen Pikus and Katrina Wilson

Mayor Bryan Shupe

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

Chairman Morrow called the Police Committee Meeting to order at 6:01 p.m.

*Ordinance 2014-13/New Chapter 190/Smoking Prohibited in City Parks, Buildings and Facilities*

Mr. Morrow said the purpose of the meeting is to review and discuss the following ordinance:

*AN ORDINANCE OF THE CITY OF MILFORD PROHIBITING SMOKING IN CITY PARKS, BUILDINGS AND FACILITIES, SPECIFYING REQUIRED SIGNAGE, PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS THEREOF AND ESTABLISHING AN EFFECTIVE DATE.*

*WHEREAS, a new chapter in the Code of the City of Milford is being created to prohibit smoking in all City parks, buildings and facilities; and*

*WHEREAS City parks are intended for the healthy enjoyment of all citizens, including children and youth; and*

*WHEREAS smoking and tobacco use in parks can result in litter of cigarette butts, cigar butts and other tobacco-related waste which can cause environmental degradation and pose a health risk to children and animals; and*

*WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older; and*

*WHEREAS many parks in the City contain trees and plants that can be combustible, particularly in the dry summer months and pose an increased risk of fire; and*

*WHEREAS, on September 23, 2014, the Community Affairs Committee and Parks and Recreation Committee recommended a smoking ban in City Parks; and*

*WHEREAS, City Council has previously taken formal action by voting on a policy which prohibits smoking in City Buildings and Facilities.*

*NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:*

*Section 1. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 190, to be entitled Smoking Prohibited in City Parks, Buildings and Facilities to read as follows:*

*Section 2. CHAPTER 190. SMOKING PROHIBITED IN CITY PARKS, BUILDINGS AND FACILITIES.*

*§ 190-1 Definitions.*

*§ 190-2 Smoking prohibited.*

§ 190-3 *Park Conditions.*

§ 190-4 *Enforcement and Civil Penalties.*

§ 190-5 *Payment.*

§ 190-6. *Procedure to Contest a Violation.*

§ 190-1 *Definitions.*

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

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

*Smoking: The combustion in any cigar, cigarette, pipe, or any other similar article or any device, of tobacco or other combustible substance.*

§ 190-2 *Smoking prohibited.*

*(A) Parks.*

*(1) Smoking shall be prohibited at all times in all City of Milford public parks and playgrounds, including, without limitation:*

- a. Banneker Park*
- b. Bicentennial Park*
- c. Marshall Pond Park*
- d. Marvel Square Park*
- e. Memorial Park South*
- f. Tony Silicato Memorial Park*
- g. Library Square*
- h. Milford Library Amphitheater*
- I. Goat Island*
- j. Mispillion Riverwalk*
- k. Milford Dog Park*

*(B) Smoking is prohibited at all parks and playground areas owned by the city and open to the public.*

*(C) Smoking is prohibited in a building or facility owned, leased or operated by the City of Milford.*

§ 190-3 *Park Conditions.*

*A. At the entrance(s) of each designated park, there shall be appropriate signage designating the prohibition.*

§ 190-4 *Enforcement and Civil Penalties.*

*(A) The Milford Police Department shall enforce this chapter.*

*(B) Any person who violates any provision of this chapter shall be subject to a civil penalty of \$25 beginning with the second violation and not less than \$50 for each subsequent violation.*

*(C) City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person in violation of this chapter.*

§190-5 *Payment.*

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

*§190-6 Procedure to Contest a Violation.*

*Persons who wish to contest the validity of a smoking violation under this chapter may contest the violation by appealing the decision to the Justice of the Peace Court, which shall have exclusive jurisdiction to hear the appeal.*

Chairman Morris asked for recommendations of the committee members. Mr. Pikus recommended adding police officers to Section 190-4(C):

*(C) Milford Police Officers, City Code Officials and the Parks and Recreation Director shall have the authority to eject from a park facility any person in violation of this chapter.*

Mr. Morrow confirmed the list of parks is complete and asked if the buildings should also be listed individually. The city clerk recalled when Councilman Brooks talking about city council banning smoking in city buildings a number of years ago. Mr. Carmean agreed though he does not believe the intent was to ban smoking outside city buildings even though it is prohibited in the parks.

Ms. Wilson agrees that could be a problem and employees that smoke would then have to leave the grounds.

Mr. Morrow feels there may be some confusion about a building versus a facility. City Manager Carmean explained that a facility would be a pumping station, treatment plants, etc. Mr. Morrow asked if the entire ground that public works sits on would be considered a facility. Mr. Carmean feels that involves buildings where people work on a regular basis. Mr. Morrow asked if the wash bays and garages are considered facilities and whether the parking lots should be included. Mr. Carmean feels the parking lot is considered land and not a facility.

It was agreed to add a definition for building and facility.

In regard to the penalties, Mr. Morrow recalled a previous discussion relating to the alarm ordinance and asked if this is appropriate. Chief Hudson explained that initially a violation of the alarm ordinance was being handled as a criminal offense but was change to a civil penalty. This ordinance treats the smoking violations as a civil matter.

It was confirmed that Mr. Rutt reviewed the ordinance.

Mr. Morrow asked if the fines are large enough to cover the costs of prosecution. Chief Hudson explained that one \$25 fine does not cover the actual costs of the officer. However, in most cases, the fine is paid without a court appearance.

Ms. Wilson pointed out that we are doing this because of health, clean air issues and littering. Chief Hudson explained that anyone observed smoking will initially be given a verbal warning. Mr. Morrow said he does not want this to cost the city more than they will collect in fines. He believes the \$25 fine is too low.

Mr. Morrow then noted that the first violation is a warning though the ordinance does not state that. Mr. Pikus stated that any person that violates a provision of this chapter will be subject to a civil penalty of \$25 beginning with the second violation. He feels that they are already receiving a warning because the posted sign will state no smoking is allowed. If they refuse to stop after they are warned by a police officer, they should be fined in his opinion.

Chief Hudson reiterated that in the majority of these civil penalty cases, the violator pays the fine to prevent going to court.

It was confirmed the fines are in line with other area towns.

The committee agreed that if it was later determined the fines need to be increased, council would revisit the matter at that time.

City Manager Carmean asked how the warnings will be tracked; Chief Hudson said his intent is to create a log that will be managed by the dispatchers. When someone is caught smoking and a verbal warning is issued, the officer will inform the dispatcher who will then add the person's name to a log. That information would then always be available to the officers.

He will work that out but believes it will be handled in a manner similar to how the department tracks people who are banned from various apartment complexes.

Chief Hudson said that he had also considered a verbal warning for the first violation, an ejection from the park on the second offense and then begin issuing civil penalties on the third offense.

The committee agreed the officers or code officials could use their discretion to eject a violator at any point.

The city manager said his concern is the number of people who hang out at the park with no identification.

City Manager Carmean asked if this ordinance will prohibit our employees from smoking outside the buildings on their breaks; Mr. Morrow said we will only ban it in structures. However, the employees that work at parks and recreation will not be permitted to smoke in the park areas. Mr. Pikus agreed emphasizing it is a park.

It was agreed smoking would be allowed in the driveway or parking lot area adjacent to parks and recreation.

Chief Hudson then asked if it is necessary to designate smoking areas at each of the buildings; Mr. Carmean agreed that he should designate specific areas at each city building. The chief said the police department employees smoke behind the police department which is away from the entrance to the building and out of the view of the public.

Mr. Carmean agreed to establish a smoking area at parks and recreation. He said that would also allow a person using the park to smoke in that designated area. He feels we could also provide receptacles for their cigarette butts as well.

Mr. Pikus feels that would create a problem. He said the intent is to eliminate all smoking in city parks. He believes that smokers hanging out in Bicentennial Park are going to walk across the street to the liquor store and smoke on the sidewalk which is going to affect non-smokers. He does not want to encourage smoking near any of these areas.

Mr. Carmean said we will need to be careful on public lands where employees are now allowed to smoke. He said any designated area must be away from the entrance and exits to prevent people from walking through the smoke.

Mr. Pikus emphasized the need to get the signs ordered and in place. Chief Hudson agrees it is very important to have the rules be posted at every park.

Mr. Morrow said the signs need to be posted and he does not want this enforced until that is done. Chief Hudson suggests a grace period long enough to allow the no smoking ban to be properly communicated before it begins to be officially enforced.

When asked when the ordinance would become effective, the city clerk stated that it will need to go through the ordinance process and should be effective sometime around the first of the year. The minimal number of days after it is adopted is ten days though council has the right to make it a longer period.

When asked how long to get the signs made, City Manager Carmean said no smoking in the park could be obtained quickly. Anything more complicated will take a little longer.

It was confirmed the signs would be in English and Spanish which is consistent with past practices.

Mr. Morrow reiterated that he does not want this enforced until all the signs have been installed for several days. He recommends the signs be posted at every entrance into every park.

Mayor Shupe pointed out that if this becomes effective in January, once the weather gets warmer, it will need to be re-communicated as news and information. He does not believe it will be a problem until the weather starts to get warmer.

Chief Hudson agrees it is very important to educate our residents. He believes the signs should state in both languages the more common violations which are no alcohol, no smoking and that the parks are closed dusk to dawn.

City Manager Carmean reported that the rules on Goat Island are already posted and Mayor Shupe commented that there are some strange things included on that sign.

Mr. Morrow asked that Chief Hudson and Parks and Recreation Assistant Director Brad Dennehy take an inventory of the parks and determine how many signs are needed. Chief Hudson asked that the signs be posted at the major entrances if possible.

Mr. Morrow said this cannot apply to Milford Little League because they have night games on a regular basis. The city manager asked if the little league park is listed. Mr. Pikus stated no even though it is a park.

Mr. Carmean explained that the city does own the land but it must be designated as a city park. Mr. Morrow pointed out it is not on the list so it is not a designated city park. It was determined that though a portion of their land is owned by the city, the league already has a no smoking policy though the details are not known.

It was agreed to exempt that property and allow them to implement their own policy.

Mr. Morrow asked if electronic cigarettes should be included. Mr. Pikus noted that the beach towns are including them in their ban. The definition will be amended accordingly.

Chief Hudson asked that the code officials and/or parks and recreation staff contact the dispatchers after they warn someone to ensure the person's name is on record at the department.

Mr. Pikus expects very little enforcement from our code officials. Chief Hudson feels that any city employee who may be in the park working should have the ability to inform someone they are not permitted to smoke.

Mr. Morrow asked the city clerk to amend the ordinances with the recommendations that were discussed.

Chief Hudson stressed the need to post these rules at the major entrance of each park adding it is much easier to enforce versus someone being blindsided with the ban. Mr. Pikus agreed that is very important.

Mr. Pikus moved to recommend proceeding with the ordinance as amended, and that the signs be ordered in both languages, seconded by Ms. Wilson. Motion carried.

### *Community Policing in the Parks*

Mayor Shupe said he received a number of compliments regarding the foot patrol that was done in the downtown area and in the parks this summer.

Chief Hudson reported that the officers walking downtown were actually part of the patrol shift working each day. In addition, the department's community policing unit, who consist of the school resource officers, also shared in those duties.

He said when school is out, those officers will be assigned foot patrol in those areas again.

The chief also explained they did not have a seasonal program this year due to the lack of applications. However, the intent is to continue that program this summer.

Mr. Morrow asked if weather permitting, are there any plans for some presence in the parks. Chief Hudson said yes noting that foot patrol is scheduled this Friday and Saturday night.

Mayor Shupe reiterated that he has received many positive comments and the businesses downtown appreciate the visibility and interaction with the officers. He feels it goes a long way and wanted to publicly thank Chief Hudson. He noted that Chief Hudson is very responsive to anything he has called him for and he also very responsive to council and appreciates that.

Chief Hudson advised that they received a grant from Kent County Levy Court and hope to purchase either a gator type vehicle or golf cart that can be used by officers in the parks, particularly during special events. Presently, they have to borrow one of these vehicles from parks and recreation, which leaves them with one less of these vehicles as well.

Mr. Pikus confirmed that the chief is planning to include the seasonal officers in the upcoming budget. Chief Hudson stated yes, they working on a recruitment campaign in hopes of getting more interest.

Mr. Morrow suggested the department participate in the job fairs sponsored by the Department of Labor and the various colleges.

Chief Hudson then advised that the seasonal program is open to persons eighteen to twenty years of age who have an interest in the criminal justice field. A background and criminal check is required.

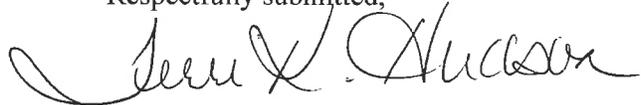
The chief reiterated that they are focusing on reestablishing the seasonal program to ensure those areas are patrolled on a more regular basis. The officers working the road will also assist when they are not tied up on other complaints which can be a hit and miss situation.

Mayor Shupe thanked Chief Hudson for his help with this matter and other situations.

*Adjourn*

With no further business, the Police Committee meeting was adjourned at 6:40 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