City of Milford

AGENDA

Council Meeting May 24, 2010

Milford City Hall - Joseph Ronnie Rogers Council Chambers - 201 South Walnut Street, Milford, Delaware

PUBLIC HEARINGS - 7:00 P.M.

Minor Subdivision & Conditional Use
Bob Nash Associates, Incorporated on behalf of Matthew & Jennifer Feindt
302 Carlisle Lane
Tax Map 3-30-7.17.138.00; 3-30-7.17.145.00
Area of Petition .8181 +/- Acres
Adoption of Ordinance 2010-6

Ordinance 2010-1
An Ordinance to Amend Chapter 230, Zoning Code of the City of Milford Relating to Article VI - Signs
Adoption of Ordinance 2010-1

Reconsideration-Change of Zone R-2 to C-3 - Lynn & Karen McColley
600 N.E. Tenth Street & 819 N.E. Front Street
Present Use Residential & Agricultural; Proposed Use Highway Commercial
Tax Map MD-16-174.19-01-01.00); MD-16-174.19-01-01.01;
MD-16-174.19-01-03.00; MD-16-174.19-01-04.00; MD-16-174.19-01-11.00
Adoption of Ordinance 2009-14

COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers
Appointment of City of Milford Planning Commissioner
Cypress Hall Commercial Extension/Preliminary Major Subdivision
Adoption of Ordinance 2010-7/Taxation/Chapter 204/Exemption
Adoption of Ordinance 2010-8/Sewer/Chapter 185/Impact Fee Exemption
Adoption of Ordinance 2010-9/Water/Chapter 222/Impact Fee Exemption
Adoption of Ordinance 2010-10/Electrical Standards/Chapter 192/Impact Fee Exemption
Adoption of Resolution/Adopting City of Milford Charter Amendments
FY2009-10 Budget Amendment/Legal Fees*
Civic Plus Agreement/City Website**
Executive Session-Pursuant to 29 Del. C. §10004(b)(2)Preliminary discussions on site acquisitions for publicly funded capital improvements*
Adjourn

WORKSHOP

Call to Order - Mayor Joseph Ronnie Rogers
Ward District Realignment/Current Code
Solid Waste & Recycling Issues*
Adjourn

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

020510 041910 050510 051110 *051710 Late Info Received by City Manager ** 051910 Added by City Manager

City of Milford

PUBLIC NOTICE

CITY COUNCIL HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, May 24, 2010 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to reconsider final action on the following matter:

Bob Nash Associates, Incorporated on behalf of Matthew & Jennifer Feindt for a Minor Subdivision of two parcels into five lots/six units and a Conditional Use to allow duplexes in an R2 District at 302 Carlisle Lane, Milford, Delaware. Tax Map 3-30-7.17.138.00; 3-30-7.17.145.00; Area of Petition .8181 +/- Acres

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-424-3712 Extension 308.

By: Terri K. Hudson, CMC

03-25-10

PUBLIC NOTICE

Notice is hereby given the following ordinance is under review by the
Milford Planning Commission and Milford City Council as noted:

Ordinance 2010-6

Conditional Use-Matthew & Jennifer Feindt

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AUTHORIZING A CONDITIONAL USE PERMIT FOR BOB NASH ASSOCIATES, INCORPORATED ON BEHALF OF MATTHEW & JENNIFER FEINDT TO ALLOW DUPLEXES IN AN R-2 DISTRICT AT 302 CARLISLE LANE, MILFORD, DELAWARE. TAX MAP 3-30-7.17.138.00; 3-30-7.17.145.00.

Whereas, the City of Milford has been requested by Bob Nash Associates on behalf of Matthew and Jennifer Feindt to allow a conditional use for duplexes; and

Whereas, the Planning Commission reviewed the application at a public hearing on April 20, 2010 and has presented item to be considered by the City Council; and

Whereas, the City Council held an advertised public hearing on May 24, 2010 to allow for public comment on the application; and

Whereas, it is deemed in the best interest of the City of Milford to allow duplexes on .818 +/- acres as herein described.

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

Section 1. Upon the adoption of this ordinance, Matthew and Jennifer Feindt are hereby granted a conditional use permit to allow duplexes 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 or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council: 04-12-10
Planning Commission Review & Public Hearing: 04-20-10
City Council Review & Public Hearing 05-24-10

This ordinance shall take effect and be in force ten days after its adoption.

Ordinance 2010-6 is scheduled for adoption, with or without amendments, at the Council Meeting on Monday, May 24, 2010. Should you have questions, please contact the City of Milford Planning Department at 302-424-3712 Extension 308.

PROJECT #:

10-137

CITY OF MILFORD
DELAWARE
"THE GARDEN CITY OF TWIN COUNTIES"

PLANNING AND ZONING DEPARTMENT
(302) 422-6616
FAX # (302) 424-5933

201 S. WALNUT STREET
PO BOX 159
MILFORD, DELAWARE 19963

APPLICATION

SITE PLAN (CONDITIONAL USE) (SUB-DIVISION) VARIANCE CHANGE OF ZONE
(circle all that apply)

The undersigned hereby makes formal application to the City of Milford for the approval of CONDITIONAL USE MINOR SUB for the property described below. Applications shall be represented at the appropriate meetings or hearing. The applicant is aware that no applications will be accepted if violations exist or if any service fees, including taxes, are delinquent.

OWNER NAME: MATTHEW J. & JENNIFER L. FEINAT PHONE NUMBER: 302 335 2564
ADDRESS: 4330 BIG STONE BCH RD MILFORD DE 19963

SIGNATURE: Matt Feinat DATE: 03.01.10
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION! FEE:
NON-REFUNDABLE

APPLICANT NAME: BOB NASH & ASSOC INC. PHONE NUMBER: 302-422-7327
ADDRESS: 14 S. MAPLE AVE MILFORD DE 19963

SITE LOCATION: ROAD CARLISLE LN N,S,E,W SIDE 75 E FEET N,S,E,W OF ROAD FRANKLIN SUBDIVISION NAME: LOT NUMBER: 5 lots
SITE ADDRESS: 302 CARLISLE LANE

ZONING: EXISTING: R2 PROPOSED: SAME TAX MAP NUMBER: 3-30-7.17 138.00 3-30-7.17 145.00

PRESENT USE: RESIDENTIAL PROPOSED USE: RESIDENTIAL

AREA OF PETITION: 0.8181 AC± AREA OF ADJACENT LAND IN SAME OWNERSHIP: NA AC

SANITARY FACILITIES:	EXISTING		PROPOSED	✓
ELECTRIC SUPPLY:	EXISTING		PROPOSED	✓
WATER SUPPLY:	EXISTING		PROPOSED	✓
DWELLING UNITS:	EXISTING:	1	PROPOSED:	6
FRONT SETBACK:	REQUIRED:	30' FT	PROPOSED:	30' FT
REAR SETBACK:	REQUIRED:	15' FT	PROPOSED:	15' FT
SIDE SETBACKS:	REQUIRED:	8' FT	PROPOSED:	8' FT

WETLANDS ON SITE? YES (NO) COMPREHENSIVE PLAN RECOMMENDATION: MED DENSITY RES.
ZONING CHAPTER 230, ARTICLE 10 RZ RESIDENTIAL DIST.
VARIANCE INFORMATION (IF APPLICABLE): REQUESTING VERTICAL SEPARATED SEMI DETACHED ON 3-30-7.17-138

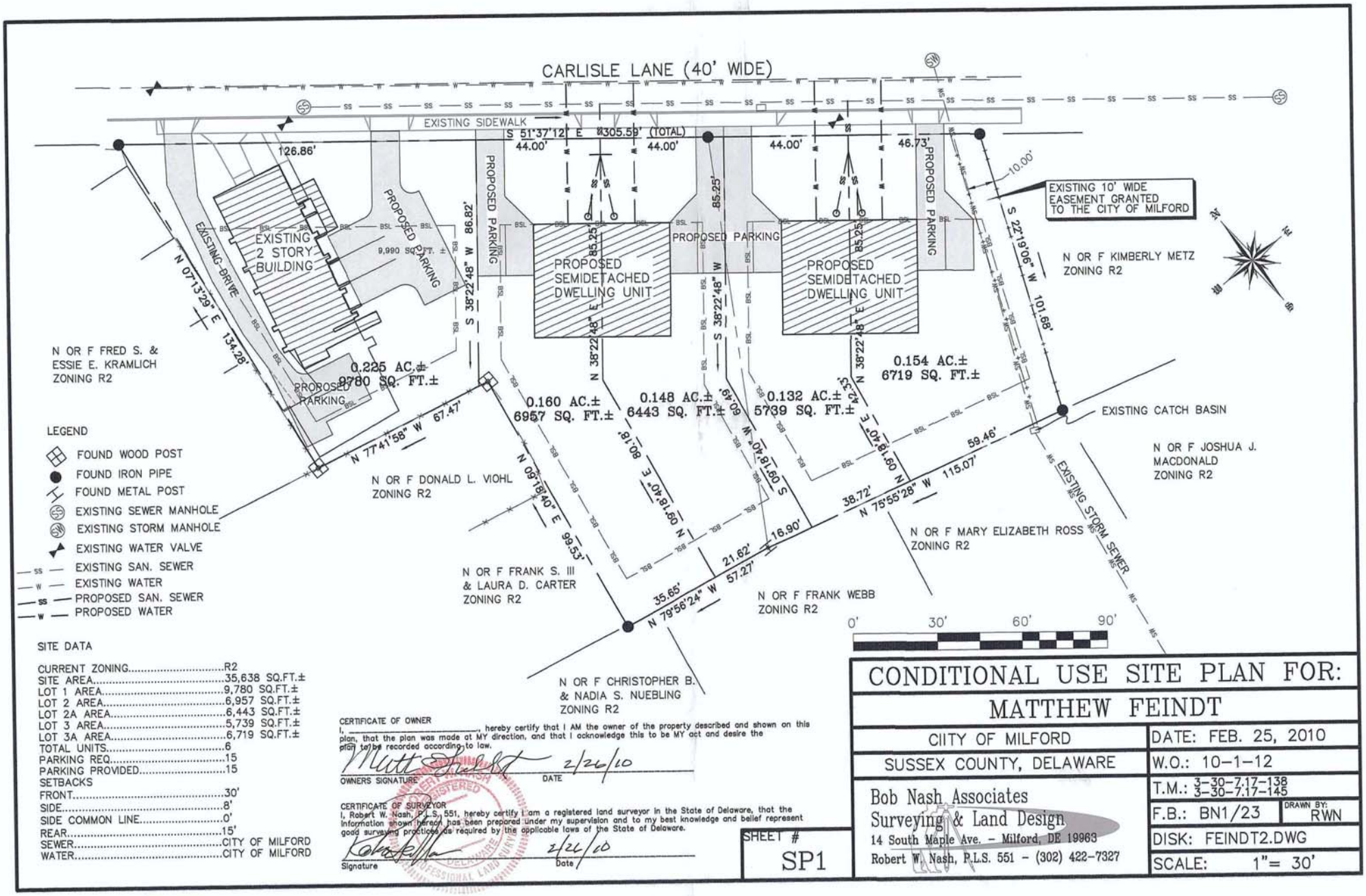
CONTACT FOR APPLICATION: BOB NASH PHONE: 302-422-7327
APPLICATION RECEIVED BY: Christine Crouch DATE: 03.01.10

DAC MTG: N/A
P.C. MTG: 4.20.10
COUNCIL MTG:

~~BOA MTG:~~


Franklin St.
Carlisle Lane
Parcel
- 138.00
Parcel
-145.00


Traffic
More...
Map
Satellite
Terrain
36
SE Front St
Carlisle Ln
Franklin St
Columbia St
Milford Parks & Recreation
SE 2nd St
50 ft
20 m
©2010 Google - Imagery ©2010 GeoEye, U.S. Geological Survey, Map data ©2010 Google - Terms of Use
Report a problem



LEGEND

- FOUND WOOD POST
- FOUND IRON PIPE
- FOUND METAL POST
- EXISTING SEWER MANHOLE
- EXISTING STORM MANHOLE
- EXISTING WATER VALVE
- EXISTING SAN. SEWER
- EXISTING WATER
- PROPOSED SAN. SEWER
- PROPOSED WATER

SITE DATA

CURRENT ZONING	R2
SITE AREA	35,638 SQ.FT.±
LOT 1 AREA	9,780 SQ.FT.±
LOT 2 AREA	6,957 SQ.FT.±
LOT 2A AREA	6,443 SQ.FT.±
LOT 3 AREA	5,739 SQ.FT.±
LOT 3A AREA	6,719 SQ.FT.±
TOTAL UNITS	6
PARKING REQ.	15
PARKING PROVIDED	15
SETBACKS	
FRONT	30'
SIDE	8'
SIDE COMMON LINE	0'
REAR	15'
SEWER	CITY OF MILFORD
WATER	CITY OF MILFORD

CERTIFICATE OF OWNER

I, _____, hereby certify that I AM the owner of the property described and shown on this plan, that the plan was made at MY direction, and that I acknowledge this to be MY act and desire the plan to be recorded according to law.

Matt Feindt 2/26/10

OWNERS SIGNATURE DATE

CERTIFICATE OF SURVEYOR

I, Robert W. Nash, P.L.S. 551, hereby certify I am a registered land surveyor in the State of Delaware, that the information shown hereon has been prepared under my supervision and to my best knowledge and belief represent good surveying practices as required by the applicable laws of the State of Delaware.

Robert W. Nash 2/26/10

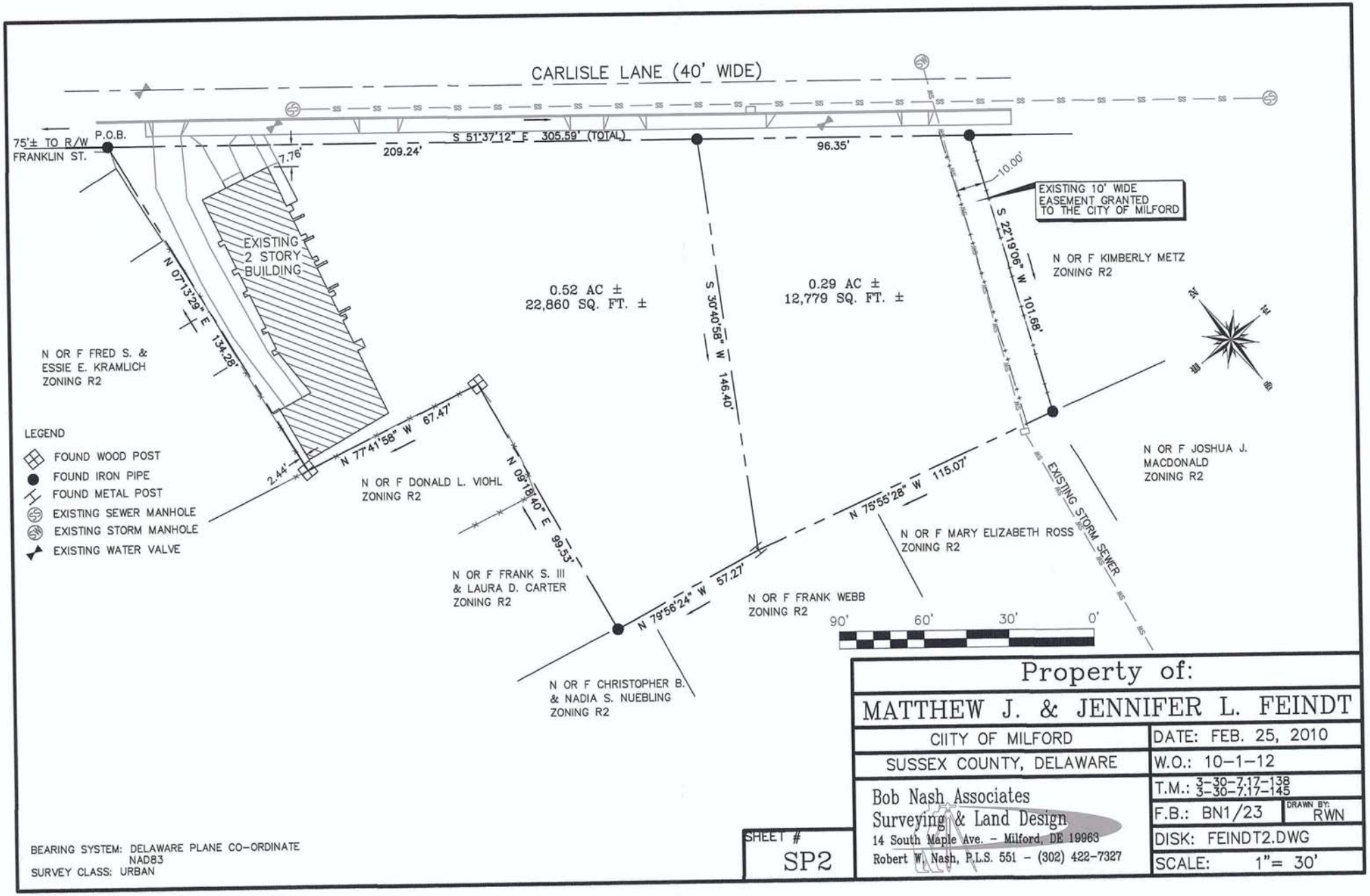
Signature Date

SHEET # SP1

CONDITIONAL USE SITE PLAN FOR:

MATTHEW FEINDT

CITY OF MILFORD	DATE: FEB. 25, 2010
SUSSEX COUNTY, DELAWARE	W.O.: 10-1-12
	T.M.: 3-30-7.17-138, 3-30-7.17-145
Bob Nash Associates Surveying & Land Design	F.B.: BN1/23 DRAWN BY: RWN
14 South Maple Ave. - Milford, DE 19963	DISK: FEINDT2.DWG
Robert W. Nash, P.L.S. 551 - (302) 422-7327	SCALE: 1"= 30'


CARLISLE LANE (40' WIDE)
75'± TO R/W FRANKLIN ST.
P.O.B.
7.76'
209.24'
S 51°37'12" E 305.59' (TOTAL)
96.35'
10.00'
EXISTING 10' WIDE EASEMENT GRANTED TO THE CITY OF MILFORD
S 22°19'06" W 101.68'
N OR F KIMBERLY METZ ZONING R2
EXISTING 2 STORY BUILDING
0.52 AC ±
22,860 SQ. FT. ±
0.29 AC ±
12,779 SQ. FT. ±
S 30°40'58" W 146.40'
N 07°13'29" E 134.26'
N OR F FRED S. & ESSIE E. KRAMLICH ZONING R2
N 77°41'58" W 67.47'
2.44'
N OR F DONALD L. VIOHL ZONING R2
N 09°18'40" E 99.53'
N 75°55'28" W 115.07'
N OR F JOSHUA J. MACDONALD ZONING R2
EXISTING STORM SEWER
N OR F MARY ELIZABETH ROSS ZONING R2
N OR F FRANK S. III & LAURA D. CARTER ZONING R2
N 79°56'24" W 57.27'
N OR F FRANK WEBB ZONING R2
N OR F CHRISTOPHER B. & NADIA S. NUEBLING ZONING R2
LEGEND
FOUND WOOD POST
FOUND IRON PIPE
FOUND METAL POST
EXISTING SEWER MANHOLE
EXISTING STORM MANHOLE
EXISTING WATER VALVE
90' 60' 30' 0'
BEARING SYSTEM: DELAWARE PLANE CO-ORDINATE NAD83
SURVEY CLASS: URBAN
SHEET # SP2
Property of:
MATTHEW J. & JENNIFER L. FEINDT
CITY OF MILFORD
SUSSEX COUNTY, DELAWARE
DATE: FEB. 25, 2010
W.O.: 10-1-12
T.M.: 3-30-7.17-138 3-30-7.17-145
F.B.: BN1/23
DRAWN BY: RWN
DISK: FEINDT2.DWG
SCALE: 1"= 30'
Bob Nash Associates
Surveying & Land Design
14 South Maple Ave. - Milford, DE 19963
Robert W. Nash, P.L.S. 551 - (302) 422-7327

§ 230-10. - R-2 Residential District.

[Amended 10-16-1989; 4-10-1991; 11-9-1992]

In an R-2 District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying with the requirements so indicated.

A.
Purpose. The purpose of the R-2 District is to permit housing at a greater density than in the R-1 District by providing for the orderly development of low- to medium-density residential housing into those areas where public services are available. This district also allows for professional home occupations. Finally, it protects existing developments of this nature and excludes noncompatible ones.

B.
Permitted uses: all uses permitted in the R-1 District.

C.
Conditional uses: all uses specified as conditional uses in the R-1 District, and the following uses may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with Article IX of this chapter:

(1)
Single-family semidetached dwelling.

(a)
Ownership.

[1]
Dwelling units and individual lots of a single-family semidetached dwelling may be owned separately if separate utility systems are provided and if separate lots for all dwelling units in a building are created at the same time in conformance with Chapter 200, Subdivision of Land, of this Code.

[2]
Provisions satisfactory to the City Council shall be made to assure that areas of common use of the occupants, but not in individual ownership, shall be maintained in an acceptable manner without expense to the general public.

D.
Design requirements. No apartment/dwelling units shall be located within a cellar.

E.
Site requirements.

(1)
The structure shall be so located as to provide proper access to the building for fire-fighting equipment, trash collection and deliveries.

(2)
Off-street parking shall be provided at the rate of 2 1/2 spaces for every dwelling unit on each lot.

F.
Facilities.

(1)
Outdoor light fixtures shall be provided at locations that will assure the safe and convenient use of walks, steps, parking areas, driveways, streets and other such facilities.

(2)
Facilities for temporary trash/refuse storage shall be provided in such a manner that is adequate for the dwelling units they must support.

G.
Area regulations.

(1)
For permitted uses and single-family semidetached dwellings not separately owned:

(a)

Minimum interior lot area shall be 8,000 square feet and minimum corner lot area shall be 13,000 square feet.

(b)
Maximum lot coverage shall be 30%.

(c)
Minimum lot width shall be 80 feet.

(d)
Height of buildings shall not exceed three stories or 35 feet. Accessory buildings shall not exceed 15 feet in height.

(e)
Minimum front building setback line shall be 30 feet.

(f)
Minimum rear yard setback shall be 15 feet. For lower lots the rear yard may be reduced 20% in depth to allow for the skewing of a residential dwelling on its lot.

(g)
Side yards shall be provided as follows: each lot shall have two side yards a minimum width of eight feet on each side.

(h)
Parking shall comply with the requirements provided in Article IV of this chapter.

(i)
Signs shall comply with the requirements in Article VI of this chapter.

(j)
Decks, subject to the following requirements:

[Added 9-8-2008 by Ord. No. 2008-13]

[1]
The deck cannot be located in the front yard.

[2]
A minimum distance of 10 feet must be maintained from the deck to the rear property line.

(2)
For single-family semidetached dwellings separately owned:

(a)
Minimum interior lot area shall be 4,000 square feet and minimum corner lot area shall be 6,500 square feet.

(b)
Maximum lot coverage shall be 30%.

(c)
Minimum lot width shall be 40 feet.

(d)
Height of buildings shall not exceed three stories or 35 feet. Accessory buildings shall not exceed 15 feet in height.

(e)
Minimum front building setback line shall be 30 feet.

(f)
Minimum rear yard setback shall be 15 feet. For lower lots the rear yard may be reduced 20% in depth to allow for the skewing of a residential dwelling on its lot.

(g)
Side yard shall be provided as follows: each lot shall have one side yard a minimum width of eight feet.

(h)
Parking shall comply with the requirements provided in Article IV of this chapter.

(i)
Signs shall comply with the requirements in Article VI of this chapter.

Chapter 200 - SUBDIVISION OF LAND

;il=0;[HISTORY: Adopted by the City Council of the City of Milford 11-10-2008 by Ord. No. 2008-12.[1] Amendments noted where applicable.]

Editor's note— [1]. Editor's Note: This ordinance also repealed former Ch. 200, Subdivision of Land, adopted 12-10-2001 by Ord. No. 2001-8, as amended.

Editor's note—GENERAL REFERENCES

Building construction — See Ch. 88.	Streets and sidewalks — See Ch. 197.
Floodplain management — See Ch. 130.	Trees — See Ch. 211.
Property maintenance — See Ch. 174.	Water — See Ch. 222.
Sewers — See Ch. 185.	Zoning — See Ch. 230.

§ 200-1. - Purpose.
§ 200-2. - Title.
§ 200-3. - Definitions.
§ 200-4. - Application procedure.
§ 200-5. - General requirements and design standards.
§ 200-6. - Variances and waivers.

§ 200-1. - Purpose.

These regulations are adopted in order to promote and protect the public health, safety, convenience and general welfare; ensure the orderly growth and development of the City, the conservation, protection and proper use of land and adequate provision for housing, recreation, circulation, utilities and services; and safeguard the City from undue future expenditure for the maintenance of streets and public spaces.

§ 200-2. - Title.

These regulations shall be known and may be cited as the "City of Milford, Delaware, Land Subdivision Regulations."

§ 200-3. - Definitions.

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

ALLEY — A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

COMMISSION — The Planning Commission of the City of Milford, Delaware.

OPEN SPACE — Areas of land designated for public or private recreational use, limited to such items as parks, plazas, landscaped areas, gardens, walkways and trails, organized sporting event areas and passive recreational areas. Wetlands or stormwater management facilities or drainage easements cannot be counted as open space. Flagpole areas, medians, signage areas or required front, side, or rear yards of proposed residential developments cannot be counted as open space.

PLAT — The final drawing on which the subdivision plan is presented to the City Council for approval and which is submitted to the County Recorder of Deeds for recording.

PROPERTY OWNERS' ASSOCIATION — An association established by the subdivider as a non-stock corporation to provide for the perpetual maintenance of the common property in the subdivision.

RIGHT-OF-WAY — A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, gas pipelines, and water line, sanitary storm sewer, and other similar uses.

ROADWAY — The paved portion of the street primarily used for vehicular traffic.

A.
ARTERIAL STREET and HIGHWAY — A street primarily used for fast and/or heavy traffic.

B.
COLLECTOR STREET — A street carrying traffic from minor streets to arterial streets and highways, including the principal traffic and entrance streets of a residential development.

C.
MINOR STREET — A street primarily used for access to the abutting properties.

D.
MARGINAL ACCESS STREET — A minor street paralleling and adjacent to an arterial street or highway and providing access to abutting properties and protection from through traffic.

E.
DEAD-END STREET or CUL-DE-SAC — A street closed at one end and having only one connection with any other street.

F.
HALF STREET — A street paralleling the boundary of a subdivision and lying partly in an abutting tract.

STANDARD SPECIFICATIONS FOR INSTALLATION OF UTILITY CONSTRUCTION PROJECTS AND SUBDIVISION PAVEMENT DESIGN — The current specifications regulating subdivision design and construction as adopted by the City.

STREET — All land between property lines, whether designated as a street, highway, throughway, thoroughfare, avenue, boulevard, road, parkway, right-of-way lane, place, court or any similar term.

SUBDIVIDER — Any person, firm, corporation, partnership or association or duly authorized agent who or which shall apply to the Commission for approval of the layout of any subdivision.

SUBDIVISION — The division or redivision of any tract of land into two or more lots or parcels for immediate or future sale or for building development.

SUBDIVISION, MINOR — Any subdivision fronting on an existing street, not involving any new street or road, not involving the extension of any municipal water or wastewater mains, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the development plan, Official Map, Chapter 230, Zoning, or this chapter; limited to four lots.

SUPERBLOCK — An oversize residential block wherein private open spaces, closed to automobile traffic, are provided for the common use of all residents in the block.

§ 200-4. - Application procedure.

A.
Preliminary approval.

(1)
A preliminary plan and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by the City Planner, along with the appropriate fees, as specified in § 230-57.

(2)
The Development Advisory Committee (DAC) shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. Upon confirmation by the City Planner that all DAC issues have been addressed satisfactorily, the application will then be scheduled to be heard by the Planning Commission.

(3)
The Planning Commission shall review the application and provide either a recommendation of preliminary approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions or recommendation of denial, the application shall be scheduled to be heard by the City Council.

(4)
City Council shall grant preliminarily approval of the application with or without conditions, deny the application, or table the application.

(5)
Preliminary approval from City Council shall be void after one year, unless an extension is requested by the owner and approved by City Council prior to the expiration.

B.
Final approval.

(1)
A final plat and documents, as specified by the Planning Department, shall be prepared by the subdivider and submitted in accordance with the submission schedule as determined by City Planner, along with the appropriate fees, as specified in § 230-57.

(2)
The Development Advisory Committee shall review the application and plan. Comments from the DAC must be addressed via either submitting revised plans and/or necessary documents or via a narrative submitted to the City Planner. The final plan shall also be reviewed by the City Planner for confirmation that the application is designed in accordance with all subdivision, zoning and other land use regulations of the City. The final plan shall also be reviewed by the City Engineer for confirmation that the application is designed in accordance with the construction standards and specifications of the City. Upon confirmation by the City Planner and City Engineer that all issues have been addressed satisfactorily, the application will be scheduled to be heard by the Planning Commission.

(3)
The Planning Commission shall review the application and provide either a recommendation of final approval with or without conditions, a recommendation of denial, or table the application. Upon a recommendation of approval with or without conditions, or recommendation of denial, the application shall be scheduled to be heard by City Council.

(4)
City Council shall approve the application with or without conditions, deny the application, or table the application.

(5)
Within 90 days of final approval from City Council, the subdivider shall record the plat at the County Recorder of Deeds office and provide the City Planner a receipt of the recordation including the deed book and page number. Prior to recording the plat, five copies of the plat must be submitted to the City Planner for stamping and signing. Four sets will be returned to the subdivider.

(6)
Upon recordation of the plat, the subdivider shall provide the Land Data Manager of the City a mylar copy of the plat including the deed book and page printed thereon.

(7)
Failure to record the approved plat within one year from the date of City Council approval shall void the final approval. In order to obtain final approval after it has been voided, the subdivider must make application for final approval again.

(8)
Failure to record the approved plat in more than one year from the date of City Council approval shall void the preliminary approval and final approval. In order to obtain preliminary and final approval after they have been voided, the subdivider must make application for and receive preliminary approval, then make application for and receive final approval.

§ 200-5. - General requirements and design standards.

The following shall be deemed to be minimum requirements and may be varied or waived by the Commission only under circumstances set forth in § 200-6:

A.
Streets.

(1)
The layout, character, extent, width, grade and location of proposed streets shall be established with due regard to:

(a)
Public convenience and safety.

(b)
Proposed uses of the land to be served by said streets.

(c)
Proper relation and connection with and continuation and projection of streets in the adjacent areas, whether these streets are existing or proposed in another subdivision in a neighborhood plan, in the development plan or in the Official Map, as approved or adopted by the Commission.

(d)
Topography and other land features.

(2)
The layout of proposed streets shall furthermore be arranged in a manner acceptable to the Commission and City Council.

(3)
Minor streets shall be laid out so as to discourage their use by through traffic.

(4)
Where a subdivision abuts or contains an existing or proposed arterial street, limited-access highway or railroad, the City Council may require marginal access or service streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line and deep lots with rear service alleys or other treatment, such as parks, which may be necessary for the protection of residential properties and for separation of through and local traffic, with due regard for the requirements of future approach grades and grade separations.

(5)
Where a tract of land is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Commission may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements of this chapter.

(6)
Reserve strips controlling access to streets shall be prohibited except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the City Council such as provided in Subsection A(4) above.

(7)
Certain proposed streets may be required to be extended to the boundary line of the subdivision to provide access to tracts which may be subdivided in the future. Wherever necessary, when a street is carried to the boundary line of the subdivision, the City Council may require a temporary turnaround improved to the satisfaction of the City Engineer and of the size specified in Subsection A(16) below at the stub end.

(8)
The creation of dead-end or loop streets and superblocks will be encouraged wherever the City Council finds that such layout will not interfere with traffic convenience and safety. The City Council shall determine the number of connections of streets in the proposed subdivision with existing streets. At least two such connections shall be provided, except where a proposed subdivision only contains one dead-end street.

(9)
Street jogs shall be prohibited. Street intersections, where center lines do not meet, shall have center-line offsets of 150 feet or more.

(10)
A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets and may be required on all other streets.

(11)
Street right-of-way lines deflecting from each other at any point shall be connected with a curve, the radius of which for the inner right-of-way lines shall not be less than 750 feet on arterial streets, 300 feet on collector streets and 100 feet on minor streets. The outer right-of-way line shall be parallel to said inner right-of-way line.

(12)
Streets shall be laid out so as to intersect as nearly as possible at right angles. The inner right-of-way line of a street intersecting another street at an angle of less than 90° shall be tangent to and follow a curve with a minimum radius of 150 feet centered on the nearest right-of-way line of the intersecting street. The outer right-of-way line shall be parallel to said inner right-of-way line.

(13)

Street right-of-way lines at intersections shall be connected with a curve, the radius of which shall be 25 feet.

(14)
Right-of-way widths.

(a)
Street right-of-way widths shall be as shown on the Official Map or development plan, and, if not shown thereon, said widths for the various street types between face of curb or edge of road shall not be less than as follows:

Street Type (feet)	Right-of-Way Roadway (feet)	
Arterial	80 to 110	As required by DelDOT
Collector	60	28
Minor, for townhouses and apartments	60	30
Minor, for other residences	50	25
Dead-end	50	22
Marginal access	30	16
*Alley	20	12

Note:
* If utilities are present in an alley, the City reserves the right to modify the minimum right-of-way and roadway widths.

(b)
Subdivisions utilizing open swale drainage shall have a ten-foot drainage easement along the front of each property to accommodate the back slope of the drainage swales.

(15)
Half streets shall be prohibited except where essential to the reasonable development of a subdivision in conformity with the requirements of this chapter and where the Commission finds that it shall be practicable to require the dedication of the other half when the abutting property is subdivided. Wherever an approved half street shall be adjacent to a subdivision, the other half of the street shall be platted within said subdivision.

(16)
Dead-end streets, designed to be so permanently, shall not be longer than 400 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of 76 feet and a street right-of-way diameter of 100 feet.

(17)
Street names.

(a)
Street names shall be selected so as not to duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission. It is recommended that all new streets shall be named in the following manner:

General direction	Long	Short (under 1,000 feet)
North and south	Streets	Places
East and west	Avenues	Courts
Diagonal	Roads	Ways
Curving	Drives	Lanes or Circles

(b)
Arterial streets shall be named "boulevards."

(18)
Street grades shall not exceed 5%.

(19)
Street grades shall be not less than 0.5% wherever feasible.

(20)
Changes in street grades shall be connected by vertical curves of suitable length.

(21)
The width of streets adjacent to areas designed, proposed or zoned for nonresidential use shall be increased by such amount as may be deemed necessary by the Commission to assure the free flow of

through traffic without interference by parked or parking cars and to provide adequate and safe parking space.

(22)
All required roads shall be constructed in accordance with the standard specifications as issued by the City Engineer.

B.
Sidewalks and curbs.

(1)
Sidewalks shall be required in all subdivisions on both sides of the street. Sidewalks shall have the following widths:

(a)
In residential subdivisions: four feet unless otherwise specified.

(b)
In commercial and industrial subdivisions: from the curb to property lines unless otherwise specified.

(2)
Curbs or drainage swales conveying stormwater shall be required in all subdivisions.

(3)
All required sidewalks shall be constructed in accordance with standard specifications as issued by the City Engineer.

C.
Easements. Where a subdivision is traversed by a watercourse, drainageway, channel, pipe or stream, there shall be provided a stormwater easement or drainage right-of-way of such width as will be adequate for the purpose, in accordance with requirements specified by the City Engineer. Parallel streets or parkways may be required in relation thereto.

D.
Blocks.

(1)
The lengths, widths and shapes of blocks shall be determined with due regard to:

(a)
The provision of building sites suitable to the needs of the type of use contemplated.

(b)
Zoning requirements as to lot sizes and dimensions.

(c)
The control, safety and convenience of pedestrian and vehicular traffic.

(d)
The characteristics of topography.

(2)
Block length shall not exceed 1,200 feet.

(3)
Block widths shall be not less than 275 feet nor more than 450 feet and shall be planned to provide two rows of lots.

(4)
Pedestrian walkways other than in streets may be required where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities. Said walkways shall be not less than four feet wide.

(5)
Alleys shall be provided if required by the City Engineer.

E.
Lots.

(1)
Lot width, depth, shape and orientation and the building setback lines shall be appropriate for the location of the subdivision, for the type of development and for the use contemplated.

(2)
Lot sizes shall conform to the requirements of Chapter 230, Zoning.

(3)
Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to comply with the off-street parking and loading requirements contained in Chapter 230, Zoning.

(4)
Corner lots shall have sufficient width to provide an adequate building site within all the yard requirements. Corner lots shall have two front yard setbacks fronting each street, one side yard setback, and one rear yard setback.

(5)
All lots in a subdivision shall have frontage on a public street.

(6)
Double-frontage lots shall be avoided. Reverse-frontage lots shall be provided where necessary for protection of residential properties from through traffic and adverse nonresidential uses, for separation of through and local traffic and to overcome difficulties of topography or other specific conditions. Screen planting and a fence or wall shall be provided along the rear property line within an easement 10 feet or more in width, across which there shall be no right of access.

(7)
Side lot lines shall be at right angles or radial to street lines.

(8)
No lots shall be platted on land subject to flooding for residential or any other use where danger to life or property or an aggravation of flood hazard may result. Such land should be set aside for uses which would not be endangered by periodic or occasional inundations.

(9)
No lots shall be platted within 25 feet of land under the jurisdiction of the U.S. Army Corps of Engineers.

F.
Parks, playgrounds, open spaces, school sites and natural features.

(1)
Parks and playgrounds. Where a proposed park or playground is located in whole or in part in a subdivision, the Commission may require the dedication or reservation of such area within the subdivision, in those cases in which the Commission deems such requirements to be reasonable.

(2)
Open spaces. Where deemed essential by the Commission and City Planner, upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale developments, the Commission or City Planner may require the dedication or reservation of sites of a character, extent and location suitable to the needs created by such development for playgrounds or parks. The Commission shall not require that more than 10% of the gross area of the open space of the subdivision to be so dedicated or reserved unless otherwise specified by the Zoning Code.[2] In case of a conflict, the requirement of the Zoning Code prevails. The Commission shall give due credit for the provision of open spaces reserved for the common use of all property owners within the proposed subdivision by covenants in the deeds. Generally, the minimum area of contiguous open space acceptable for dedication for public use shall be at least three acres and preferably five acres. Open spaces with a lesser area may be approved by the Commission whenever it deems that the difference between the area offered and three acres may be made up in connection with the future subdivision of adjacent land or added to an existing recreation area.

Editor's note— [2.] Editor's Note: See Ch. 230, Zoning.

(3)
School sites or sites for other public uses. The Commission may also require a subdivider to set aside such area as it may deem to be required for a school or other public use. Upon failure of the proper authorities to purchase such site within one year after the date of the approval of the plat, the subdivider, upon application to the Commission and approval of such application, shall be relieved of the responsibility of reserving such land for public purposes.

(4)
Preservation of natural features. The Commission may require the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves,

watercourses and historic spots and similar irreplaceable assets. In no case shall a tree over 12 inches in diameter measured three feet from the base be removed without prior approval by the City Arborist.

G.
General grading. No final slope on the property shall exceed the normal angle of repose of the soil of said slope as determined by the City Engineer, except where said slope consists of a natural rock formation or is supported by a retaining wall or equivalent of a design acceptable to the City Engineer.

H.
Improvements.

(1)
In major subdivisions the following improvements are required:

(a)
Paved streets.

(b)
Street signs.

(c)
Curbs and gutters, or roadside swales. Curbs shall be required as per standard specifications to stabilize intersections, entrances, and parking areas, and where they are necessary for the conveyance of stormwater and protecting road surfaces and driveway surfaces from vehicular traffic.

(d)
Sidewalks.

(e)
Streetlighting.

(f)
Shade trees. Shade trees 150 feet on center each side of the road shall be located so as not to interfere with utilities or sidewalks and shall be of the types recommended by the City Arborist.

(g)
Topsoil protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.

(h)
Monuments. Monuments shall be of the type, size and shape required by the City Engineer.

(i)
Water mains, culverts, storm sewers and sanitary sewers.

[1]
All water installations shall be looped; all sewer and storm sewer systems shall be extended at minimum slope, maximum depth, and connected with an approved method and shall be adequate to handle all present and probable future development.

[2]
All of the above-listed improvements shall be subject to inspection and approval by the City Engineer, who shall be notified by the subdivider at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved.

[3]
Utility easements shall be required to be granted and recorded by the subdivider to allow extension of utilities to neighboring properties.

(j)
Swales. Conveyance of stormwater is permitted by open drainage systems where appropriate for environmental and engineering integrity and design. Such systems shall be separated from the edge of road to the top of bank by a minimum five-foot shoulder. The depth of such systems shall not exceed two feet below crown of road. The side slope shall be a maximum of 4:1. The bottom of the system shall have a minimum width of two feet. The system slope shall be such that the maximum velocity does not exceed two feet per second. The system has to be designed in such a way as to incorporate driveway and crossroad drainage pipes; such systems shall be restored with topsoil and sod. Temporary check dams shall be placed in intervals not to exceed 300 feet.

(k)
Headwalls. Storm drainage pipes which are part of an open swale drainage system shall be terminated with a headwall in accordance with standard specifications.

(2)
The developer shall complete all utilities and street improvements not specifically waived by the Commission in accordance with standard specifications as issued by the City Engineer and with any additional requirements specified by the Commission. Construction drawings shall be submitted in a form satisfactory to the City Engineer.

(3)
When the Commission or the City Engineer, due to planning considerations extraneous to the subdivision, requires a standard of improvements higher than that which is sufficient to serve the subdivision, the amount of the bond to be posted shall be deemed to be satisfactory if it adequately covers the cost of improvements which would be normally required.

(4)
The developer shall pay the review and inspection fees as set forth in Chapter 230, Zoning, § 230-57, Planning and zoning fees. The cost for each segment or phase of the development shall be paid prior to commencement of utility construction.

§ 200-6. - Variances and waivers.

Applicants may request, at the time of application submission, the varying or waiving of requirements of Chapter 200, and the Planning Commission may, at its discretion, recommend to City Council the varying or waiving of said requirements and request conditions that substantially secure the objectives of the requirements so waived. Upon the findings of the City Council that, due to special conditions peculiar to a subdivision or a site, certain requirements of these regulations are inappropriate or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the City Council may vary or waive said requirements, provided that such variance or waiver shall not be detrimental to the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the Official Map, Chapter 230, Zoning, the Development Plan or this chapter. In varying or waiving certain requirements, the City Council may specify such conditions at will, in its judgment, secure substantially the objectives of the requirements so varied or waived.

Property Owners: Feindt

Feindt, Matthew J. & Jennifer L.
4330 Big Stone Beach Road
Milford, DE 19963
330-7.17-138.00, -145.00

Bob Nash & Associates
14 S Maple Ave
Milford, DE 19963

Carter, Frank S., III & Laura D.
PO Box 288
Lewes, DE 19958
330-7.17-140.00, -141.00

Church of God &, Iglesia De Dios La Roca, Inc.
34 N Walnut Street
Milford, DE 19963
330-7.17-124.00

Calvary Methodist Church,
Board of Trustees
301 SE Front Street
Milford, DE 19963
330-7.17-5.00, -6.00

Cohen, Frank M.
106 Franklin Street
Milford, DE 19963
330-7.17-115.00

Amodeo, Eric J. & Marguerite A.
1069 Log Cabin Road
Milford, DE 19963
330-7.17-124.01

Garrett, Henry J. & Donna L.
306 SE Front Street
Milford, DE 19963
330-7.17-121.00

Gleason, Charles O., Jr.
1014 Abbotts Pond Street
Greenwood, DE 19950
330-7.17-142.00

Hairston, Charles
112 Gillespie Ave
Middletown, DE 19709
330-7.17-126.00, -127.00

Hall, Richard
610 S Walnut Street
Milford, DE 19963
330-7.17-120.00

Hoffpauir, Randolph E.
129 Jefferson Ave
Lewes, DE 19958
330-7.17-150.00

Hummel, Michael R. & Karen L.
28 Lexington Mill Road
Magnolia, DE 19962
330-7.17-128.00

Jackson, Henry & Georgianna
104 Columbia Street
Milford, DE 19963
330-7.17-125.00

Johnson, Brian S. & Trish A.
321 SE 2nd Street
Milford, DE 19963
330-7.17-151.00

Kramlich, Fred S. & Essie E.
300 SE Front Street
Milford, DE 19963
330-7.17-137.00

MacDonald, Joshua J.
715 Sandalwood Lane
Norristown, PA 19403
330-7.17-148.00

Mast, Alvin E. & Peggy M.
14193 Staytonville Road
Greenwood, DE 19950
330-7.17-117.00

Merchant, Donna
108 Franklin Street
Milford, DE 19963
330-7.17-116.00

Metz, Kimberly
318 Carlisle Lane
Milford, DE 19963
330-7.17-146.00

Nuebling, Christopher B. & Nadia Z.
17828 Cape Drive
Lewes, DE 19958
330-7.17-143.00

Passwaters, Samuel J., III &
Panagioti Kalesis
715A S Washington Street
Milford, DE 19963
330-7.17-119.00

Peoples Place Properties, Inc.,
1129 Airport Road
Milford, DE 19963
330-7.17-136.00

Perez, Roberto & Janet A.
307 Carlisle Lane
Milford, DE 19963
330-7.17-122.00

Proetzel, Christopher M., Sr.
104 McColley Street
Milford, DE 19963
330-7.17-133.00

Ross, Mary Elizabeth
289 Green Blade Drive
Dover, DE 19904
330-7.17-147.00

Sorcia, Adolfo & Marina
635 Adams Drive
Milford, DE 19963
330-7.17-136.01

South East Front, LLC,
11 Princeton Road
Milford, DE 19963
330-7.17-3.00, -4.00

Storm, Mary E. & Penelope A.
4490 Bowstring Court
Titusville, FL 32796
330-7.17-118.00

Thompson, Willie & Earlene & Cassie
190 Welcome School Road
Autryville, NC 28318
330-7.17-281.00

Viohl, Donald L.
105 Franklin Street
Milford, DE 19963
330-7.17-139.00

Webb, Frank
1744 S Bowers Road
Milford, DE 19963
330-7.17-144.00

Wiley, Joseph E.
202 Lakeview Ave
Milford, DE 19963
330-7.17-149.00, -152.01

Wiley, Joseph E. & Renate K.
202 Lakeview Ave
Milford, DE 19963
330-7.17-134.00, -135.01, -135.02, -152.00

Wiley, Mary E.
20965 Fleatown Road
Lincoln, DE 19960
330-7.17-129.00, -132.00

Ambrose, Irvin M. & Marilyn M.
210 SE Front Street
Milford, DE 19963
330-7.17-113.00, -114.00

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC10-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD THE APPROVAL OF A CONDITIONAL USE FOR MATTHEW & JENNIFER FEINDT AT 302 CARLISLE LANE & 320 CARLISLE LANE FOR SINGLE FAMILY SEMI-DETACHED DWELLINGS IN AN R-3 ZONING DISTRICT TAX MAP3-30-7.17-138.00 & 3-30-7.17-145.00; 0.8181 +/- ACRES

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 20, 2010; and,

WHEREAS, by a vote of recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following conditions:

1.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC10-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR MATTHEW & JENNIFER FEINDT AT 302 CARLISLE LANE & 320 CARLISLE LANE FOR A FIVE LOT, 6 UNIT SUBDIVISION IN AN R-2 ZONING DISTRICT TAX MAP 3-30-7.17-138.00 & 3-30-7.17-145.00

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 20, 2010; and,

WHEREAS, by a vote of recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC10-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD THE APPROVAL OF A CONDITIONAL USE FOR MATTHEW & JENNIFER FEINDT AT 302 CARLISLE LANE & 320 CARLISLE LANE FOR SINGLE FAMILY SEMI-DETACHED DWELLINGS IN AN R-3 ZONING DISTRICT TAX MAP3-30-7.17-138.00 & 3-30-7.17-145.00; 0.8181 +/- ACRES

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 20, 2010; and,

WHEREAS, by a vote of 7 to 0 recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following conditions:

1. None

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC10-006

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD THE APPROVAL OF A FINAL MINOR SUBDIVISION FOR MATTHEW & JENNIFER FEINDT AT 302 CARLISLE LANE & 320 CARLISLE LANE FOR A FIVE LOT, 6 UNIT SUBDIVISION IN AN R-2 ZONING DISTRICT TAX MAP 3-30-7.17-138.00 & 3-30-7.17-145.00

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on April 20, 2010; and,

WHEREAS, by a vote of 7 to 0 recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1. None.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

PUBLIC NOTICE
PLANNING COMMISSION & CITY COUNCIL PUBLIC HEARINGS
City of Milford Zoning Chapter Amendment
Ordinance 2010-1

NOTICE IS HEREBY GIVEN the Planning Commission of the City of Milford will hold a Public Hearing on an amendment to the City of Milford Zoning Code on Tuesday, March 16, 2010 at 7:00 p.m. or as soon thereafter as possible.

A FINAL PUBLIC HEARING is scheduled on Monday, April 26, 2010 at 7:00 p.m. before Milford City Council. Following the hearing, Ordinance 2010-1 may be adopted, with or without amendments.

AN ORDINANCE TO AMEND Chapter 230, Zoning, of the Code of the City of Milford Relating to Article VI - Signs.

The City of Milford hereby ordains:

Section 1. Amends Chapter 230 Zoning-4 Definitions.

Section 2. Amends §230-4, Definitions and Word Usage, by adding 'EMB Sign' and the following definition:

EMB SIGN: An Electronic Message Board sign that is capable of displaying words, numbers, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The display of State mandated fuel pricing shall not be considered an EMB SIGN.

Section 3. Amends §230-4, Definitions and Word Usage, by adding 'Animation' and the following definition:

ANIMATION: Mechanical or electrical movement or change of lighting, either natural or artificial, to depict action or to create visual motion. This includes blinking, fading, flashing, scrolling vertically, traveling or crawling horizontally.

Section 4. Amends Section 230-26-General Standards.

Section 5. Amend Section 230-26 by renumbering current paragraphs C and D to paragraphs D and E.

Section 6. Amend Section 230-26 by adding a new paragraph (C) as follows:

C. Guidelines for all Zoning Districts. The following are the general guidelines for signage in all zoning districts:
(1) Sidewalk or pedestrian areas are not to be obstructed in any way by signs of any type.
(2) Variances for dimensional increases in area, height or coverage must be submitted for review and determination by the Board of Adjustment of the City of

Milford. Violations of the requirements set forth in the attached chart shall be deemed as a violation of this chapter and will be subject to the penalties herein described.
(3) All signs whose primary function it is to direct attention to the identity of the business, professional or industrial activity and which describes said nature of such operation shall be deemed a business sign. Such signs shall not exceed two in number on any one road frontage.

Section 7.
Amend Section 230-26 by adding a new paragraph (F) as follows:

F. EMB signs. The following are the guidelines for all EMB signage:
(1) EMB Signs are only permitted in the C-3 zoning district.
(2) Contain static messages for at least eight (8) seconds before changing the message and shall not have animation on any part of the sign, nor shall such sign have varying light intensity during the display of any single message.
(3) May not operate at brightness levels of more than 0.20 foot candles above ambient light levels as measured at a distance of 150 feet.
(4) The owner of said EMB sign shall provide a certification by an independent contractor of the lumens showing compliance at time of building permit application.
(5) Each sign shall have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
(6) Shall meet the same installation and permitting requirements and inspections as set out for all other signs.
(7) The owner of said sign shall coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.
(8) The owner of said sign shall provide to the City of Milford contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly after a malfunction occurs. If, at any time the EMB display lights malfunction or are no longer working, the owner of said sign shall make repairs to the sign within sixty (60) days or the sign will require removal.
(9) Each sign located on a State maintained road must comply with all Delaware Department of Transportation rules and regulations applicable to Electronic Changeable Message Signs where not in conflict with this Ordinance.

Section 8.
Amends Sign Chart by showing EMB signs as prohibited with the exception of those in the C-3 zoning district.

ZONING
City of Milford
Sign Types and Allowable Dimensions and Restrictions

Zoning District	Types of Signs												
	Wall or Mailbox (residence/occupant ID)		Freestanding (mounted on posts(s))		Fascia: Commercial (wall, roof edge, etc) (of wall square feet)	Hanging/Projecting (extended from wall) (square feet)	Marquee (movable letters)		Illuminated (non flashing)		*EMB*	Mobile (mounted, trailer, etc.)	Billboard (outdoor advertisement)
	Height	Square Feet	Height	Square Feet			Height	Square Feet	Height	Square Feet	*Square Feet*		
R-1	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	*Prohibited*	N/A	N/A
R-2	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	*Prohibited*	N/A	N/A
R-3	42 in	2			N/A	N/A	N/A	N/A	N/A	N/A	*Prohibited*	N/A	N/A
C-1	42 in	2	48 in	4	10%	15	48 in	9	48 in	4	*Prohibited*	N/A	N/A
C-2			48 in	4	10%	20	48 in	9	48 in	4	*Prohibited*	N/A	N/A
C-3			28 ft	225	10%	20	10 ft	48	28 ft	225	*32 and ratio of 4:8*	N/A	N/A
H-1			25 ft	70	5%	N/A	N/A	N/A	25 ft	70	*Prohibited*	N/A	N/A
OC-1			28 ft	225	5%	N/A	10 ft	48	28 ft	225	*Prohibited*	N/A	N/A
I-1			28 ft	200	5%	N/A	10 ft	48	28 ft	200	*Prohibited*	N/A	N/A
I-2			28 ft	200	5%	N/A	10 ft	48	28 ft	200	*Prohibited*	N/A	N/A

Section 9. Dates.
Introduction to City Council: 02-22-10
Planning Commission Public Hearing: 03-16-10
City Council Public Hearing: 05-24-10
Adoption Date: 05-24-10
Effective Date (Projected): 06-03-10

City of Milford

PUBLIC NOTICE

RESCHEDULED CITY COUNCIL HEARING*

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, May 24, 2010 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to reconsider final action on the following matter:

Lynn & Karen McColley for a Change of Zone of 79.5 +/- Acres from R-2 (Residential) to C-3 (Commercial) west of Delaware Route 1, lying south of N.E. Tenth Street and north of N.E. Front Street, Milford, Delaware. Present Use Residential & Agricultural; Proposed Use Highway Commercial; Tax Map MD-16-174.19-01-01.00 (N.E. Side/N.E. Tenth Street); MD-16-174.19-01-01.01 (416 N.E. Tenth Street); MD-16-174.19-01-03.00 (N.W. Side/County Road. 409); MD-16-174.19-01-04.00 (819 N.E. Front Street); MD-16-174.19-01-11.00 (N.W. Side/County Road 409); MD-16-174.19-01-13.00 (S.E. Side/County Road 407); MD-16-174.19-01-14.00 (600 N.E. Tenth Street).

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-422-6616.

By: Terri K. Hudson, CMC

02-05-10 *Request of Property Owners

City of Milford

PUBLIC NOTICE

CITY COUNCIL HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Milford will hold a Public Hearing on Monday, August 24, 2009 at 7:00 p.m., or as soon thereafter as possible, in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to take final action upon the matter of:

Lynn & Karen McColley for a Change of Zone of 79.5 +/- Acres from R-2 (Residential) to C-3 (Commercial) west of Delaware Route 1, lying south of N.E. Tenth Street and north of N.E. Front Street, Milford, Delaware. Present Use Residential & Agricultural; Proposed Use Highway Commercial; Tax Map MD-16-174.19-01-01.00 (N.E. Side/N.E. Tenth Street); MD-16-174.19-01-01.01 (416 N.E. Tenth Street); MD-16-174.19-01-03.00 (N.W. Side/County Road. 409); MD-16-174.19-01-04.00 (819 N.E. Front Street); MD-16-174.19-01-11.00 (N.W. Side/County Road 409); MD-16-174.19-01-13.00 (S.E. Side/County Road 407); MD-16-174.19-01-14.00 (600 N.E. Tenth Street).

All interested persons are hereby notified to be present and to express their views before a final decision is rendered. Written comments will be accepted up to one week prior to the hearing date.

Please direct all questions or comments to Christine Crouch at 302-422-6616 extension 164.

By: Terri K. Hudson, CMC

07/22/09

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC09-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD THE CHANGE OF ZONE FROM R-2 TO C-3 FOR LYNN AND KAREN MCCOLLEY AT NE TENTH STREET AND NE FRONT STREET TAX MAP MD-16-174.19-01-01.00, MD-16-174.19-01-01.01, MD-16-174.19-01-03.00, MD-16-174.19-01-04.00, MD-16-174.19-01-11.00, MD-16-174.19-01-13.00, MD-16-174.19-01-14.00

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on July 21, 2009; and,

WHEREAS, by a vote of 4 to 1 recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1. None

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

PROJECT #:

09-115

CITY OF MILFORD
DELAWARE
"THE GARDEN CITY OF TWIN COUNTIES"

PLANNING AND ZONING DEPARTMENT
(302) 422-6616
FAX # (302) 424-5933

201 S. WALNUT STREET
PO BOX 159
MILFORD, DELAWARE 19963

APPLICATION

SITE PLAN CONDITIONAL USE SUB-DIVISION VARIANCE CHANGE OF ZONE
(circle all that apply)

The undersigned hereby makes formal application to the City of Milford for the approval of Re-Zoning for the property described below. Applications shall be represented at the appropriate meetings or hearing. The applicant is aware that no applications will be accepted if violations exist or if any service fees, including taxes, are delinquent.

OWNER NAME: Lynn & Karen McColley PHONE NUMBER: cell 302 393 1777, 302 422 4844
ADDRESS: 416 NE Tenth St Milford DE 19963

SIGNATURE: Lynn McColley Karen McColley DATE: 4/30/2009
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION! FEE: $1000 + $100/AC

APPLICANT NAME: same PHONE NUMBER:
ADDRESS:

SITE LOCATION: Road: NE Tenth St, S side, 502.35' W of DE Rt 1.
Road: NE Front St, N side, 746.51' W of DE Rt 1.
SITE ADDRESS: NE Tenth St & NE Front St

ZONING: EXISTING: R-2 PROPOSED: C-3 TAX MAP NUMBER: MD-16-174.19-01-01.00, -01.01, -03.00, -04.00, -11.00, -13.00, -14.00

PRESENT USE: agriculture PROPOSED USE:

AREA OF PETITION: 79.569 AC AREA OF ADJACENT LAND IN SAME OWNERSHIP: 10.311 AC

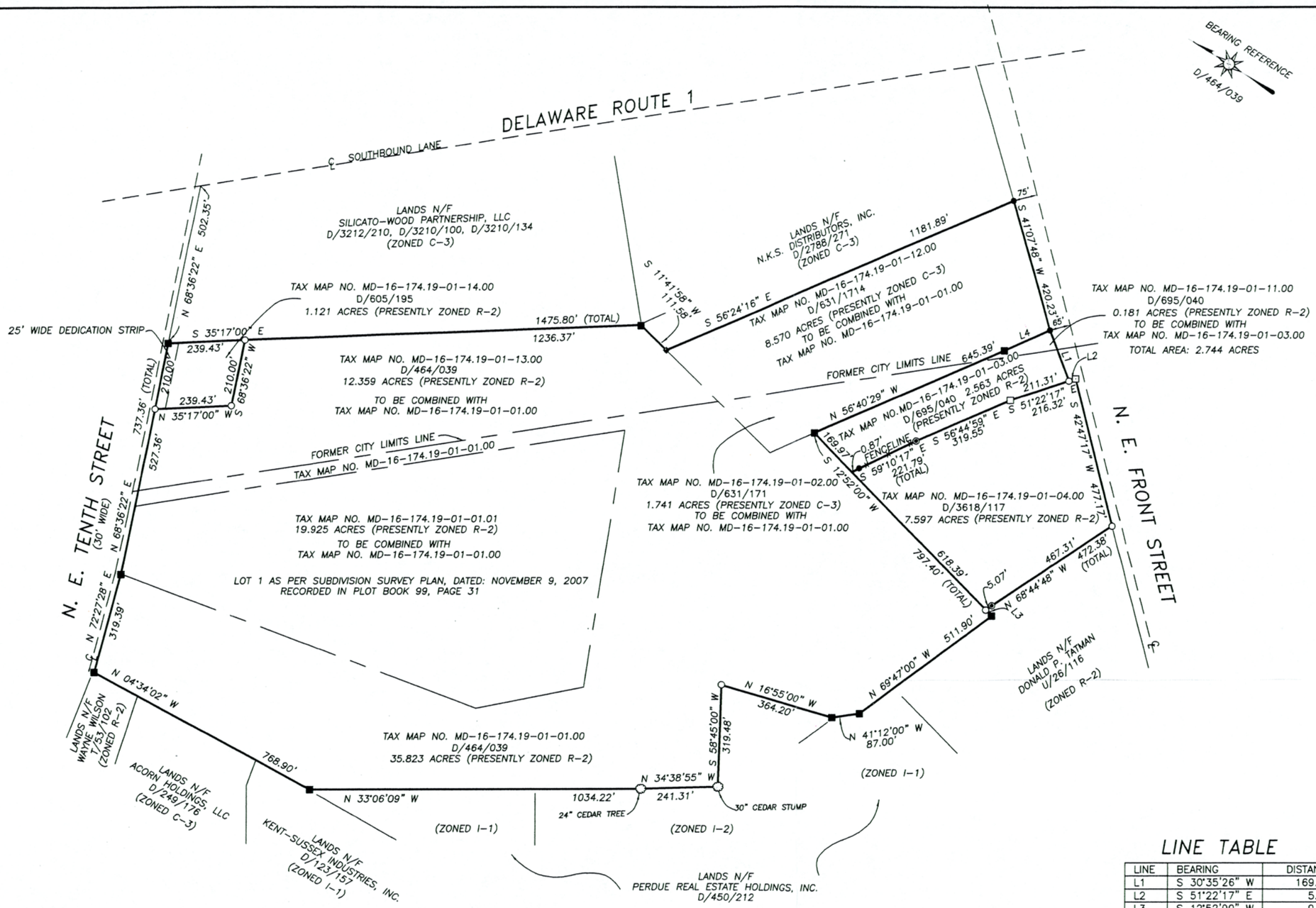
SANITARY FACILITIES:	EXISTING		PROPOSED	✓
ELECTRIC SUPPLY:	EXISTING		PROPOSED	✓
WATER SUPPLY:	EXISTING		PROPOSED	✓
DWELLING UNITS:	EXISTING:	4	PROPOSED:	4
FRONT SETBACK:	REQUIRED:	FT	PROPOSED:	FT
REAR SETBACK:	REQUIRED:	FT	PROPOSED:	FT
SIDE SETBACKS:	REQUIRED:	FT	PROPOSED:	FT

WETLANDS ON SITE? YES (NO) COMPREHENSIVE PLAN RECOMMENDATION: C3
ZONING CHAPTER 230, ARTICLE
VARIANCE INFORMATION (IF APPLICABLE):

CONTACT FOR APPLICATION: Lynn McColley PHONE: 302-393-1777
APPLICATION RECEIVED BY: Christine Crouch DATE: 5-19-09

DAC MTG: N/a P.C. MTG: COUNCIL MTG:

~~B.O.A. MTG:~~



LINE TABLE

LINE	BEARING	DISTANCE
L1	S 30°35'26" W	169.94'
L2	S 51°22'17" E	5.01'
L3	S 12°52'00" W	9.04'
L4	N 57°03'08 W	157.45'

NOTES:

1) AREA TO BE COMBINED OR REZONED IS IN BOLD OUTLINE.

2) CLASS "B" – SUBURBAN SURVEY

3) ALL LAND SHOWN ON THIS PLAN THAT IS PRESENTLY ZONED R-2 IS PROPOSED TO BE REZONED C-3. (79.568 ACRES)

4) PROPOSED AREA OF TAX MAP NO. MD-16-174.19-01-01.00 IS 78.417 ACRES.

LEGEND:

- ■ FOUND CONCRETE MONUMENT
- ○ SET IRON BAR
- ● FOUND IRON PIPE
- □ FOUND MARBLE MONUMENT
- ◆ FOUND IRON BAR
- ◉ FENCE POST

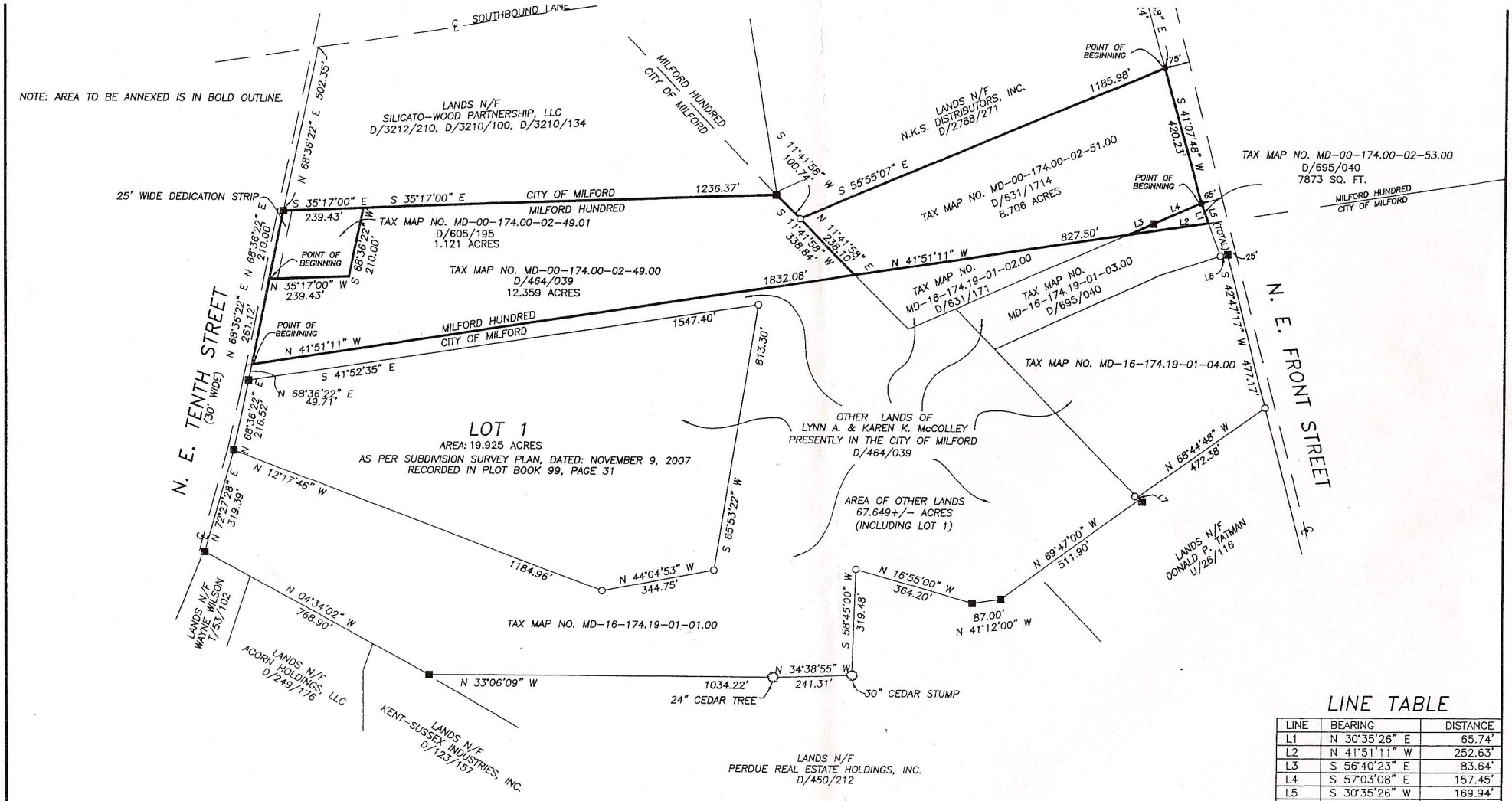
DOUGLAS J. ANNAND, PLS 622

Prepared By
DOUGLAS J. ANNAND
PROFESSIONAL LAND SURVEYOR
PO BOX 302
ELLENDALE, DELAWARE 19941
PHONE: (302) 422-9512

TAX PARCEL COMBINATION & REZONING SURVEY PLAN

LYNN A. & KAREN K. McCOLLEY

SITUATED IN CITY OF MILFORD
KENT COUNTY, STATE OF DELAWARE
TOTAL AREA: 89.879 ACRES+/-
SCALE: 1" = 200'
DATE: MAY 13, 2009



LINE TABLE

LINE	BEARING	DISTANCE
L1	N 30°35'26" E	65.74'
L2	N 41°51'11" W	252.63'
L3	S 56°40'23" E	83.64'
L4	S 57°03'08" E	157.45'
L5	S 30°35'26" W	169.94'
L6	S 51°27'46" E	5.01'
L7	S 12°52'00" W	9.04'

NOTES:

1) CLASS "B", SUBURBAN SURVEY
2) TAX MAP NO. MD-16-174.19-01-01.00 & TAX MAP NO. MD-00-174.00-02-49.00 ARE PORTIONS OF ONE PROPERTY.
3) TAX MAP NO. MD-16-174.19-01-02.00 & TAX MAP NO. MD-00-174.00-02-51.00 ARE PORTIONS OF ONE PROPERTY.
4) TAX MAP NO. MD-16-174.19-01-03.00 & TAX MAP NO. MD-00-174.00-02-53.00 ARE PORTIONS OF ONE PROPERTY.
5) TAX MAP NO. MD-00-174.00-01-49.01 IS ONE PROPERTY.

LEGEND:

- ■ FOUND CONCRETE MONUMENT
- ○ SET IRON BAR
- ● FOUND IRON PIPE
- □ FOUND MARBLE MONUMENT

Prepared By
DOUGLAS J. ANNAND
PROFESSIONAL LAND SURVEYOR
PO BOX 302
ELLENDALE, DELAWARE 19941
PHONE: (302) 422-9512

CITY OF MILFORD ANNEXATION SURVEY PLAN

PREPARED FOR

LYNN A. & KAREN K. McCOLLEY

SITUATED IN MILFORD HUNDRED
KENT COUNTY, STATE OF DELAWARE
TOTAL AREA TO BE ANNEXED: 22.367 ACRES+/-
SCALE: 1" = 350'
DATE: MARCH 1, 2008

PLANNING COMMISSION:

8/19/08

Petition for Annexation by Lynn and Karen McColley

Mr. Lynn McColley of 416 NE Tenth Street was present to represent the application. Mrs. McColley left the table of the Commissioners and remained in the audience.

Mr. McColley explained the request is for C3 for two parcels and R2 for the other two parcels because that is what the current certified comprehensive plan future land use map shows. He would like all parcels to be commercial, but cannot request that until there is a change in the comp plan, which Mr. Norris has included in the draft comp plan.

Mr. McColley stated he has offered to help Mr. Silicato and Mr. Tigiani with stormwater management if they need it. He is also speaking with DelDOT regarding a road through the property.

Mr. Norris explained the Annexation Committee report indicates a recommendation of R2 for all parcels. Mr. McColley stated he wants C3 because the property is totally surrounded by C3 property, such as the High School, Perdue, NKS, Silicato, etc.

Mr. Warfel stated he was present for the Annexation Committee meeting and reminded the commission that if the property is zoned C3, the commission will have the same situation it just had with NKS and Silicato. The owner of the property will be able to develop it to its fullest potential. Now is the time to determine what impact the property will have on the community.

Mr. Rini asked what discussions have been had with DelDOT in regards to a bypass through the property. Mr. McColley stated DelDOT will require a 60' right of way through the identified parcels to Front Street.

Mr. McColley questioned why the annexation committee would recommend residentially zoned property when it is surrounded by commercial. Mr. Norris referred to the comprehensive plan and explained actually the school district property that borders the McColley's is residential, as is the Sunny Brea property. Mr. Norris felt the annexation committee's recommendation was sound.

Mr. Warfel called for public comments. After hearing none he closed the public hearing.

Mrs. Stevenson made a motion to recommend C3 for parcels MD-00-174.00-02-51.00 and MD-00-174.00-02-53.00 and R2 for parcels MD-00-174.00-02-49.01 and MD-00-174.00-02-49.00 and adoption of resolution PC08-012, seconded by Mr. Gleysteen. Motion carried by the following votes:

Karen McColley	recusing
Sam Johnson	yes
Chuck Rini	yes
Kim Stevenson	yes
Dirk Gleysteen	yes
Jason James	yes
Brendon Warfel	no, based on the confusion with DelDOT

07/21/09

Lynn & Karen McColley
Review and Recommendation of a Change of Zone (R-2 to C-3); Project: 09-115
79.57 +/- Acres at NE Tenth Street and NE Front Street
Tax Map MD-16-174.19-01-01.00, MD-16-174.19-01-01.01, MD-16-174.19-01-03.00, MD-16-174.19-01-

04.00, MD-16-174.19-01-11.00, MD-16-174.19-01-13.00,
MD-16-174.19-01-14.00; R-2 District
Adoption of Resolution PC09-017 & Ordinance 2009-14

Because Mrs. McColley is one of the property owners for this project, she excused herself from the commission table and joined the audience with her husband, Mr. Lynn McColley, the owner, who was present to represent the application. Mr. McColley explained the requested C3 zoning is compliant with the Future Land Use in the Comprehensive Plan and is consistent with the surrounding property zoning. He further stated the Silicato property to the south of his property already has preliminary site plan approval for commercial development. Whatever is built on his property will be of benefit to Milford and its residents and will afford the community the ability to shop locally instead of travelling to Rehoboth or Dover.

Mr. Norris confirmed the change of zone application is consistent with the Comprehensive Plan. He asked Mr. McColley if there have been any market studies done to substantiate Mr. McColley's statements regarding shopping.

Mr. McColley replied yes and further anticipates there will be large scale shopping provided on this site, but not box stores. It will be very attractive retail.

When asked by Mr. Norris if all of the uses will be permitted uses in the C3 district, Mr. McColley stated yes.

Mr. Kramlich expressed his concern with all of the traffic impact this commercial area may create. Without knowing how traffic will be affected by Mr. Silicato's development of commercial land, he suggested the commission wait to approve this change of zone until the full impact has been evaluated.

Mr. McColley reminded Mr. Kramlich that prior to any construction being started on this site, it would have to come to the Commission for site plan approvals. He anticipates the traffic being enhanced in this area because of his development plans. He has spoken with Mr. Simpson's office and confirmed the funding is in this year's budget to revamp the overpass in this area.

Mr. Kramlich stated that if a subdivision or site plan comes in after the change of zone, and it meets with the code, the Commission would have to approve it and development can commence thereafter.

Mr. McColley stated the Governor's office wants to turn Delaware's economy around and this project would support his vision to do so.

Mr. Norris reminded the Commission any development that is planned must first go through the PLUS review process prior the City's approval. In that process, DelDOT will have input. Also, when final site plan or subdivision applications come to the City, it must have DelDOT approval, among other approvals.

Mr. Rini called for public comment. Hearing none, he closed the public comment session.

Mr. Norris asked Mrs. Crouch if property owners within 200' were notified. Mrs. Crouch replied yes.

Mr. Willard commented PLUS review may not be required for the project. It is based on square footage.

A motion to approve resolution PC-017 by Mr. Rini was seconded by Mrs. Stevenson. The motion carried with the following poll:

Abstained – McColley
Yes – Gleysteen, Stevenson, Burk, Rini
No – Kramlich

A motion to recommend approval of Ordinance 2009-14 by Mrs. Stevenson was seconded by Mr. Burk. Motion

carried with the following votes:

No Vote – McColley
Yes – Gleysteen, Stevenson, Burk, Rini
No – Kramlich

Mrs. McColley returned to the commission.

COUNCIL:

06/09/08

Adoption of Resolution/McColley Annexation Request

The city manager advised we have received a request for annexation from Lynn and Karen McColley. This is the first step to start the process. The annexation committee will schedule a meeting at which time the petition will be reviewed.

Lynn McColley was present and advised this property is in the area where NKS was just annexed west of Route 1.

Mr. Workman moved for adoption of the following resolution, seconded by Mr. Brooks:

Annexation/Land of Lynn A. And Karen K. McColley
Tax Map MD-00-174.00-02-51.00-000 (10 +/-Acres) Requested Zoning: C-3
Tax Map MD-00-174.00-02-53.00-000 (1 +/- Acre) Requested Zoning C-3
Tax Map MD-00-174.00-02-49.01-000 (1 +/-Acre) Requested Zoning R-2
Tax Map MD-00-174.00-02-49.00-000 (14 +/- Acres) Requested Zoning R-2

COMMITTEE DIRECTED TO INVESTIGATE ANNEXATION

Whereas, a Petition, signed by the legal property owner and duly witnessed, requesting the annexation into the City of Milford, lands containing 22.367 acres of land, more or less, legally described as follows:

Tax Map No. MD-00-174.00-02-49.01
Tax Map No. MD-00-174.00-02-49.00
Tax Map No. MD-00-174.00-02-51.00
Tax Map No. MD-00-174.00-02-53.00

has been submitted to the City Council of the City of Milford.

Now, Therefore, a Committee, composed of three (3) elected members of the City Council and one (1) member of the Planning Commission has been appointed by the Mayor to investigate the possibility of annexing said property, said Committee to be comprised of Chairman Clifford Crouch, Councilwoman Katrina Wilson, Councilman John Workman and Planning Commission Chairman Brendon Warfel.

Be It Further Resolved, that said Committee shall submit a written report containing its findings and conclusions, including the advantages and disadvantages of the proposed annexation both to the City and to the property proposed to be annexed and said report shall further contain the committees' recommendations whether or not to proceed with the proposed annexation and the reasons therefor.

Mayor Daniel Marabello

Motion carried.

07/24/08

Annexation Committee Meeting

Chairman Crouch called the Annexation Committee Meeting to order at 7:04 p.m. He announced the purpose of the meeting is to review the annexation request of Karen and Lynn McColley for 22.367 acres, more or less, described as follows:

Annexation/Land of Lynn A. And Karen K. McColley

Tax Map MD-00-174.00-02-51.00-000 (10 +/-Acres) Requested Zoning: C-3
Tax Map MD-00-174.00-02-53.00-000 (1 +/- Acre) Requested Zoning C-3
Tax Map MD-00-174.00-02-49.01-000 (1 +/-Acre) Requested Zoning R-2
Tax Map MD-00-174.00-02-49.00-000 (14 +/- Acres) Requested Zoning R-2

Mr. Crouch advised the request is for two parcels to be zoned R-2 and two parcels at C-3. He advised the purpose of this meeting is to determine whether or not this land should be annexed into the city. There will be public hearings on the zoning request and this committee will not determine the zoning though a recommendation will be made.

Lynn and Karen McColley were present. Lynn McColley of 416 N.E. Tenth Street advised the committee the main reason for the request is the majority of their property, which includes Sunnybrae Mansion, is already within the incorporated area of Milford. In addition, the NKS property and Silicato properties, which are adjacent to this site, were recently annexed with a C-3 zone.

City Planner Gary Norris reported he has reviewed the comprehensive map for the growth area and determined this is a potential site for annexation. He noted the applicant property is almost completely surrounded by city lands. To prevent this from being an island or enclave, he strongly recommends this property be annexed.

Ms. Wilson stated she agrees with the city planner that the land should be annexed.

Mr. Workman agrees that considering the amount of city land surrounding this property, it only makes sense to make this part of the city. To prevent this from being an enclave, he feels it is advantageous to annex this property and is hopeful their future plans will benefit the city.

When asked about development plans, Lynn McColley advised there are no immediate plans.

Planning Chairman Warfel also agrees it should become part of the city.

Mr. Crouch agrees this land should be annexed. However, he has some concerns with the request for the C-3 zone. He stated that we are presently dealing with some development and traffic issues with the proposed development adjacent to this property. He feels that when those issues are resolved, the C-3 zoning could be an appropriate zone. Once the matters are resolved in relation to the interchange and crossover, he would not have a problem with it.

Mr. Crouch explained the committee will not make a final decision on the zoning but will make a recommendation.

Ms. Wilson respects Mr. Crouch's opinion and understands his concern, however, she does not believe the committee should restrict the C-3 to prevent them from proceeding with their plans. She feels that restricting the zone at this time will prevent some future possibilities for development.

Mr. Crouch disagreed and stated that he feels that in the future, it would be more appropriate to consider the C-3 zone. However, should the other land be developed, the city may not want additional C-3 zoning in this area depending on the impact of the commercial uses to this area.

Mr. Warfel said he is a firm believer in property rights and once a property receives a zoning classification, the owner or developer has the right to do what is allowed in that zoning. Should they come back in a year with a letter of no objection from DELDOT, and are then zoned C-3, they should be permitted to do whatever the C-3 allows.

Mr. Warfel agrees there are a lot of issues and controversy over the proposed Silicato development at this time. He believes this will eventually be developed as commercial, but understands that at the present time, we need to be careful because of the issues in relation to the adjacent properties. He also agrees the C-3 zone would be more appropriate in the future. He emphasized that if there are any doubts over the zoning, it needs to be addressed while the city still has some control. Once the zoning is assigned, the owner has the right to do whatever is allowed under the C-3 rules.

Mr. Crouch added that can be part of the recommendation.

Mr. Warfel recalled other properties that were approved for annexation with a C-3 zone. When it came time for the land to be developed, there were suddenly a number of problems. If it is addressed now, the city and the property owner will both be on the same page.

Ms. Wilson stated she believes this could enhance the area. She described the property as a prime and beautiful piece of property. The C-3 could enhance its current use by making this even more accessible and inviting.

Mr. Crouch said he may feel differently if the new school was already built. Then we would have some idea of the impact associated with the proposed development, or those issues had been resolved, he would also consider it. At this point, we do not know what is going to happen with the school nor what will happen with Royal Farms and the other proposed businesses. He will recommend this property be annexed but not recommend the C-3 until these other matters are resolved. In the future, the C-3 zone could be considered but not at this time.

Mr. Workman understands they are requesting C-3 because it is consistent with this new commercial development. However, he feels each annexation should be considered individually. He pointed out the concerns that have been discussed are associated with the Silicato development which is adjacent to the McColley land. He also stated that he does not particularly like the C-3 zone. However, it is important to be fair to anyone asking for annexation. As this continues through the process, it will be thoroughly reviewed by the planning commission and will eventually come back to city council for a final decision. Council will consider the recommendation of the planning commission at that time. He understands the concern with the new school and development but should also consider what else is in this area.

Mr. Norris said that in reviewing the existing zoning, the southeast side of Northeast Front Street coming off State Route 1 is currently zoned C-3 in addition to the Silicato and NKS properties. On the other side of this property, it is zoned residential which includes the Sunnybrae Mansion. They are requesting two parcels zoned C-3 and two zoned residential. Their proposal for the two C-3 parcels is consistent with both sides of the street being C-3. It is Mr. Norris' opinion that both sides of the street should be the same zone. That prevents one side of a street having single family homes and the opposite side of the street having a McDonalds or similar business with a 24-hour operation, for example.

Mr. Crouch asked the McColleys if the C-3 zone was not approved, did they still wish to be annexed. They both responded yes.

Mr. Crouch said he also considers whether this would restrict the value of the property. He noted this piece has never been commercial nor does he see any restrictions on its value if council recommended it not be zoned C-3. They would still have the option of applying for C-3 in the future.

He reiterated there are problems with what is being proposed in this area at the current time. He does not know how that will turn out, though he hopes it will. He also hopes the traffic situation is properly addressed and everyone involved is happy. He agrees the property would be a great addition to the city but does not recommend the property

be zoned C-3 at this point in time.

Mr. Workman understands the concern of Mr. Crouch but feels the McColleys are well aware of those problems. He also suggests that we make a recommendation for the annexation and express the committee's concern about the C-3 zone. He is confident our planning commission will thoroughly review it and that council will then consider their recommendation.

Mr. Workman moved to proceed with the McColley request for annexation with the R-2 zone noting there are some concerns regarding the C-3 zone at the present time, seconded by Mr. Warfel.

Ms. Wilson wants to be in accord with the annexation committee and definitely agrees the property should be annexed, but she does not have the same concerns about the C-3 zone.

Motion carried by a unanimous roll call vote.

08/11/09

Annexation Committee Report/Lynn and Karen McColley Petition

Annexation Committee Chairman Crouch presented the following report to council:

An Annexation Committee Hearing was held in the meeting room of Rural Water Association on July 24, 2008 to consider the annexation request for lands described as:

Property owner: Lynn A. & Karen K. McColley
Tax map number: MD-00-174.00-02-51.00
Size: 10 +/- acres
Existing zoning: RS-1 Proposed zoning: C-3

Tax map number: MD-00-174.00-02-53.00
Size: 1 +/- acres
Existing zoning: RS-1 Proposed zoning: C-3

Tax map number: MD-00-174.00-02-49.01
Size: 1 +/- acres
Existing zoning: RS-1 Proposed zoning: R-2

Tax map number: MD-00-174.00-02-49.00
Size: 14 +/- acres
Existing zoning: RS-1 Proposed zoning: R-2

The Annexation Committee of the City of Milford City Council recommends APPROVAL of the application, with the following comments:

1. Annexation is consistent with the "Comprehensive Land Use Plan".
2. Property is contiguous to existing City Limits.
3. Any changes to the property would be subject to review by the City of Milford Planning Commission and/or City Council.
4. Property will be served by City Electric, Sewer, and Water.
5. The City will benefit through additional revenues, including taxes and the sale of water, sewer and electric.
6. Upon Council approval, a Municipal Annexation Plan of Services will be submitted to the Office of State Planning for their approval.

The property should be annexed with the following zoning classification: R-2.

Mr. Crouch confirmed that even though the McColleys were requesting C-3 zoning on two parcels, it is the recommendation of the annexation committee to annex the entire site under the R-2 zone.

Mr. Crouch moved to proceed with the annexation of the McColley annexation, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

9/22/08

Annexation Committee Report Submitted to City Council

City Planner Gary Norris reported the annexation committee of city council met in July and unanimously recommended the properties be annexed under the R-2 zoning classification. The motion at the planning commission was for the two parcels to the south, which would front Northeast Front Street, be zoned C-3 and the two parcels to the north, that would front Northeast Tenth Street, be zoned R-2 per the existing comprehensive plan-future land use map.

Petitioner Lynn McColley of 416 Northeast Front Street stated that several months ago he met with Gary Norris and Christine Crouch of the Planning Department to ensure this property was zoned properly. They reviewed the state and comprehensive plan completed in 2006 and agreed this zone complies with the future growth map.

Mr. McColley verified the planning commission voted 7-1 in favor of the zoning as was requested by the petitioners.

Mr. Baird advised that the recommendation of the annexation committee was based on concerns about how this property would tie in with the Royal Farms and NKS projects.

Mr. Brooks pointed out this land is contiguous to the service road. Mr. McColley then added that he has spoken with DELDOT officials numerous times, including Ted Bishop and Ralph Reeb, about continuing the service road through his property. DELDOT is requesting a 60-foot right of way and Mr. McColley is working on that. In the meantime, his intention was to have it zoned the way the city and state wished.

Mr. Baird asked if Mr. McColley would be willing to grant a 60-foot utility easement as part of this annexation agreement. Mr. McColley advised the utility easement would come down the 60-foot right of way already planned and the sewer would be extended up that easement to the location of the pump station. Mr. McColley agreed to that condition as part of the annexation because that is what was previously discussed.

Mayor Marabello opened the floor for public discussion. With none received, the mayor closed the floor.

Mr. Baird then advised the Plan of Services is required to be submitted to the State Planning Office before final action can be taken by city council. That Plan of Services has been delayed due to the lack of information from the Carlisle Fire Company though it has since been resolved with the assistance of Planning Commissioner Marvin Sharp. As soon as the city receives a letter of acceptance from state planning, it would be placed on the next agenda for a final vote by council.

When asked if this could be voted on contingent upon the acceptance of the plan, Mr. Baird advised that the resolution that must be adopted per the charter requirements, refers to the acceptance of the Plan of Services. His recommendation is a final vote not be taken until the plan of services is received.

Mr. McColley indicated he has never heard of that before because this is noting that they have had vacant land before that was made single family housing lots. Once the house is ready to be constructed, is the time for fire marshal approval.

Mr. Baird reiterated that any property being annexed in the State of Delaware must have a plan of services prepared and sent to the Office of State Planning. It includes comments from various agencies which is part of the review by state planning. Once we are in receipt of that letter, the city will immediately schedule it for a final vote. The public hearing requirement was satisfied this evening with proper advertisement and notification to surrounding property owners.

12-08-08

Adoption of Ordinance 2008-19/Rezoning of McColley Lands

Mr. Baird recalled the annexation request from Lynn and Karen McColley. He then read the tax parcel numbers and acreage into record noting that parcels 1 and 2 were requested to be zoned C-3 and parcels 3 and 4 zoned R-2.

City Planner Norris verified the parcels are in conformance with the comp plan and the planning commission recommended the zoning as requested for each parcel.

Final action was previously postponed pending the acceptance of the plan of services by the State Planning Coordination Office. The city received that letter from Principal Planner David Edgell dated November 18, 2008.

Mr. Morrow confirmed the agreement for the easement was included. Mr. Baird advised that the resolution includes a condition that requires the petitioners to enter into an annexation agreement dedicating an easement or right-of-way as determined by the city and/or the state. He said further details will follow with specifics on the easement or right-of-way and this confirms it is the city and petitioners' intent to work together on the service road from Tenth Street to Front Street and the possible interchange, if and when, the overpass is constructed by DELDOT.

Lynn McColley was present and confirmed that he and his wife are in agreement with the condition as explained by Mr. Baird.

Mr. Oechsler asked if there is a use to substantiate the C-3 zone versus the property being zoned R-3. Mr. Baird said nothing has been discussed at this time and is only the request of the petitioner. However, the proposed comp plan shows the property as commercial.

Mr. Brooks moved to adopt Ordinance 2008-19 rezoning the McColley lands, MD-16-174.00-02-49.01 and MD-16-174.00-02-49.00 to R-2 (residential) and MD-16-174.00-02-51 and MD-16-174.00-02-53 to C-3 (commercial), seconded by Ms. Wilson:

Ordinance 2008-19
Annexation/Land of Lynn A. and Karen K. McColley
Tax Map MD-00-174.00-02-51.00-000 (10 +/-Acres) C-3 District
Tax Map MD-00-174.00-02-53.00-000 (1 +/- Acre) C-3 District
Tax Map MD-00-174.00-02-49.01-000 (1 +/-Acre) R-2 District
Tax Map MD-00-174.00-02-49.00-000 (14 +/- Acres) R-2 District

An Ordinance to Amend the Zoning Designation of certain tracts of land, owned by Lynn A. & Karen K. McColley and located in Milford Hundred, Kent County, State of Delaware as shown on a survey by Douglas J. Annand, Professional Land Surveyor, dated March 1, 2008, comprising some 22.367 acres, more or less, to be annexed into the City of Milford by resolution hereafter adopted by the City Council of Milford, Delaware.

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owners thereof have petitioned the City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed to and become part of the City of Milford and a zoning classification is required, and

WHEREAS, the land owned by Lynn A. and Karen K. McColley, to be annexed, Tax Parcel(s) MD-00-174.00-02-51.00-000; MD-00-174.00-02-53.00-000; MD-00-174.00-02-49.01-000; MD-00-174.00-02-49.00-000 are currently zoned by Kent County as "RS-1" Single Family Residential, and

WHEREAS, the City Council referred the zoning of the affected territory for report and recommendations to the Planning and Zoning Commission and that after a due hearing as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, after a Public Hearing held on September 22, 2008, and after considering the previous recommendation of the City Council Annexation Committee, the City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Kent County, Delaware:

Tax Map MD-00-174.00-02-49.01
Tax Map MD-00-174.00-02-49.00
Tax Map MD-00-174.00-02-53.00
Tax Map MD-00-174.00-02-51.00

shall be, upon final approval of its annexation into the City of Milford, classified under the Zoning Ordinance of the City of Milford and zoned as follows:

Tax Map MD-00-174.00-02-51.00-000 - C-3 Zone
Tax Map MD-00-174.00-02-53.00-000 - C-3 Zone
Tax Map MD-00-174.00-02-49.01-000 - R-2 Zone
Tax Map MD-00-174.00-02-49.00-000 - R-2 Zone

Date Adopted: December 8, 2008

Mr. Workman recalled the concerns about the C-3 zone expressed by the annexation committee at their meeting on July 24, 2008. He said that according to a previous statement, the zoning will not be consistent with the comp plan until it is adopted. Mr. Norris verified the zoning is consistent with the future land use that was part of the 2003 Certified Comp Plan. The 2008 Comp Plan shows the entire area as commercial. Mr. Brooks confirmed that all contiguous properties are commercially zoned.

Motion carried by unanimous roll call vote.

Adoption of Resolution Finalizing Annexatino

Mr. Morrow moved to adopt the following resolution, seconded by Mr. Oechsler:

City of Milford
Annexation/Land of Lynn A. and Karen K. McColley

Tax Map MD-00-174.00-02-51.00-000 (10 +/-Acres) C-3 Zoning
Tax Map MD-00-174.00-02-53.00-000 (1 +/- Acre) C-3 Zoning
Tax Map MD-00-174.00-02-49.01-000 (1 +/-Acre) R-2 Zoning
Tax Map MD-00-174.00-02-49.00-000 (14 +/- Acres) R-2 Zoning

RESOLUTION

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as described herein:

Tax Map MD-00-174.00-02-51.00-000 (10 +/-Acres) C-3 Zoning
Tax Map MD-00-174.00-02-53.00-000 (1 +/- Acre) C-3 Zoning
Tax Map MD-00-174.00-02-49.01-000 (1 +/-Acre) R-2 Zoning
Tax Map MD-00-174.00-02-49.00-000 (14 +/- Acres) R-2 Zoning

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation; having held a Public Hearing on September 22, 2008 on said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in said County where said lands are situate.

Be It Further Resolved, the Petitioner and the City of Milford enter into an annexation agreement for the purposes of the petitioner dedicating an Easement and/or Right-of-Way to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on December 8, 2008, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Mayor Daniel Marabello

Motion carried by the following 7-1 vote:

Yes-Ambrose, Spillane, Oechsler, Brooks, Morrow, Starling, Wilson
No-Workman.

Mr. Workman stated that in consideration of the annexation committee recommendation, he feels all four parcels should be zoned R-2 when annexed and votes no.

08-24-09

Lynn & Karen McColley for a Change of Zone of 79.5 +/- Acres from R-2 (Residential) to C-3 (Commercial) west of Delaware Route 1, lying south of N.E. Tenth Street and north of N.E. Front Street, Milford, Delaware.

Present Use Residential & Agricultural; Proposed Use Highway Commercial; Tax Map MD-16-174.19-01-01.00 (N.E. Side/N.E. Tenth Street); MD-16-174.19-01-01.01 (416 N.E. Tenth Street); MD-16-174.19-01-03.00 (N.W. Side/County Road. 409); MD-16-174.19-01-04.00 (819 N.E. Front Street); MD-16-174.19-01-11.00 (N.W. Side/County Road 409); MD-16-174.19-01-13.00 (S.E. Side/County Road 407); MD-16-174.19-01-14.00 (600 N.E. Tenth Street).

City Planner Gary Norris presented the application noting the change of zone complies with the 2008 Comprehensive Plan. The planning commission recommended approval by a vote of 4 to 1.

Lynn McColley of 416 N.E. Tenth Street addressed council stating he is the owner of the parcels being considered for rezoning. He explained they are asking council to approve a change of zone of the property that surrounds the Sunnybrae Mansion. He then read a prepared statement.

In the statement, Mr. McColley reiterated the requested C3 zoning is compliant with the Comprehensive Plan recently certified by the State of Delaware. He said that after a long process, city council participated in a decision to rezone his property to C-3. He said there was no opposition at the planning commission from neighbors or businesses.

He said that commercial properties surround this parcel with Perdue on the west side along with KSI and IG Burton. On the south end is Hitchens Tire, Atlantic Concrete and Warfel Construction. On the east side is NKS and the Silicato-Wood development which have been approved for four commercial uses.

Mr. McColley stated that Milford High School borders the northern part of the property. Also, road improvements on Tenth Street are underway due to the growth at the high school. He believes that DELDOT will require sharing of the Silicato entrance on Tenth Street for any development of these parcels.

According to Mr. McColley, the State of Delaware has authorized funding for site work and engineering for the overpass on Front Street and Route 1. He said that jobs will be created for local residents regardless of the approved uses.

Mr. McColley reported they are in the process of negotiating with Kent County Sewer District to permit a relief line to be built along the west side of their property. He said this should prevent another spill of 250,000 gallons of sewer that went into the Mispillion River recently. He said this also allows service to the parcels without any sewage or road disruptions.

He said it is anticipated the site will be used for retail which will allow residents to shop closer to home.

He asked council to remember that all plans will return to them for final approval after the planning commission has reviewed and approved the applications.

Mr. McColley then stated the city continues to grow and develop uses to benefit its citizens and nearby residents. This request is normal and part of the evolution. He asked council to approve the change of zone to C-3.

He concluded by saying the property is presently being farmed and they are also requesting the city continue to tax it as an agricultural parcel until the farming is stopped.

Mr. Brooks responded by saying he has a number of problems which he has already discussed with Mr. McColley. He stated that if the bypass was constructed, he would have no problem with it. Because that has not been done, he has several problems including trucks on Tenth Street, speeding on Tenth Street and increasing traffic on Tenth Street in addition to school traffic which will increase more over the next few years. He asked where the high school students plan to go because the parking areas were completely filled the other day with only school teachers. The school felt they had adequate parking but found out it was not enough. Mr. Brooks said that when Tenth Street was originally built, it was a dead-end street. That road has become a connector and it was never upgraded to handle the additional traffic that utilizes it today.

Mr. Brooks said that because of the iron fence that fronts the McColley property on Tenth Street, any vehicle traveling east that encountered a problem, would have no place to go. he same would apply to a vehicle traveling west because the school has a chainlink fence surrounding their athletic complex on the other side of the street. The road is a no passing zone though his neighbor recently encountered a problem when turning into their driveway. Another driver passed their turning vehicle because he felt his neighbor was taking too long.

Mr. Brooks emphasized there is already a traffic problem on that street. He is asking for some guarantee the bypass is coming. Mr. McColley said they have met with DELDOT in Dover on several occasions and added they are working

on it. He recalled the traffic impact study done by former Superintendent Bob Smith before the new school was approved. Mr. McColley recalled that Denise Silicato had a minor traffic study done. He said there are already some improvements being made on Tenth Street where the street has been widened where vehicles turn into the high school at the new road.
Mr. McColley said the city is going to pave the parking lot and has already installed new lights. He said that eventually, their fence will be moved back as part of this development because the road will most likely be widened.

He reported that because of the Silicato project, Tenth Street will be widened. Their fence will be moved and some trees removed to allow for the street to be widened for vehicles turning into the site.

Mr. Brooks recalled that when the Silicato development was under review, Levy Court Commissioner Eric Buckson stated that Tenth Street is barely passing as far as the level of service, especially during peak hour conditions. He also recalled him stating that if the Silicato development is approved, it would receive a failing mark because of the anticipated increase in traffic.

Mr. Brooks said that when he asked Mr. Silicato the intent of the site on Route 1, he indicated he did not have any plans. He stated the city came to him and asked him to annex because they wanted NKS in the city. Two months later, Mr. Silicato was back with four commercial projects planned for the site though nothing else has been done on the NKS project. He also asked Mr. McColley what his plans were; Mr. McColley said he does not want to do anything which is the same thing he heard in relation to the Silicato site.

Mr. McColley explained that presently, the property is not under contract. He is only asking for the change to C-3. Eventually, if the property is sold, any development plan will have to go before the commission and the state PLUS committee. He stated they will require bicycle paths and other amenities because of the retail development.

Mr. Brooks emphasized that as long as he has been on council, DELDOT has not denied anything that was presented. Mr. McColley said he knows they are in the initial stages of working on the overpass which was confirmed by Senator Gary Simpson and Senator Colin Bonini's office. They both confirmed they have approved funding to do some site work and the beginning stages of engineering for the overpass. He said they even have drawings of the overpass.

Mr. Brooks pointed out it is a regular occurrence for fire trucks and police cars to be called to the Tenth Street intersection, or that area, for a traffic accident. Chief Hudson agreed that traffic will not decrease noting he was there today to observe the situation.

Mr. Workman questioned Mr. McColley's comment regarding a parking lot the city is putting in and asked where it is and why the city is putting it in. Mr. Brooks said he is talking about the football stadium parking lot; Mr. McColley agreed. Mr. Workman noted the overpass is not in their budget and will not happen this year. It is in their long term plans even though that does not mean it will happen. It must be included in the budget for the project to move forward. He understands the comprehensive plan shows the site as a C-3, but does not believe council has to agree to change the zoning at this particular time. Mr. Workman feels we should wait until we see what impact the four businesses in the Silicato development will have. He believes they will have a big impact not only on Tenth Street, but the existing intersection. He is unsure if the road can handle any more traffic. The other concern is the additional school traffic noting Mr. Brooks is familiar with the situation because he sees it on a daily basis.

Mr. Workman said that Mr. McColley is indicating he is unsure what will go there at this time. If he could give council more specific information, he could base his decision on that use. Mr. McColley countered by saying council will review that at the next stage once they have a buyer and their plans are presented to council.

Mr. Workman emphasized that Tenth Street is his number one concern. He recalled the hearings at the time the Silicato development was being reviewed. He referenced the studies that were based on those specific projects and infrastructure needs. If this land is developed, especially as a shopping or retail center, he agrees it will create additional traffic which he feels is too much for the current roads in that area.

Mr. McColley responded that Kent County is already putting in sewer pipes so there is new, updated equipment that will handle more capacity with less failure. A new sewer is being put in from Harrington to Milford with additional sewer capacity for both the county and the city.

Ms. Wilson said she is trying to put everything in perspective and is considering Mr. Brooks and Mr. Workman's concerns versus what Mr. McColley is presenting. She said that typically, when a zone is changed, council does not always have the plans in place for the property. She understands that the zone must be addressed first. What Mr. McColley is presenting is the same zone previously approved for the Silicato property; she understands why Mr. McColley would want the same zoning district in that area.

Ms. Wilson hopes that if Mr. McColley already knew a certain store was planning to develop there, he would let council know. It is her understanding that information is not yet available. She believes that council's job is to determine if this fits. She noted that this was thoroughly reviewed by the planning commission. Agreeing the bypass will not be completed this year or next year, nor does she believe Mr. McColley will have his development completed during that time.

Ms. Wilson said she is trying to look at the pros and cons though she agrees Tenth Street has some major problems; the State of Delaware understands the need for improvements to Tenth Street. She feels that if more pressure is applied, something will be done by the state. She understands that everyone, including the legislators, are in agreement it is a problem.

Ms. Wilson hopes the bypass will come first noting that council will have more say as the applications are submitted once a buyer is involved. At that time, council can require that be in place before the development occurs.

Mr. Brooks recalled that two of Mr. McColley's parcels were previously zoned C-3. He reiterated his problem emphasizing his focus is the traffic problems. Mr. McColley said he can assure council that before construction would begin, a traffic impact study would be done. Mr. Brooks stated again that in his 28 years on council, he is unaware of DELDOT denying anything in Milford.

Mr. Adkins added that the State of Delaware wants to increase economic activity in Delaware. He said they have actually tried to prioritize certain intersections with anticipated economic development being planned at Wilkins Road. He thinks that should be considered when approving a C-3 zone. He said this same discussion occurred with the recent change of zone to commercial on Route 113. Councils' discussion involved the type of commercial being considered, if there was enough parking, etc. He agrees those issues will be addressed as the plans are submitted. He thought it was status quo if it was specifically dealt with through the comprehensive plan.

Mr. Brooks said that anyone can say that something is going to be done, but he also recalls that 28 to 30 years ago, DELDOT was going to build an overpass over Route 1 to Tenth Street which was never done. They purchased the Peterman property and relocated the house. He said when he sits on his porch between 6:30 and 9:30, he has actually observed cars going 60-80 miles per hour.

Mr. Spillane agrees there are concerns about traffic on Tenth Street. He said when the first development was approved on Route 1, he went out there and watched traffic on different days and times. He said traffic is very heavy right now. Without the overpass, there is more concern. He asked how traffic would turn into the McColley site after it is zoned C-3.

Mr. McColley explained that DELDOT will figure that out. He is familiar with how traffic will enter and exit the Silicato site which he fully supports and believes will work well. He said we are in the worst recession since the Great Depression. He said sometimes history has a way of repeating itself. He said that in the early 1930's, Sunnybrae began construction. Jack Burris remembers the excitement around Milford at that time when they were coming out of the depression and started construction. He said it gave several people work and the economic activity improved things in Milford.

Mr. McColley is confident it will provide jobs and city growth as well as more taxes and income to the city. He said after looking at the city budget, they need more money. He thinks this will be a wonderful thing for jobs and tax revenues for the city. If we can get construction out there and some retail, it will be a classy thing similar to Sunnybrae. He said some of the shopping centers are done with copper fronts and bricks such as the Lowes, who also have a different architecture.
He agrees that traffic is part of growth. There are some bumps in the road that will have to be figured out. He again stressed the State of Delaware has already approved the funding to start the site work for this overpass. He said many people said there would not be an overpass in Dover before the Air Force base, but there is one now that will be finished within 30-90 days.

Mr. McColley said things get done eventually. He has the support of Woodshaven and is familiar with one of their residents that works for DELDOT who confirmed DELDOT has been talking about getting this overpass done. A lot of the residents in Woodshaven want an overpass there.

Mr. Brooks noted that one of the former residents recently moved from Woodshaven because his daughter is getting her drivers license. His concern is the speed of the vehicles on Route 1 and Tenth Street.

Mr. McColley said that Emmet Venet is the voice for the Woodshaven residents and is very much in favor of this. He thinks that when the development gains some momentum, eventually the overpass will go in.

Mr. Brooks asked Mr. McColley if he feels strongly this overpass will be built; Mr. McColley said yes. Mr. Brooks asked how he will feel if the city does not change the zone to C-3 until the bypass is built. Mr. McColley answered that he does not have any control over when the bypass will be built. He added that the Silicato development will be completed and residents and Mr. McColley will keep speaking to their congressmen and senators to get the funds for the bypass. He then reiterated they have already received some funding. He feels getting money for the site work is big. He said this is in a commercial area stressing it is not like they are in the middle of nowhere which is why they asked for commercial. He again pointed out they are surrounded by IG Burton and Perdue. He understands that Perdue plans to expand which is why they are putting the sewer pipe for more capacity.

Mr. Brooks invited everyone to come out and observe school traffic between 7:00 a.m. and 8:30 a.m. and then decide if adding more commercial uses will be safe. Mr. Brooks pointed out there is more traffic at the high school than any other schools combined. In addition, most traffic leaving a school is controlled by a traffic light. In this case, there are no traffic control devices on Tenth Street or Route 1. However, he sees fire trucks and police cars with emergency lights traveling toward Route 1 on Tenth Street at least twice a week.

Mr. Workman asked Mr. McColley how a C-3 zone will benefit the city and bring in jobs. He pointed out that an R-2 zone will also bring in revenues with a continuous stream of tax revenue as homes are built in addition to also providing construction jobs. Mr. McColley explained that an R-2 is inconsistent with the current comprehensive plan. The new comp plan shows this entire area as C-3. He said this property is an island in the middle of a commercial area.

Mr. Workman disagreed stating the comprehensive plan is exactly that--a plan showing what the city would like and what is possible and where certain things can go. However, a change of zone does not have to approved just because a comprehensive plan says that zone. He said the comp plan could be changed again back to show this as a residential area. Ms. Wilson agreed with Mr. Workman but asked why we have a comprehensive plan. She noted the number of hearings Milford had to consider the comp plan and how many times the last one was amended. She feels council endorsed the plan and presented it to the state to be reviewed and certified. Ms. Wilson said that Mr. McColley is willing to change his zoning based on the comprehensive plan that was approved. She said the comp plans must be reviewed before a developer can apply for a new zone to ensure everything is in order.

Mr. Norris reported that during the comprehensive plan process, Mr. McColley had come in and requested this land be designated as highway commercial.

When asked the reason for the one dissenting vote from the planning commission, Planning Commission Chairman Chuck Rini explained the negative vote was Commissioner Kramlich who had concerns about the traffic on Tenth Street. The other four voting in favor of the motion felt they needed a C-3 zoning before they could get people interested. Their opinion was that they could not get an R-2 development with the surrounding commercial. So they went to the comp plan which showed the change to the C-3 zone.

When asked how much discussion occurred regarding traffic on Tenth Street, Mr. Rini said it was a lengthy discussion with Commission Kramlich giving a presentation to the commission.

Mr. Spillane noted that if council agrees to change the zone to C-3, Mr. McColley had asked for it to remain being taxed agriculturally; Mr. McColley said he is asking for that until the farming stops.

Mr. Spillane feels that once the land is zoned C-3, it should be taxed commercially. Mr. McColley is requesting it continue to be taxed in that manner until something is constructed. At that time, it could then be taxed at the C-3 rate.

Mr. Spillane asked if Mr. McColley has a problem waiting until something is determined in regard to the traffic. Mr. McColley said that before a traffic study is done, the use will need to be determined. This will give him a chance to find a developer that wants to build. Then those plans would be considered and comments accepted. He emphasized that right now, there are no plans for the site. Someone was previously interested, but because of the economy, they pulled out.

Mr. Morrow said that a bypass may not have been built because there was no reason for the state to build a bypass. He thinks we need to look at the big picture and let the process work. He feels during the process, which may take 2, 3 or 4 years, the city has a potential piece of land that fits the comprehensive plan. This development will improve Tenth Street and probably force the state to put a bypass in. He agrees this needs to be considered one step at a time and noted the number of properties that have been rezoned and approved for development but nothing has occurred over the past 5 to 6 years. He believes the bypass is being constructed by Route 30 because of the growth taking place in that area.

Mr. Morrow agrees that focus needs to be whether or not this land is good for C-3. All the concerns discussed will be addressed during the process. He agrees this is an opportunity to bring jobs and more taxes to the city during some bad economic times.

When asked for comments from the public, Brendon Warfel of 916 NE Front Street addressed council.

Mr. Warfel feels if council agrees to give Mr. McColley a reduced tax rate after it has been rezoned, he will also ask for relief because of his sixteen acres, over 90% of his property is open green space that he mows in addition to a field. He said he has always been supportive of annexation into the city because of the benefit to the town's infrastructure and revenues.

Mr. Warfel pointed out the comp plan is only the first step. He noted that no one can change any zone unless it is consistent with the comprehensive plan. However, the comp plan does not guarantee a property will be rezoned to commercial but only allows it to become commercial if approved by council.

Mr. Warfel said this is the first time he has heard the state has money to dig dirt for the Tenth Street overpass though he personally would like an overpass there. However, he feels it is odd that in the same comp plan, council approved open space on the other side of this proposed overpass. He is confused whether council wants growth in this area or not. On one side, more commercial is being considered but the other side must remain as open space. He is unsure how DELDOT will be convinced to build an overpass which will lead to open space and how this will end up on their priority list.

He emphasized that during the change of zone process is when the city has control over a site. Mr. Warfel said he has been involved in the city for several years and is supportive of controlled growth. He said that though he always agrees with Ms. Wilson, he must disagree that at this point, city council has some control. He explained that when an application is received on a property previously zoned by council and the applicant has met all the requirements to continue with a permitted use, he does not believe council can legally say no at that point. However, in this case, council is not taking any value or anything away from a property owner if the zoning is never changed to another zone simply because they never had it to begin with. But if a zone has been established and later in the process, council turns down things that are permitted, then the value is taken away.

Mr. Warfel then pointed out this piece of property would be the largest commercial piece of property with the least amount of state highway/roadway access. He said most commercial properties in the city are next to a state highway other than those on Front Street which was developed many years ago. For example, the Lowes retail center is off Route 113 and the Fannin property is adjacent to State Route 30.

Mr. Warfel agrees that council may want to wait until the development occurs on Route 1 to determine how it will work with the access road before a large piece of property like this is zoned commercial.

He is also confused and remembered that some of the same planning commissioners voted against the Silicato development on Route 1 and yet they are voting in favor of a change of zone on this property. He asked that question at a planning commission meeting but never received an answer.

He also would like to see an overpass and probably this area commercial. He was in favor of the street going across his property to Tenth Street though he does not believe Mr. McColley supported that. Ironically, Mr. Warfel said he thought that would benefit the City of Milford.

Mr. Warfel agrees this should wait until the Silicato development is completed and its impact determined. He reiterated that once city council approves the change of zone of 80 acres to commercial, then all uses in that zone are basically allowed.

He feels that the city has made a mess out of many potential commercial properties. He thinks that under the right leadership in Milford, we would have a Lowes by now. Instead, it has turned into a mess. Royal Farms turned into a mess and everything talked about or presented has turned into a mess. In this case, the city could be adding 80 acres of a potential mess.

If council votes yes, it means we are all for any commercial use. The city will then wrap its arms around the next commercial project and do everything possible to make it happen. He reminded council that DELDOT has jurisdiction over Route 1 and when they come in with that paper stating they have no objection, it is totally out of the city's control. At this point, council has some control.

Mr. Warfel said he does not really care, though he will be confused if council votes in favor of this because of all the issues the city had with the 10 to14 acre development currently there. There were people lined up at those public hearings. He feels the city needs to allow the access road to be built and see how it works.

No other person wished to speak. Mayor Marabello then closed the floor to public comment.

Mr. Brooks then said he wanted to clarify that he is not against the project nor is he against the commercial development.

However, his problem is the impact of traffic to the roads and area. He emphasized the number of 16-year-olds that are exiting and entering a major highway onto this roadway.

Mr. Spillane then moved to keep the zone at R-2.

Mayor Marabello then stated this is only a hearing and council does not have to vote today. Members of council pointed out there is a motion on the floor.

Mr. Willard said this appears to be a motion to deny the rezoning. He said this is a large project and council has discussed their authority in land use decisions. He said in other issues, council makes a zoning decision based on the health and welfare of the city and whether it adversely affects other neighbors and traffic, which is specifically mentioned in the general provisions. He said action can be deferred on something of this magnitude in order to prepare an appropriate motion whether it will be to deny or approve. He said it is important that the moving party has a motion that reflects their intent.

Mr. Willard said he is willing to work with any councilperson to draft a motion based on the facts they feel are relevant whether they are for or against it.

When asked if the motion on the floor was to deny the application and that the zone remain R-2 or defer action, Mr. Spillane said he will change his motion to defer. Mr. Workman seconded motion.

Mayor Marabello said the motion is to defer action until the next meeting.

Motion carried by unanimous roll call vote.

Mayor Marabello said a lot of information has been discussed and both the city and applicants' sides need to be considered before a decision is made.

09/14/09

Lynn & Karen McColley for a Change of Zone of 79.5 +/- Acres from R-2 (Residential) to C-3 (Commercial) west of Delaware Route 1, lying south of N.E. Tenth Street and north of N.E. Front Street, Milford, Delaware. Present Use Residential & Agricultural; Proposed Use Highway Commercial; Tax Map

MD-16-174.19-01-01.00 (N.E. Side/N.E. Tenth Street); MD-16-174.19-01-01.01 (416 N.E. Tenth Street); MD-16-174.19-01-03.00 (N.W. Side/County Road. 409); MD-16-174.19-01-04.00 (819 N.E. Front Street); MD-16-174.19-01-11.00 (N.W. Side/County Road 409); MD-16-174.19-01-13.00 (S.E. Side/County Road 407); MD-16-174.19-01-14.00 (600 N.E. Tenth Street)

Mayor Marabello recalled council deferring action on this matter at the last council meeting.

City Solicitor Willard reminded council the presentation and public hearing was held at the August 24th meeting during which time the floor was open to public comment and then appropriately closed. Council only deferred action to this meeting.

Mr. Workman recalled that when council took action to defer the matter, additional information was to be obtained though he has seen nothing.

Mr. Adkins recalled that council postponed action so that an appropriate motion, with the correct wording, could be prepared.

Mr. Baird then read the following excerpt from the August 24th meeting:

Mr. Willard said this appears to be a motion to deny the rezoning. He said this is a large project and council has discussed their authority in land use decisions. He said in other issues, council makes a zoning decision based on the health and welfare of the city and whether it adversely affects other neighbors and traffic, which is specifically mentioned in the general provisions. He said action can be deferred on something of this magnitude in order to

prepare an appropriate motion whether it will be to deny or approve. He said it is important that the moving party has a motion that reflects their intent.

Mr. Willard said he is willing to work with any councilperson to draft a motion based on the facts they feel are relevant whether they are for or against it.

When asked if the motion on the floor was to deny the application and that the zone remain R-2 or defer action, Mr. Spillane said he will change his motion to defer. Mr. Workman seconded motion.

Mr. Baird said he has spoken with several council members regarding this motion, most of whom were bouncing back and forth on the right way to proceed. From those conversations, he was unsure council was prepared to move forward. He is unsure if council should act until there is some direction provided on how to proceed. He feels it is nothing to rush into because there could be some ramifications. His impression was council was still in the process of doing its due diligence on how to proceed. He stated that we will be happy to facilitate that if someone wants to put something on the table, whether it is tonight or if council wants to continue the deferral and allow more time for consideration.

He added that further dialog may lead council into a motion.

Mr. Morrow asked if we had any additional information on the status of the overpass. Mr. Baird answered no but he did make contact with DELDOT who confirmed it is on their radar screen though it is not funded. They are noncommital on the project at this time.

Mr. Adkins believes it is worth discussing the two aspects of the project; one being the change of zone and the second issue is the tax waiver that Mr. McColley requested. He feels voting on those issues should be separate.

Mr. Brooks explained that his concern remains with the traffic on Tenth Street. Until he is able to see some definite action being taken by the state to deal with the traffic problem, he will not support the project. He recalled Kent County Levy Court Commissioner Eric Buckson addressing council when the Silicato project was being considered. At that time, he stated the existing traffic volume put the traffic system on Tenth Street at barely passing. With the additional development, he felt it would fail. The addition of another seventy acres of commercial development will create more problems, particularly with the large crowds at the high school football games on Friday nights. He is convinced that Tenth Street will not handle a large retail area added to the mix. In addition, a lot of those vehicles will utilize Route 1, which is already congested on weekends with beach traffic and will cause major backups on Tenth Street.

Chief Hudson agreed with Mr. Brooks' concerns.

Mr. Brooks said that if the state comes through with a plan to address the increased number of vehicles with an overpass or some other alternative, he would consider it. At this point, he is very concerned about the student drivers at the high school in addition to traffic in general on Tenth Street.

Mr. Spillane agrees with Mr. Brooks noting he has observed the traffic on Tenth Street and Route 1 on several occasions. In particular, Friday night was extremely bad with the football game. He has also observed traffic backed up in both directions on Route 113. He recalled his concerns about the Silicato development and he is unable to support this change without a traffic plan in place from the state.

Mayor Marabello asked the city manager where the overpass is on the priority list. Mr. Baird said they did not provide specific information but only stated the project was well down the list.

Mr. Johnson emphasized councils' concern is the safety of our children which should be addressed before moving forward with changing a zone to allow for commercial use. His recommendation is to again postpone action.

Ms. Wilson stated that she was just discussing how difficult it is to get off her street and enter Route 113 every week from Thursday through Monday. She agrees there are major traffic concerns. She said there are times she has to bogart her way through traffic to cross the highway to go south. Traffic is an issue in Milford and safety is always a major concern of council and must be considered.

However, her other concern is what council previously approved and asked if is fair to approve one development and deny another when they are asking for similar uses.

Ms. Wilson says she is very conscious not to discriminate. She noted that the city is always waiting on DELDOT and she does not believe they will ever catch up with everything. She believes the developers will try to do their best to make sure things are done correctly and this will most likely take a year or two to build. Hopefully, the overpass will have moved up the DELDOT chain by that time.

She concurs this is always the issue with annexations and developments. Council must be careful when they approve commercial properties to stay consistent. Ms. Wilson believes that the beautification and expansion of the mansion will be a bonus. But deferring the project for a length of time or denying the change of zone will be detrimental.

Mr. Workman agrees with Ms. Wilson that council needs to be fair to all applicants. He recalled that when the adjacent project was being considered, council was told by DELDOT that access would not be allowed off Route 1 which is a four-land divided highway as is Route 113. However, Tenth Street is a normal town street and considered a cross street. According to the previous developer, studies were done as was required by DELDOT but only in relation to the one project. Once the other project is completed and up and running, there will be huge potential impact. Tenth Street is very narrow and highly impacted by school traffic let along any commercial development. He said if the street was widened, it would affect the existing homes on Tenth Street and would take most of their front yards away. He feels council needs to take that into consideration as well.

Mr. Johnson stated that with all due respect of the work the planning commission puts into these projects, the final decision is made by council who must consider the pros and cons and especially the overall safety issues. He does not feel council is discriminating against anyone. He feels it is part of councils' job to consider each project. It is not a matter of 'not in my neighborhood' though each council member has roads in their wards with traffic concerns. Unfortunately, there are no funds that have been allotted for improving the roads. He is asking council to consider postponing the matter.

Mr. Brooks assured council he has no personal agenda in this matter. He informed Mr. McColley that he had no problem with the project. He only asked that he wait until the overpass went in before requesting the change of zone. However, Mr. McColley did not respond.

It was confirmed by Mr. Baird that if the project is denied, they cannot reapply for another year. Mr. Morrow asked if council can defer action for a year or two to prevent them from paying additional fees when they reapply. He added that he has traffic concerns because the overpass will not be built for some time. He agrees that deferring action is preferred with the idea it could be brought back in a year or two.

Mr. Workman said council can continue to defer action, but feels a motion could include some conditions of what council wants to accomplish. For example, approve the change of zone to be effective at the time the bypass is constructed. He agrees it is a good project, but noted that nothing is being built now so there should not be a problem postponing the matter unless there is a builder that has committed though Mr. McColley did not give that impression.

Mr. Adkins feels that after considering the project and the area and things going in around it, he believes this should be a commercial area. He said the infrastructure with the access road could be a factor, but we don't know that yet. He pointed out council is only considering the zone change at this time. He agrees Mr. McColley will have some major issues to address as far as the infrastructure, both externally and internally.

Ms. Spillane is sure the land will eventually be zoned C-3 with a retail shopping center and shops, but at this time he has concerns with safety and traffic. When the overpass is built, he feels that more commercial may eventually be developed along Route 1. However, at this time, it is not feasible.

Mr. Starling does not feel anything will change over the next twenty or so years. He informed council he has lived on the corner of Route 113 since 1972 and he can only shake his head as he watches the traffic. He said if it wasn't for the police in town, the churches would not be able to get funerals across the highway. He referenced a recent problem getting a funeral procession across Route 113 to the Milford Community Cemetery. Another procession going to Ellendale needed the assistance of the police. He does not see the situation getting any better because traffic is going to increase.

Mr. Brooks pointed out that vehicles can force themselves onto Route 113 because of the traffic signals, but vehicles on Route 1 have no reason to slow down so it is impossible to enter the highways when traffic is heavy.

Mr. Baird then confirmed that if a proposal is denied, it is not eligible for reconsideration for a period of one year after final action by city council without a three-quarter favorable vote by the planning commission or city council.

Ms. Wilson confirmed that if the application is deferred, Mr. McColley will not have to pay the application fees again for council to reconsider; Mr. Baird agreed.

Ms. Wilson if there is a choice between denying or deferring, she prefers to defer the matter though she is unsure what time period should be considered.

Mr. Adkins said he would rather defer the actual plan to see what happens with the rest of the area. However, he does not think deferring the zoning makes sense. He pointed out Mr. Spillane agrees the area should be zoned C-3 and he feels that is the question before council. The actual safety and traffic concerns can be addressed once a better picture of the site can be provided with the service road in addition to the actual project or use.

Mayor Marabello asked for a consensus of council.

Mr. Johnson said definitely deferral.

Mr. Spillane said he prefers to pass.

Mr. Workman said he was confused why the mayor was asking the question.

The solicitor said he reviewed the zoning code for deferrals which appear to be silent though it exists in other codes. Typically, if action is not taken within a specific period of time, some zoning applications can be considered approved. However, he stated it cannot be arbitrarily hanging out there for a period of time. In his opinion, the applicant would prefer a deferral than a denial at this point.

Mr. Willard explained this is only a change of zone and there is no site plan before council. When they ask for a change of zone, there is no requirement to have a site plan though it makes the decision more difficult. He said the decision is whether or not it is appropriate and does it adversely affect neighbors, is it consistent with the comprehensive plan, are there similar properties next door and safety, health and welfare in regard to school, traffic, and similar issues.

He said that when he asked council to get their thoughts together at the last meeting, particularly if the decision was going to be to deny the application, council would need to provide the appropriate reasons based on the law. If it was deferred, a specific time should be added. Mr. Willard suggests council negotiate the time frame with the applicant if they do not object to the deferral. He wants to do more research on deferrals in the meantime.

Mr. Johnson moved to defer the application for a period of one year, subject to the review and determination by the city solicitor that a law would prohibit such a deferral, seconded by Ms. Wilson.

Mr. Willard explained that unless he and the applicant's attorney can come to an agreement on how to proceed, council will still have the ultimate decision.

Motion carried by the following 7-1 vote:

Yes-Johnson, Spillane, Workman, Brooks, Morrow, Starling, Wilson
No-Adkins.

Mr. Adkins feels this is a zoning issue and believes the property should be commercial and the issues causing the vote for a delay are questions he would prefer addressed at a future time.

Mr. Brooks said he has no problem with the project but his problem is the traffic issues. Mr. McColley previously stated that two politicians informed him the overpass was coming and the money was in place for that project. He only wants to know how the traffic will be handled and which way it will be directed. If the overpass is built, he will agree to the C-3 zone.

Mr. Morrow confirmed that Mr. Willard would provide an answer at the next meeting on September 28th.

Ms. Wilson said she agrees with Mr. Adkins and prefers a final vote though she definitely does not want it denied. She feels that waiting for additional information is better than being denied and votes yes.

10/12/09

McColley Rezoning Issue/Reconsideration

A letter from the McColley's attorney indicated he was unavailable for tonight's meeting. Therefore, Mayor Marabello advised the matter would be postponed. The city manager then noted the attorney for the McColley's had requested the matter be discussed at the November 9th meeting.

City Solicitor Willard recalled council asking that he verify postponing action for one year was legal.

Mr. Willard did some research though he was unable to find any specific legal opinions on tabling a matter for this period of time. He found that most zoning decisions would be judged by an arbitrary comprecious standard and substantial evidence. However, if there is no evidence, the question is whether or not the applicant has a right to a reasonable decision.

Mr. Willard reported that a code official's act can clearly go to court on a writ of mandamus. He hopes to have more case law at the next meeting though he has found nothing substantial.

The solicitor confirmed that if the matter is still pending, in one year, the matter can be placed on the agenda as old business.

Mr. Spillane asked how it was added to tonight's agenda. Mr. Baird said it was listed under communication as a non-action item. He stated that he and Mr. Willard both felt it was an appropriate item to be placed under communications.

Mr. Spillane stated he is still trying to determine who decides what and how something goes on the agenda. He has been trying for some time to have something added though it was never done.

Mr. Workman asked the mayor and city manager to confirm we are handling these agenda items correctly and consistently. The mayor stated those decisions are made by our attorney.

11/09/09

McColley Rezoning Issue/Reconsideration

The following letter was received from Attorney George B. Smith on behalf of Lynn and Karen McColley and read into record by City Manager Baird:

November 9, 2009

It is my understanding that my above clients "put a hold" on my September 21, 2009 letter and asked that the City Council not proceed with an up or down vote at the City Council meeting subsequent to my letter. I thank you for your cooperation.

My clients have now asked me to contact you and attempt to put this on the agenda for late February 2010. At that time, they would like to submit additional information and testimony. We understand that this will reopen the public record. I believe this comports with the City Council's desire to obtain more information so that it may make a decision based on all available pertinent information, especially following the very favorable vote by the Planning and Zoning Commission approving the rezoning.

Mr. Baird recommends council hold a second public hearing in late February as was requested.

Mr. Adkins moved to reopen the public record on the McColley change of zone, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Mr. Workman confirmed the DelDOT meeting will be prior to council making this decision; Mr. Baird stated that Mr. Reeb is scheduled for the next workshop meeting.

02/22/10

Lynn & Karen McColley for a Change of Zone - Deferred until 05/24/10

Mr. McColley had requested their public hearing be deferred until May. As a result, it was rescheduled for May 24, 2010.

Chapter 57. Planning Commission.

§ 57-1. - Establishment.

There is hereby established, pursuant to 22 Del. C. § 701 et seq., the Milford Planning Commission.

57-2. - Membership; terms of office.

The Commission shall consist of nine members to be appointed by the Council. The term of each member so appointed and confirmed shall be for three years, except that of the members first appointed, three shall be appointed to a term of three years, three shall be appointed to a term of two years and three shall be appointed to a term of one year.

§ 57-3. - Removal; vacancies.

Any member of the Planning Commission may be removed for cause, after a public hearing, by the Mayor with the approval of the City Council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

City of Milford

PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3559

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

EXTENSION REQUEST

The undersigned hereby makes formal application to the City of Milford for a one year extension of a:

[ ] FINAL SITE PLAN
[ ] PRELIMINARY SITE PLAN
[ ] CONDITIONAL USE
[X] PRELIMINARY MAJOR SUB-DIVISION

RECEIVED
APR 0 2 2010

TAX MAP & PARCEL NUMBER: 1-30-3.00-261.00

PROJECT NAME and NUMBER: Cypress Hall Commercial / 08-016

DATE OF LAST APPROVAL FROM CITY COUNCIL: June 9, 2008 with extension granted June 9, 2009

REASON FOR REQUEST: Because the contract with Food Lion could not be reconciled to redesign the site to provide a smaller store located closer to Rt. 113, the owner is now reverting back to the original design with the larger grocery store. With a contract now in place with the larger grocery store, DBF can proceed forward with the approvals in a timely manner. The design for the original plan has been completed and have received comments from all agencies. We therefore will be able to receive final approvals from all the agencies and start construction within the near future.

OWNER NAME: Shawnee Farm, LLC. PHONE NUMBER: (302) 429-8700
ADDRESS: 105 Foulk Road, Wilmington, DE 19803

SIGNATURE: _____ DATE: 4/1/10
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION!

APPLICANT NAME: Davis, Bowen & Friedel, Inc. PHONE NUMBER: (302) 424-1441
ADDRESS: 23 N. Walnut Street, Milford, DE 19963

CONTACT FOR APPLICATION: Timothy M. Metzner, R.L.A. PHONE: Same as Applicant

APPLICATION RECEIVED BY: Christine Crouch DATE: 04.05.10

P.C. MTG: 05.18.10

COUNCIL MTG:

DAVIS, BOWEN & FRIEDEL, INC.

ARCHITECTS ENGINEERS SURVEYORS

Gerald G. Friedel, P.E.
Michael R. Wigley, AIA
Randy B. Duplechain, P.E.
Charles R. Woodward, Jr., LS
Jo Anne Williams, P.E.
Charles A. Hauser, P.E.
W. Zachary Crouch, P.E.

April 2, 2010

Mr. Gary Norris, AICP
City of Milford
201 S. Walnut Street
Milford, Delaware 19963

RE: Cypress Hall Commercial

Dear Mr. Norris:

On behalf of the developer, Shawnee Farm, LLC, we are writing this letter to the Planning Department to help clarify where the above project has been and where it currently stands. We understand there has been multiple directions this site that taken within the past few months, therefore it is our purpose of this letter to help clarify the intentions of the developer.

Soon after we were granted our Preliminary Extension request on 6/9/09 the contracts between the prospective businesses and the owner were abandoned. As you are aware a new grocery store was interested in the site. However, they were not interested in the design of the original site plan. Working with the owner, DBF revised the site plan to provide the new grocery store with a smaller building and closer frontage to Rt. 113. To their satisfaction a contract was then secured. DBF then began the application process with the City of Milford, but tabled the application at the owners request prior to the public hearing because the store wanted to renegotiate the contract. A revised contract could not be agreed upon, therefore the grocery store walked away from the project completely and we withdrew the application from the City.

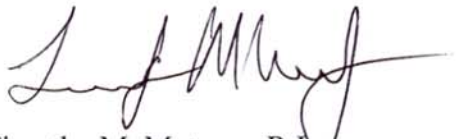
This is where the project stands today. At the owner's request, we are reverting back to the original application that received preliminary approval on 6/9/08 and still is current to date. With a contract now in place with a larger grocery store shown on the original plan, DBF can proceed forward with the approvals in a timely manner. The design for the original plan has been completed and we have received comments from all the agencies. We therefore will be able to receive final approvals from all the agencies and start construction within the near future.

ONE PLAZA EAST, SUITE 200, P.O. BOX 93, SALISBURY, MD 21803-0093 • 410.543.9091 FAX 410.543.4172
✔23 NORTH WALNUT STREET, P.O. BOX 809, MILFORD, DE 19963 • 302.424.1441 FAX 302.424.0430
106 NORTH WASHINGTON STREET, P.O. BOX 1065, EASTON, MD 21601 • 410-770-4744 FAX 410-770-4515
E-MAIL: Salisbury: dbf@dbfinc.com Milford: milford@dbfinc.com
WEB PAGE: www.dbfinc.com

We understand this has been a very confusing situation, and thank the City for your cooperation and consideration throughout this process. We feel the original design is in the best interest for the City's economic development and will make the City very competitive with the surrounding municipalities. Most importantly, this project is close to final approvals and starting construction which therefore will create more jobs in the near future.

If you have any questions or want to discuss the matter further please let me know.

Sincerely,
Davis, Bowen & Friedel, Inc.



Timothy M. Metzner, R.L.A.
Project Manager

Cc: Shawnee Farm, LLC

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 9, 2008

Prelim Approval

A Public Hearing was held before Milford City Council on Monday, June 9, 2008 in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware to take final action upon the following matter:

Davis, Bowen and Friedel, Incorporated on behalf of Shawnee Farm LLC for a Conditional Use to allow a Shopping Center and the Preliminary Review of the Major Subdivision of 69.23 +/- acres into 8 lots, in a C-3 Zone, to be known as Cypress Hall on the southwest side of Route 113 at the intersection of Shawnee Road/Route 36. Tax Map No. 1-30-3.00-261.00.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Irvin Ambrose, Michael Spillane, John Workman, Clifford Crouch, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

COUNSEL: City Solicitor Timothy Willard

The Public Hearing was called to order at 6:29 p.m. by Mayor Marabello who followed with a reading of the public notice.

Mayor Marabello announced that after receiving a request from the property owner, this application is being reconsidered based on a decision made by council on April 28, 2008. The hearing was properly advertised and notification provided to property owners within 200 feet of the site.

Attorney Robert Gibbs of Wilson, Halbrook and Bayard introduced himself on behalf of the property owner. Mr. Gibbs prepared and presented the following Proposed Findings of Fact with Conditions the developer has agreed to. After a complete review of the record, it was forwarded to City Solicitor Timothy Willard.

Randy Duplechain of DBF, Incorporated presented the application and a site plan of the site. He advised this is the same footprint as was previously seen. The only difference is the home improvement store is downsizing the store from the original plan by approximately 14,000 square feet which will shorten the southern end of the store. Instead of a 117 prototype which is 117,000 square feet, this will be a 103 prototype which is about 103,000 square feet of retail area.

They are proposing four entrances. One from Route 36, one fully signalized intersection on Route 113 which is the main entrance into the development, to the south will be a rights in/rights out and left in entrance and a future extension to the south into the residential portion.

Mr. Duplechain recalled the last presentation and the concerns related to the left in on Route 36. That was discussed with DELDOT who provided a letter stating they would consider eliminating the left in. What is now proposed at the Route 36 entrance is a rights out, a rights in and a left out with no left in into the project. That will be islanded off and extended down. Seabury Avenue Extended will become a cul-de-sac that will provide an access point to the city's water plant. He referred to the 60-foot right of way which they will request DELDOT turn over to the city and be narrowed to 50 feet since it compares to the city's minor streets.

With approval from DELDOT and the city, the additional ten feet can then be offered to the residents along Seabury Avenue.

In regard to buffering, they are proposing a privacy fence on the north side which would be within this ten-foot area. A landscape buffer will be provided on the south side of the site.

Mr. Duplechain offered to work with Danny Fox to buffer the entrance from their property. However, DELDOT will not allow buffering in the right of way. If he is willing to permit buffering on their property, they are willing to purchase the buffering and provide either fencing or landscaping.

On the stormwater management, an off site stormwater management evaluation will be performed to make sure the downstream channel can handle not only the flow from the development but also the entire watershed as was requested by soil conservation. Where possible, they will also implement some bio-filtration, bio-retention water quality type aspects to meet the water quality standards. A number of agencies asked if the paving could be reduced and they are willing to come before the Board of Adjustment and request a reduction in the amount of required paving for the shopping center. Presently there are 5.5 spaces per thousand which is well in excess of what is needed. They will probably request a reduction to either 5 or 4.5 spaces per thousand. That will allow less paving and more green space.

He added the size of the structures are the same with the exception of the home improvement store.

When asked about the cul-de-sac and who would make those changes, Mr. Duplechain explained that the paving thickness is adequate, but a cul-de-sac will be added and the connection to the highway will be closed off with a stub street to the water plant whose costs will be paid by the developer.

Mr. Duplechain pointed to the site plan noting the residential parcel on the corner is very small and if they agree to accept the additional property, it will almost double their lot size.

Mayor Marabello then opened the hearing for public comment.

Dan Fox of 17794 Oak Hill Drive, states he lives across the road from the proposed Route 36 entrance. He referred to the letter of reconsideration from Bruce Geyer. He stated in the letter that city council had asked to with Sussex Conservation and DELDOT to see what could be done to alleviate concerns of the neighbors. Mr. Fox said they got a letter from them and never saw them. Mr. Fox said he actually had to call the people to find out exactly what it stated which was only the minimum code for the stormwater. DELDOT did not give a stamp of approval but it was said DELDOT gave them the approval and stormwater gave them the stamp of approval. Mr. Geyer also brought up in the letter that this would resolve Mr. Fox's issues.

Mr. Fox said he brought up the underground infiltration at the previous meeting which is still part of stormwater management. He was trying to give more options to alleviate some of the stormwater running across his property because his biggest concern was his livestock.

The letter stated that he brought up new issues. Mr. Fox explained it all still pertained to the runoff.

He spoke to Mr. Elliott, who is the assistant manager for stormwater of Sussex County. Mr. Fox explained that each county has a code they have to follow. In speaking with the people in Kent County, they said each county is a little different. He asked Mr. Elliott if he ever had stormwater running across any property that had livestock. He could not remember this ever happening and stated Mr. Fox is the first one with this concern and agreed it could affect his livestock. No one else has that problem.

He also asked if the wet ponds will overflow. Mr. Elliott responded by saying no, they are technically designed.

Mr. Fox said to look at the Walmart in Seaford which is built to Sussex County code. That pond is built to the edge of the blacktop and anytime they have a little rain it is flooding the parking lot. With a two or three-inch rain, it is halfway to the building. They claim it will hold all the water but it does not.

He stated in the last three and a half weeks, since the weekend before Memorial Day weekend, we have had 8.9 inches of rain with 3.7 inches in one day. We had another 2 inches on race weekend and another inch and a half the other day. To break it down, you need 27,154 gallons of water to make one inch of rain on one acre. He got that statistic from two or three irrigation companies.

Mr. Fox said multiply that 8.9 inches out, per one acre, is 241,671 gallons of water. This proposal has approximately 40 acres of blacktop which comes out to 9.6 million gallons these retention ponds must hold which we got in the 3.5 weeks.

Mr. Elliott told him that a ten-year rain is approximately 4.5 inches of rain. From three straight days of rain, we had almost 6 inches of rain. Then we got another 2 inches not two weeks later which is classified as a five-year rain. Mr. Fox said these

retention ponds are supposed to hold all of the water. His biggest concern is the fact they say supposed to. He has watched the one at Walmart in Seaford which is built to the Sussex County Code which this developer is supposed to follow. It will breach and come across his property. His livestock will drink the water and if any of his livestock gets sick and he has a vet bill or one dies, he asked who is paying the bill. He asked if anyone here is willing to sign a paper, have it notarized saying they will pay this bill for the rest of his life as long as the developer is across from him. He wonders if Mr. Duplechain or Mr. Geyer would be willing to do that.

He said that Mr. Duplechain made a comment at the meeting they had at Representative Walls' business with DELDOT that he would sign it, but he has not seen it yet. No one has stepped forward and provided a piece of paper from a lawyer that will stand up in a court of law saying they will pay for his livestock if they get sick from drinking this water. He will have to foot the bill and he is the one that will suffer from lost production. He cannot afford that. There was a drought last year that hurt him and he had to sell quite a bit of his livestock. He has about twenty cattle with calves. He just had another calf born yesterday and he does not want to lose it. He enjoys watching it and his neighbors enjoy watching it along with other people sitting in this room. It is the last country thing people see before they come into city limits. It is also the first thing they see when they are heading home. It is a nice country scene with a little pond.

With the runoff, Mr. Fox also asked Mr. Elliott about the pond and what would happen if it was frozen during the winter. He has about a half acre pond in front of his pond which is L-shaped. Three years ago it froze. We then had a three-inch rain that froze over top of it which made a sheet of ice. He said it looked like white water rapids going across his pasture. His neighbor can contest to it because it was half way up to their property.

Mr. Fox advised these retention ponds will not hold any water back when it is frozen. The water will run across the ice. They also said it was designed to hold it technically, but when it is frozen it will not hold anything and will run across his property and contaminate his property. He has grass as a buffer to try to slow the water and collect the excess nutrients so it does not run down into the lake and into the Mispillion and on out to the bay. Part of his nutrient management plan is that he provide a buffer so it does not contaminate downstream.

He referred to Mr. Workman's comment about Silver Lake being somewhat polluted but we are trying to keep it clean. It is easier to take care of the problem before it starts because down the road it will cost big bucks to fix. That money will have to come from the city because Silver Lake is inside city limits. DNREC will probably foot a lot of the bill because they will be taking care of it.

Mr. Fox said during the planning commission hearing Mr. Duplechain made a statement that they had to have a left in off Route 36 because the four houses at the point have entrances on the back of their properties. He pointed out they need to get into their property. He tried to work with Mr. Duplechain and asked about a rights in only so allow vehicles leaving to go out to the highway come back around.

He does not have a problem with people going in but the problem is coming out because they will shine their lights into his house. If there is an accident, the police will be called. He will also be out there at two or three o'clock in the morning trying to round up his cattle which could involve a 1,500 pound bull that wants to cruise the neighborhood. It is different from a dog and you are not just going to put a lease on him and walk him back home. It will be difficult and require a number of people to steer him in the right direction toward his home.

If there is an accident there, it will tear his fence up. At three o'clock in the morning, it is hard to put a new fence up along with new posts to keep his cattle in.

Mr. Fox feels the wildlife and the citizens of Milford and people traveling to and from Milford need to be protected. He is concerned that if a cow gets out on the road and is hurt or hurts someone and hopes they will not be killed as has happened in similar cases.

He cannot imagine how traffic will increase because he cannot get out on the roadway now. When he goes out with a piece of equipment, it takes a half mile to get to its top speed of 16 miles an hour. There are a lot of tractor trailers and trucks because they are taking barley off and are getting ready to take wheat off. Milford Granary is a big company for neighboring farmers. There is a lot of traffic and a lot of big farm trucks coming through this area at slower speeds. When a car pulls out in front of them, a tractor trailer with a thousand bushels of grain is unable to stop on a dime and instead will

plow them down.

Karen Colletti of 6681 Shawnee Road then reported she has an LPP system on her property line which is 50 feet from the large water retention pond and causes her concern. She has a lot of clay on her ground so she does not have a lot of drainage and that is the only place her septic can go. Ms. Colletti is also concerned with the rain we have had with water backing up. Ms. Colletti stated that Sam Powell put her septic in and he said it will ruin her septic. There is no where else on her ground it can be placed. She is also concerned about the snakes and mosquitos that come with the drainage system. She said the buffer they are adding along the residential lots goes along the foot of the retaining pond and not the back where her property is. That buffer is meant to protect the neighbors.

Ms. Colletti also has concerns about the traffic. Her kids grew up there and went up and down the road many times but kids can no longer do that. She has grandchildren now who can't do that. She sees kids on bicycles. There is no protection for them from the traffic. No sidewalks exist and there is no way to make the road wider. There is no room for a safety walk. She does not want traffic encouraged to use Route 36 to keep everything away from the intersection at Route 113 and 36. Nothing has changed and she questions why we are here again. There is still no bypass and this will still create the same amount of problems and concerns for the residents. She understands the group opposing this is only a small group of people, but noted that Milford is made up of different groups of people.

Ms. Colletti feels their concerns are legitimate and asked that council should consider them.

Trish Marvel of 6525 Shawnee Road stated that Seabury runs behind her house and she is one of the four houses at that point. She said she has the same concerns she had before. She understands that we have to move forward and progress is important and Milford wants to grow and prosper. It will create jobs and there are a lot of wonderful things that will happen by bringing in this type of business. However, it is not the most logical place to put it. The infrastructure next to Walmart is typical of where a box building should go. That is a pattern with Seaford and Dover. She asked why is Milford putting a box building in a residential area. She asked if any consideration was given to placing a box building in an area already conducive to the traffic with lights and entrances, roads and property. Ms. Marvel emphasized she is not opposed to residential going into that area.

She asked if consideration has been given to putting this box store somewhere other than where they are proposing. Ms. Marvel asked specifically about the Walmart area where the infrastructure exists for a large building and a huge parking lot. She said council needs to answer that.

Ms. Marvel said this location is a total destruction for livestock, safety and traffic reasons. She feels Route 1 is considered a commercial piece of land but when you bring all of that traffic into the residential, what does that do to their residential area. She noted that these people have lived in this area for twenty and thirty years.

She understands it is a small group and only represents a small portion of Milford but their concerns are very valid. She asked if consideration could be made to have it somewhere else in Milford. She does not disagree that Milford does not need a Lowes or a Home Depot, but this location is not conducive to what is proposed. They can put barriers up and fences up but it will not eliminate the traffic and everything else that goes along with it.

Councilwoman Wilson responded by saying the first thing that comes to mind is that when individuals come to Milford and are interested in specific land, they do not come to council first. A developer purchases or contracts the land and until it gets to the point when the plans are in place and they must come before the city is when council gets involved. Neither the city nor council goes to these developers and tells them they want a home improvement business or any other type business on a specific piece of property.

Ms. Marvel feels that because part of this project is residential, she feels the scope of the project should be changed and the entire piece made residential. All the things that go with this from a residential perspective make sense to her. But the box building and traffic, runoff and rerouting roads, adding lights and putting an entrance off Route 36 that is related to this type business does not make sense.

She feels there are industrial areas for this type of business. Ms. Marvel said cutting the size of the building is not that much when you think about it because it is really not being reduced that dramatically. She said her husband spoke to DELDOT

today and they were told things that are not valid. They have alluded to the fact they have received DELDOT approval. She believes they may have had a conversation with DELDOT and verbally got some direction, but her husband talked to someone today specifically for this area and there is nothing that has been officially approved. She thinks that some of this has been done underhanded and is trying to be shoved down the residents' throats without them knowing all the facts Ms. Marvel ended by saying there is a lot at stake.

David Marvel of 6525 Shawnee Road said he is the husband Ms. Marvel was referring to. He stated that he talked with Derek Sapp who works for DELDOT. Mr. Marvel said that Mr. Sapp indicated he knows nothing about getting this piece of land from the developer. He indicated that nothing has been given or nothing received and this is all basically a pipe dream. He gave Mr. Marvel permission to use his name (Derek Sapp-telephone number is 760-4803).

Councilman Workman asked Mr. Marvel what Mr. Sapp's position is with DELDOT and if he in a position to make decisions on this type of development. Mr. Marvel said he is the head of the development area and after talking with three different people, someone gave him Derek Sapp's name. He is in charge of this area and would know if anyone does. He said that he knows nothing about receiving anything about this dream.

Mr. Duplechain stated a number of those present attended the meeting that was held at Walls Farm and Garden Center. He advised that Derek Sapp (Subdivision Manager for Western Sussex County) was one of the individuals there along with DELDOT Engineer Supervisor Marc Cote'. Mr. Duplechain explained that Mr. Sapp is very familiar with this project. A traffic impact study was done through DELDOT which included the Simpson Crossing, Milford Ponds, some of the traffic from Hearthstone Manor, Meadows at Shawnee, Fitzgerald's Industrial Park, Knollac Acres and the Solid Waste Authority. Full build out of all those developments was part of the study along with the full build of this project.

Mr. Duplechain added that Mr. Sapp has been intimately involved with the discussions related to the entrances and is actually the person who wrote the letter related to the Route 36 entrance. He and/or Mr. Cote', who is Mr. Sapp's boss, have been part of these discussions.

He also explained that the approvals will not be granted until the conditional use is approved and the construction documents are submitted for review. This will also be done with the other agencies as well. The design approval process is not started until the preliminary and conditional use approvals are granted by council. Mr. Sapp may have been referred to the construction plans only because they are not in a position to submit them yet. But they are familiar with the entrances and DELDOT is the one who made those recommendations.

Attorney Rob Gibbs then referred to the statement made by Mr. Marvel regarding DELDOT not knowing anything about the change at the Route 36 intersection of lands being added to the properties, etc. He said that in fairness to Mr. Marvel, he does not think DELDOT is on the same wavelength on that proposal by the developer. That came about as a result of the meeting where this body asked for additional information on the Route 36 intersection. As a result, there has been a supplement to the record. Mr. Gibbs said it is not a pipe dream and is actually part of the record. He referred to the April 15th letter which was provided to the council that explained the changes requested to Route 36 that were discussed with DELDOT. DELDOT responded by talking about the left in and some changes to Route 36.

He then referred to Mr. Duplechain's earlier statement about one of the conditions they are proposing which is item B on the list of conditions they propose to be attached to this approval. *"At the request of the city hereafter, applicant will request that DelDOT eliminate the left-in access to Cypress Hall from Route 36".* He explained that depends on whether the city wants this. He reiterated that DELDOT owns the right of way and they would have to give the right of way in order for the developer to create the buffer and the ten-foot strip along the back of those lots that back up to Seabury Avenue Extended. That would have to be asked for by the city. If the city agrees that it can be done, the developer will request DELDOT abandon that 60-foot right of way to the city for management. The city would then ask the developer to go ahead and make their application. If that can be done and right of way reduced to 50 feet, then the additional ten feet can be dedicated to the property owners. The developer would then, again at his cost, undertake the fencing and buffering proposed in writing as one of the conditions. He agrees DELDOT would not know about that specifically because at this point, it is being submitted in writing as a condition of this approval first. He hopes that will clarify that issue.

Kathy Weldon of 6494 Shawnee Road explained she is directly across Route 36 and one of the major impacted properties. She said she received no notification about the proposed changes to Route 36. Neither has any of her other neighbors on

the north side of Route 36. She feels that is why the original meetings and public hearings for this development received less response from the residents because they were not told how badly the congestion was going to be or how restricted the ingress and egress from their own homes was going to be. The congestion on Route 36 has been building over the years. This is not going to improve it.

Ms. Weldon agrees with Ms. Marvel that disrupting an established neighborhood is detrimental to the community. She has also suffered severe flooding and her property abuts the property of Mr. Fox. A previous rainfall has caused loss vegetation and she does not see how this will improve that. She has been flooded before.

Chuck Rini of 119 Ginger Lane stated he is a member of the planning and zoning commission. However, he is speaking as a proud citizen of the City of Milford. He heard a couple of people mention the Walmart area and he lives behind the Walmart area in a residential community. He has no problem with the Walmart setup or the traffic flow. As a private citizen, he feels very strongly in favor of this project mainly because it will be very good, through his eyes, for the city. He believes it has the potential to create several hundred much-needed jobs that would go to the people in Milford. He also believes it will create a new found tax base for the City of Milford and numbers may be in the several hundreds of thousands of dollars.

Mr. Rini explained that box stores are now offering a larger selection of merchandise. He remembers sitting in this room listening to one of the heads of a medical center facility when he was questioned about the lack of doctors coming to the Milford area. The gentleman spoke and said that one of the first questions asked by any candidate coming to the Milford area as a doctor or medical professional, is what type of shopping is available for their families. He feels we need to improve the shopping in Milford in order to receive more professional people here.

Also as a personal note, Mr. Rini stated he is not a farmer and he will not suggest he knows anything about farming. But he believes that from an economic basis, if you become anti-development and developers do not want to come into the Milford area, if you are a farmer and you want to sell your farm, you eliminate the possibility of selling it to a developer. In the past, farms were handed down from family to family, generation to generation, though that is basically fading from the American scene. He said all you have to do is go to the Department of Agriculture to see how much farm land this country is losing on a daily basis which he thinks is a critical situation.

Being a citizen of Milford, he wants to say that he strongly supports this project and believes it would be a tremendous asset to the city and the people of Milford.

Ms. Marvel again spoke stating she is not opposed to progress. She thinks having a box store in Milford would be great, but it is this location that is her concern. She is not against progress and creating jobs and all those wonderful things along with taxes, but this location is her problem.

Butch Comstock stated he has a business at 6706 Shawnee Road. He says he respects all the neighbors' thoughts about water and those issues. Where he is located, there is a lot of rain that comes down Route 36. He is not disagreeing with the neighbors, but there is already a water problem and it does come down Route 36 by his shop and may not have anything to do with the box store. He stated that before everyone gets upset about water, it may not be an issue if there is a culvert under the road. It could be coming from the right side of the road and having nothing to do with it. He is somewhat in favor of this, but respects the neighbors' concerns. It would be nice to have this in Milford. He agrees traffic is heavy to begin with and he is unsure whether a box store would make it worse. His question was about the water issue if that is the main concern.

Mayor Marabello asked whether anyone else wished to speak; there was no response. Seeing no response, the mayor declared the public comment period closed at 7:16 p.m.

Mr. Duplechain asked to respond to a number of items discussed. One is in regard to the comment about the water coming down Route 36 which he understands is a substantial amount of water that comes down Route 36 and ends up in this same location. The study required by soil conservation is not just on this property and the surrounding properties. They are actually looking at the entire watershed which would include the water coming down Route 36. That will be taken into account when we look at the downstream affect of not only this shopping center but that whole area. Depending on what is found, they may be able to make improvements downstream that would address some of the flooding issues they currently

have.

Their requirement is they cannot discharge any more than is already being discharged. It is a soil conservation requirement. He is hoping the study will reveal some improvements that will benefit everyone in the area.

Mr. Duplechain said there was a discussion related to why this is occurring on this site and not next to the Walmart. He explained there is not enough property at the Walmart location. There is only one piece left with some size to it. It has been looked at previously for a potential home improvement store but not deep enough to handle it. Additionally, the adjacent property owner was not willing to sell his property. As a result, that location would not fit a home improvement store.

He noted that this property is zoned C-3 and has been zoned C-3 for sometime. They have gone through the public hearing process to have it annexed and zoned. It is a use that allows highway commercial. If this project is turned down, the likelihood of something being commercial on that property still exists without needing a public hearing for a conditional use. It has been shown as a location that can handle commercial in addition to the traffic. According to DELDOT, the studies show it can handle this development.

There were no questions or comments from council for Mr. Duplechain.

Mr. Workman asked to comment about the four residences on the end of Seabury Avenue Extended and the rights in and rights out. He feels that is something that can happen because when they first came up here, they said they would be able to do that. Tonight they said they would not be able to make that left. He went to this location but no one was home. He agrees they use their backyard to access their properties and he thinks that may be something we should consider in reference to putting in a cal-de-sac in and their right in and right out.

Mr. Workman said in regard to the retention pond, he understands where Mr. Fox is coming from but we also have experts and procedures and policies to make sure the regulations, not only for the city but also for the state, are met. If something occurs as did in Seaford, he feels we can address it then. But if they have met all standards, that is what is required.

He stated that council is here tonight to decide if we want this development. The majority of people in Milford want this development. Ms. Marvel asked why not put residential in there instead of the box store. Route 113 is zoned commercial. The whole idea was this stretch be commercial development. If it was made all residential, Mr. Workman feels that would generate even more traffic than this box store. This box store opens and closes at specific times. Residents would come in and out twenty-four hours a day and each home would have two to three cars.

Mr. Workman said we are also trying to bring businesses into Milford. He understands the residents concerns who live there, but Mr. Workman feels the developer will work with them in reference to the buffer because they understand it is a concern. He pointed out that council needs to look at the future of Milford as well. He feels all the questions have been answered by DELDOT and water conservation.

Mr. Workman will ask that the rights in/rights out be considered because the residents are affected by this development. He agrees they need to get in and out of their properties and there was a change made tonight from the initial plan presented.

Ms. Wilson asked if the engineer can address the right in and right out issue again and how it will affect this plan and Mr. Workman's reference to the change in the plan.

Mr. Duplechain referred to the drawing of the area, noting that DELDOT was very adamant about people going through the Route 36 intersection to make a right. They felt they would be doing a cut-through using Seabury Avenue Extended which would generate additional traffic. The rights-in from Route 113 is another access point that would bring more traffic behind the residences. He would be more concerned if he were a resident along Seabury Avenue Extended with leaving Seabury Avenue Extended rights in/rights out connected to Route 113. He thinks DELDOT eliminated the left-in at Route 36 because council asked the developer to come back. He believes they felt they could eliminate it because the movement could occur at Route 113 and Lakeview Avenue and the left into the site at the main entrance. He thinks that DelDOT would prefer to keep the left-in at Route 36 but because of the residents'concerns related to the amount of traffic using Route 36, DelDOT agreed the left-in could probably be eliminated.

Mr. Crouch said he was under the impression there was a left in being eliminated off Route 36.

Mr. Duplechain agreed and pointed out that in the original plan, there was a left turn coming into the site from Route 36. This movement was eliminated to stop some of the traffic using Route 36 to get to the site. The reason DelDOT want to keep the left out is because if it were eliminated someone heading west from the shopping center would have to use the main Route 113 intersection, make a left out onto the highway, and then make another left to get onto Route 36. Keeping the left out is an easier connection when going in westerly direction.

Ms. Wilson asked how the change was made to eliminate the left in. Mr. Duplechain explained the change was made based on the concession by DELDOT who said there was concern related to the amount of traffic coming into that area. To help reduce the traffic, they were willing to allow the left in to be removed. They also discussed the possibility of eliminating the left out and doing a rights in/rights out. They felt it was important to keep the left out and were willing to remove the left in.

DelDOT was not keen about leaving the rights in/rights out because of the amount of traffic it would generate behind the homes on Seabury Avenue Extended.

Mr. Spillane said that because the store is being downsized, he asked if the storm pond can be increased.

Mr. Duplechain explained that the stormwater pond will be made as large as possible and if it can be oversized, they will do that. But they have to meet their requirements. He explained the store is shortening the one side by 45 or 50 feet. That strip of area will be used as a bio-retention area. This will allow stormwater to be sent from the parking lot to the bio-retention area which will connect to the stormwater management pond. They are also hoping to reduce the amount of parking spaces which by nature itself will reduce the amount of impervious surface and in turn, reduce the amount of stormwater management that would be necessary.

Depending on if it can be reduced, they would be doing some bio-filtration along the front for a water pond purpose. In essence, Mr. Duplechain feels they are expanding stormwater management where possible. He believes they are sized properly and if it is found it is not enough, they may do something in the area near the discharge pipe. It should be adequate considering the size of the ponds and the fact that the majority of the water will be directed to the stormwater ponds. The two ponds will be interconnected and will basically act as one. The discharge point would be at that location.

In regard to the concern about the water coming down Route 36, they will review the entire area in this study and will do an off site analysis.

Mr. Spillane referred to the road going out of the shopping center and asked if there is anyway to put something, such as a steel barricade, across the other side of the road to prevent that vehicle from hitting Mr. Fox' fence. Mr. Duplechain said that would have to be a decision of DELDOT though they may consider a guardrail of some sort particularly considering the steep drop off. DELDOT could possibly allow a guardrail as opposed to landscaping. He reiterated they will definitely consider that.

No one else from the council commented.

Mr. Crouch moved for approval of the major subdivision of 69.23 +/- acres into 8 lots, in a C-3 Zone, to be known as Cypress Hall, seconded by Ms. Wilson.

Mr. Willard directed council to state their reason for their vote.

When asked for questions, Mr. Spillane mentioned the possible addition of another storm pond, Solicitor Willard explained that they will have to come back for finals, including a final site plan, which will be much more detailed. As the applicant already indicated, they will receive final Sussex Conservation District approval based on many of the items discussed this evening. In addition, other approvals will be required including a final approval from DELDOT.

Motion carried by the following unanimous roll call vote:

Mr. Ambrose stated that gasoline officially hit $4.04 a gallon today across the United States. Any elimination of driving on behalf of the citizens should be taken into account and he votes yes.

Mr. Spillane votes yes and states he believes the contractor will try to work with the people in the surrounding area and will keep an eye on the storm drainage problem.

Mr. Workman wants the developer to know that he believes they want to work with the residents and because their lives are being uprooted because of the construction. This is important and a lot of his constituents have called him in favor of this and only a couple have said no. Most of the people that called him were in favor of this. He got his answer from DELDOT and he knows the retention pond must be by code and votes yes.

Mr. Crouch votes yes because it will bring jobs to Milford. Also in doing some research, the bypass is not dead though he would feel much more comfortable if it were on the drawing board but votes yes.

Mr. Brooks votes yes taking into consideration a couple hundred new jobs. The main reason he voted no last time was because of traffic. But he has since met with DELDOT at Representative Walls' business when this was discussed. DELDOT was going to try to improve it and he has always been told that no project can be approved unless it receives approval from DELDOT.

Mr. Morrow also votes yes and he has supported it mainly because the planning commission supports it.

Mr. Starling votes yes because it will bring more jobs to Milford. He, too, feels that DELDOT will continue to work to improve the roadways and the developer is willing to work with the neighbors.

Ms. Wilson votes yes based on the planning commission recommendation who have already done a majority of the leg work. The engineer and developers have complied with all the previous requests of council in addition to DELDOT's support and work on the project.

Solicitor Willard then read the following conditions submitted by the developer this morning and recommended that if the conditional use is approved, they be included in the approval:

1. Applicant will work with DELDOT to determine the amount of right-of-way dedication that will be required and will obtain entrance approvals prior to entrance construction.
2. At the request of the city, the applicant will request the DELDOT eliminate the left in access to Cypress from Route 36. At the request of the city, the applicant will request that DELDOT abandon the right-of-way of Seabury Avenue Extended to the City of Milford for maintenance. If the city thereafter approves the reduction of the right-of-way to 50 feet, and the dedication of the northernmost 10 foot residual to the property owners along Seabury Avenue Extended, the Applicant will undertake the 'Ffencing/Additional Buffering'; i.e., applicant will construct a 6-foot residual to the property owners along Seabury Avenue Extended property owners' properties, and will install a landscaped buffer with plantings along the northern side of Seabury Avenue Extended ("Fencing/Additional Buffering").
3. Applicant will construct a shared use path in the DELDOT right-of-way along the development frontage along U.S. Route 113, as approved by DELDOT.
4. Applicant will seek approval of the City of Milford Board of Adjustment to reduce the number of parking spaces to meet actual or anticipated demand in order to reduce impervious surfaces.
5. Applicant will comply with Sussex Conservation District's requirements as set forth in its letter to DB&F dated April 22, 2008.

Ms. Wilson moved the conditional use be approved, subject to the above five conditions, as read into the record by City Solicitor Willard as outlined in the Proposed Findings of Facts and Conditions dated June 9, 2008 for Shawnee Farm, LLC and Cedar-Ironwood Cypress Hall, LLC. Motion seconded by Mr. Crouch.

Mr. Workman suggests that in the future, any document submitted for a council meeting be provided in time to be included in the council packet which is finalized the Wednesday prior to the meeting. It is important that council have sufficient time to review any paperwork and that it not be allowed once the packet is done.

Mr. Willard then reviewed and read into record, the following criteria for evaluation for a conditional use per Section 230-48 of the city code:

The presence of adjoining similar uses.
An adjoining district in which the use is permitted.
There is a need for the use in the area proposed as established by the Comprehensive Plan.
There is sufficient area to screen the conditional use from adjacent different uses.
The use will not detract from permitted uses in the district.
Sufficient safeguards, such as traffic control, parking, screening and setbacks, can be implemented to remove potential adverse influences on adjoining uses.

Mayor Marabello then asked council to state their reasons for their vote.

Mr. Ambrose votes yes stating this is a conditional use in the C-3 zone.

Mr. Spillane votes yes for the same reasons stated by Mr.Ambrose.

Mr. Workman states that everything is in black and white and is on record so the developer is aware of what needs to be done and votes yes.

Mr. Crouch votes yes because it is an approved use of the property through a conditional use and it is a commercial property that adjoins additional commercial property.

Mr. Brooks votes yes based on the conditions that Solicitor Willard read into record.

Mr. Morrow votes yes as he did during the initial vote because it meets the criteria of a conditional use.

Mr. Starling votes yes for the same reasons stated by Mr. Morrow.

Ms. Wilson votes yes based on the application meeting the criteria in our code as was read by Solicitor Willard.

Motion carried by unanimous vote.

Mr. Crouch moved for adjournment of the Public Hearing, seconded by Mr. Workman. Motion carried.

The Public Hearing adjourned at 7:43 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City of Milford

Attachment

Ext 1

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 8, 2009

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, June 8, 2009.

PRESIDING:	Mayor Daniel Marabello
IN ATTENDANCE:	Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.
ALSO:	City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson
COUNSEL:	City Solicitor Timothy Willard

CALL TO ORDER

Mayor Marabello called the Monthly Meeting to order at 8:35 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Morrow, seconded by Mr. Adkins to approve the minutes of the May 11 and May 26, 2009 meetings as presented. Motion carried.

Mr. Workman asked Mayor Marabello to appoint a member of the Planning Commission to the Annexation Committee as is required in the charter.

RECOGNITION

No one was present to be recognized.

POLICE REPORT

Police Committee Chair Morrow noted that the police continue to be extremely busy as is noted in the report. Mr. Morrow moved to accept Chief Hudson's report, seconded by Mr. Workman. Motion carried.

CITY MANAGER REPORT

Mr. Baird presented the following report:

Energy Efficiency & Conservation Block Grant (EECBG)-
I am submitting an application to Department of Energy for the EECBG award in the amount of $50,000 to install LED street lighting along the N.E. Front Street Streetscaping Project and to retrofit much of the lighting in the downtown area with LED lights. This is a pilot program with plans to expand that project as funds become available if cost effective.

N.E. Front Street Streetscaping Project-
Plans have been finalized including the utility design and the comments from Downtown Milford, Inc. The next steps are for DMI to review final cost estimates and have DMI review the design. Upon completion of these steps, the project will be presented to City Council followed by the bid and award process by City Council.

City Hall Lower Level/Vickers Drive Billing Office Security-
Work continues on the lower level of City Hall. Quotes for the office systems, electrical and communications wiring and hookup, and plan modifications for Fire Marshall approval have all been received. We are awaiting figures from the alarm company on modifications to the alarm system that are required by City Council. We are well within the budget of $150,000 established by City Council for this project. Additionally, estimates have been received for the demolition of 209 South Washington Street.

Work on the Billing Office security is moving forward with the understanding the City's billing operation will be at Vickers Drive for at least another two years. There are four areas of focus with security being the priority. Other areas include lighting, heating and ventilation and modification of the counter. We are developing a scope and budget for modifications for billing at Vickers Drive.

Washington Street Water Plant-
Efforts are underway to revamp the Washington Street Water plant as a means to improve production from the facility and to address the degradation of the water plant building and the storage buildings on the property. We are working to develop the most cost effective approach to address this issue and to identify sources of funding. Preliminary estimates could have a total project cost of between $2.1 to $2.4 million. He is working with Davis, Bowen and Friedel to finalize those numbers. A presentation will be made to the Public Works Committee in relation to this project.

Mr. Workman moved to accept the City Manager's report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Fourth Ward Report

Ms. Wilson invited council to the Fourth Ward meeting tomorrow evening at 7:00 p.m. in the council chambers. Mr. Starling advised that he is unable to attend the Fourth Ward meeting due to a family commitment.

City Hall Committee

Mr. Workman reported that he has been receiving regular updates on the progress of the lower level. There are a couple issues still pending that he will bring to council in the near future. However, the project is ready to be publicly bid. Once the bids have been received and reviewed, a recommendation will be made to council for the bid award.

Charter Review Committee

Mr. Spillane advised a final draft of the proposed changes to the charter is being prepared. Upon its completion, it will be presented to the city solicitor for his review and recommendations.

COMMUNICATIONS

Nothing new to report.

UNFINISHED BUSINESS

Extension Request/Preliminary Major Subdivision/Cypress Hall Commercial

Tim Metzner of Davis, Bowen and Friedel, representing Shawnee Farms LLC, requested a one year extension of the Preliminary Major Subdivision for the Cypress Hall Commercial Project.

Mr. Metzner recalled the approval received from council on June 9, 2008. The reason for the extension request is the delay in agency approvals and in particular, DelDOT.

Mr. Workman moved for approval of the one year extension for the Cypress Hall Commercial project, seconded by Ms.

Wilson. Motion carried.

Hearthstone Review Report/City Engineer Mark Mallamo

City Engineer Mallamo prepared the following report beginning with annexation process of the Hearthstone Manor site in 2000:

In light of recently recovered documentation and as directed by Council I have reviewed all available information on the history of annexation, approvals and construction inspection/review concerning Hearthstone Manor. The reviewed documentation includes meeting notes, letters, drawings, and inspection records dating from annexation approval in early 2000 through recent correspondence in 2009. Some issues now have a trail of how we got from concept to as-built conditions, but there are still some gaps. It is clear that all parties involved, including City leaders and staff, consultants, designers and the developers were struggling with many issues during this very busy period of growth and development in Milford.

During the time period of annexation, design and permitting for Hearthstone, the City had been updating and changing City Code concerning zoning and subdivision of land. These changes were prompted by a variety of needs and/or requests both internal and external to City Government. Many parcels of land contiguous to the City but outside city limits had developed plans to subdivide under county regulations. City council chose annexation of these properties as the best option to protect Milford from potential negative impacts this growth could have on the citizens and resources of the City.

Hearthstone, Orchard Hill, and the Meadows at Shawnee subdivisions were all part of this master plan to control growth along the south east border of Milford. The City designed and built water and sewer systems to support these three projects and negotiated cost sharing for this work with the three developers to recover City funds. This cost sharing with the developers was intended to eliminate any financial burden on the current residents of Milford, yet promote diversity in housing opportunities available to our current and future citizens. Coincidentally all three of these projects were granted waivers to the City's sidewalk requirements. No performance bonds were collected for these projects but the record does not clarify if there was a waiver or not for this requirement.

Country Life Homes, the developer of Hearthstone, requested specific zoning during annexation and also wanted to design and develop utilizing the County's Planned Unit Residential Development procedure which provides flexibility in mixing housing densities from various zones into a supposedly more harmonious living environment. Hearthstone annexation was approved by City Council April 24, 2000. A utility agreement was signed the same day which specified certain conditions such as no sidewalks except in multi-family sections, rolled curbing would be used, and it addressed impact fees and cost sharing for sewer and water improvements.

At this time considering the recent surge in annexation activity and Country Life Homes request to develop Hearthstone in accord with Sussex County zoning, City leaders believed it was in the best interest of all parties to update the codes of the City to modern standards that more closely resemble what Kent and Sussex Counties permit for development. Therefore Chapter 230 Zoning was modified, effective June 21, 2001 to allow Planned Unit Development or PUD's. The subdivision code, Chapter 200, was modified at the prompting of State environmental agencies and Hearthstone's developer to allow open swale drainage systems. This change was adopted by City Council on December 10, 2001.

These changes were not easy for City leaders to accept and much discussion and research was conducted before finally adopting these changes to code. The record shows that Chapter 200 changes permitting open swale drainage were particularly difficult to implement. For example it was determined the City should require curbs at intersections in open swale designs. That requirement was included in the revised code. However, the language is vague at best and without review of the meeting minutes leading up to this code change, I would suspect that designers would not incorporate the curb design feature in their plans. The record also shows design detail drawings were created to clarify the curb requirements of the code. But apparently these drawings were never approved and incorporated into the City's Standard Specifications. The record indicates that the City Engineer developed a set of standard specifications for utility construction projects and subdivisions that were approved by Council in 1992. These specifications become an item of contention during the construction phase of Hearthstone that continue to this day.

Variance for withdrawn application (parking). – "abandon" proj 08-016 –

CITY OF MILFORD
BOARD OF ADJUSTMENT
Minutes of Meeting
January 14, 2010

The Board of Adjustment of the City of Milford held a public hearing on Thursday, January 14, 2010 at 10:00 am in the Joseph Ronnie Rogers Council Chambers at City Hall at 201 S Walnut Street, Milford, DE to consider the following application.

IN ATTENDANCE: Mayor Daniel Marabello, City Solicitor Tim Willard, City Manager David Baird
Also: City Planner Gary Norris, Recording Secretary Christine Crouch

Mayor Marabello called the meeting to order at 10:05 am.

NEW BUSINESS

Davis, Bowen & Friedel on behalf of Shawnee Farm, LLC seeking relief from the City of Milford Zoning Code §230-14(C)(11)(d)(5) 24B(2)-Traffic and Parking (five and one-half parking spaces shall be provided per 1,000 feet of leasable area) and allowing four and one-half parking spaces per 1,000 feet of leasable area in a C-3 District at Cypress Hall on the southwest corner of State Route 36, Seabury Avenue Extended and US Route 113 in Milford, Delaware. Tax Map 1-30-3.00-261.00; 9.79 +/- Acres.

Mr. Timothy Metzner with Davis, Bowen & Friedel was present to represent the application. Mr. Metzner explained the variance is seeking relief from 5.5 parking spaces per 1,000 square feet of leasable area to allow 4.5 parking spaces per 1,000 square feet of leasable area.

The reason being is to reduce impervious surface, increase parking lot landscaping, increase open space and reduce the size of the stormwater management facilities.

This parcel was previously granted a variance to allow 4.9 spaces per 1,000 square feet of leasable area for the previous design on the land; however that design has been abandoned and a new site plan is being developed, such as presented for this application.

Mayor Marabello requested public comments and after hearing none, closed the public comment session.

Mr. Norris handed out a page copied from the Site Planning & Design Handbook depicting typical minimum requirements for parking for a shopping center. According to this handbook, it is from 4.0 spaces to 6.5 spaces per 1,000 square feet of leasable area, which is fairly broad. After reviewing a variety of ordinances and shopping centers, Mr. Norris found them to be very broad as well. Mr. Norris stated what the diagram shows is what the applicant has requested, that 4.0 spaces is about capacity. Mr. Norris continued by stating the applicant needs to prove a hardship in order to be granted a variance. He also stated the board can attach reasonable conditions to a variance approval, if they so choose.

Mayor Marabello asked what type of conditions.

Mr. Norris gave an example as additional landscaping, possibly signage for the property.

Mayor Marabello asked if Mr. Metzner could comment on the hardship. Mr. Metzner replied the hardship would be the amount of impervious surface that would be required, per the code's required parking. It will be a better plan if the parking spaces are reduced. The site plan shown today is indicating 4.8 spaces per 1,000 square feet of leasable area.

Mayor Marabello confirmed the parking would be reduced by 12-13% with this request.

Mr. Baird asked if a plan has been done showing the required parking spaces. Mr. Metzner replied yes. Mr. Baird asked if that plan was part of this submittal. Mr. Metzner replied no.

Mr. Metzner indicated on the site plan where the additional parking lot landscaping is. He pointed to the "bump outs" in the parking lot along Rt 113 explaining 6 parking have been replaced with landscaping in the bump outs. Also, the landscaped islands in the parking lot are where parking spaces have been replaced. Less impervious surface locations would include not only the large parking lot, but an open space to the left of the large building shown on the plan. The stormwater facility shown to the rear left of the large building would be increased if the parking is increased as well.

Mayor Marabello counted the parking spaces being replaced in the main parking lot by open space as 22 spaces. This does not include the replacement of parking in the currently shown open space to the left of the large building. Again only 22 spaces affected in the main parking lot. Mr. Metzner agreed.

Mr. Baird asked if the site could physically meet the code's parking requirements. Mr. Metzner stated that is correct. Mr. Baird asked if by meeting the parking requirements per the code if it put the applicant in a position where it could not meet any other code of the City. Mr. Metzner replied yes. By meeting the parking requirement, it took the site over the allowed 80% maximum impervious lot coverage.

Mr. Baird asked if the subdivision on this parcel has been completed. Mr. Metzner stated no. Mr. Baird confirmed the lot boundaries as shown for this parcel are not what is recorded. Mr. Metzner confirmed there is a whole other parcel to the south of this parcel that is for the residential subdivision and that is finished, but this plan will be a different subdivision of the commercial section of the parcel. Mr. Norris stated this will be a new subdivision. According to the Sussex County mapping website the entire parcel is 143 +/- acres. This site plan is for 9.79 +/- acres.

Mr. Baird stated that point raises a question for him, which is how are we making a case for reducing the parking requirements for the impervious surface if the lot boundary has not been established yet. There is still time to adjust the lot lines and make it work.

Mr. Willard asked what the status of the adjacent phase, referring to the commercial portion. Mr. Metzner stated the adjacent land, still a part of this parcel, was part of a larger site plan, which has been abandoned. This is a brand new project and starting from scratch.

Mr. Willard asked how far along are the entrance approvals. Mr. Metzner replied Letter of No Objection have been obtained on the locations, which is driving the project.

Mr. Norris asked if the entrances the same as previously shown on the now abandoned site plan. Mr. Metzner explained the only difference is the one to the northern most end of the property. Because the entrance locations are approved by DelDOT, the site is having to be planned with those in place.

Mr. Baird asked Mr. Metzner if it would be correct to say that by reducing the parking area, obviously it is reducing the impervious area, which is going to minimize the impact of stormwater both onsite and discharge offsite. Mr. Metzner said it will reduce the onsite impacts. Offsite impacts by regulation are not allowed to be increased.

Mr. Willard stated from a design standard he assumes the stormwater facility is located where it is because it is the lower ground. And he assumes the open space to the left of the building is located there in conjunction with

the stormwater facility area, however he would much prefer to see, again from an aesthetic standpoint, open space in the form of landscaping along the highway. It's just more attractive.

Mr. Willard explained he is looking for the hardship in this case, because when push comes to shove, the leasable square footage can be reduced and the parking will be met. Mr. Baird agreed with Mr. Willard's point.

After scaling the plan off, it was determined there is 83 feet between the highway and the parking lot, however only 10 feet is not in the Right of Way, which can be landscaped, but the ROW cannot be landscaped.

Mr. Baird asked Mr. Norris if the information he provided regarding the studies of parking lot requirements is a better option for the City's code. Mr. Norris stated there are other studies that support this information. Mr. Baird questioned whether an amendment to the City's code would be in order. Mr. Norris felt it is.

Mr. Baird explained if the BOA does approve the variance for less parking, it does not mean the site plan as presented is set in stone. The Planning Commission will review the site plan for compliance with the Code. Mr. Baird stated one of the stumbling blocks he is encountering is the subdivision is not finalized yet and the hardship is somewhat imposed; however there is the issue of the DelDOT entrance approvals that have already been granted. He is leaning toward granting the variance because one issue is tripping the applicant up on another issue.

Mayor Marabello liked the landscaping package as presented. Mr. Metzner reminded the board this parcel was previously approved for a variance for 4.9 spaces per 1,000 square feet of leasable area for the previous site plan that has been abandoned. Mayor Marabello confirmed the plan presented today show 4.81 spaces per 1,000 square feet of leasable area, although the request from the applicant is to allow 4.5 parking spaces per 1,000 square feet of leasable area. Mr. Metzner stated if 4.81 spaces per 1,000 square feet of leasable area is granted would be acceptable and the applicant would provide 302 parking spaces.

Mr. Baird asked if the 4.9 parking space variance still valid. Mr. Norris stated not in his opinion because a new plan is being presented, thereby voiding the previous approvals.

Mr. Baird stated it needs to be clear any approvals for a parking space variance is not for the entire parcel. It will be for only the 9.79 +/- acres as depicted on the plans shown. Mr. Willard agreed.

Mayor Marabello added the only reasonable condition he would like to see is the signage blends in with the proposed landscaping. That can be worked out with Mr. Norris, so that it looks good for the community.

Mr. Willard stated his inclination is not to grant the variance is because the whole thing is being driven by the square footage of the commercial, and that's what they chose. If the applicant reduces the commercial square footage, it reduces the parking space requirements and puts the lot coverage under the maximum allowed. By reducing the square footage of the retail, the applicant solves all of the problems and meet the code. As far as the hardship analysis goes, this was a project that had a fair amount of opposition to when brought before the council before. It's just not a project he's comfortable granting a variance for just so the applicant can get maximum square footage on.

Mr. Baird had some similar feelings on the issue because a lot of the problems are self imposed, however the board has information presented today that maybe the City's ordinances need to be changed which would alleviate the parking variance request.

Mr. Willard explained the idea of the Code is to control development, which is why square footage is tied to parking, and starting off with the square footage needs to drive everything, it can be reduced incrementally to meet the code.

Mr. Baird stated the applicant can meet the requirements on the site, but the applicant is coming forward stating they can deliver a better looking site, meet the demand that is expected for the location, and provide the city some additional things it's looking for as well. And that's where Mr. Baird is with it. Mr. Willard understood that point.

Mr. Norris pointed out that the applicant has applied for a variance under 230-14 (5) regarding the number of parking spaces per leasable square footage for a shopping center; however there is no definition of a shopping center, but if one refers to the off street parking requirements under 230-21 it requires 1 space per 200 square feet of floor area used for sales on the ground floor.

Mr. Willard stated that is an interesting point, however in this zoning, C3, a shopping center is a conditional use. Mr. Willard asked what Mr. Norris's point is. Mr. Norris stated some of the square footage of the building will be used for storage, so without knowing how many square feet is for sales, it's not possible to determine if they have met the parking requirements.

Mr. Metzner explained he does not know yet what the foot print is for each of these units, so it would be impossible to base the variance on the breakdown between storage and sales floor area.

Mr. Baird also pointed out 230-21 also calls for 1 parking spaces for each 2 employees. That number is completely unknown at this time.

Mr. Willard stated he has not studied this, but his feeling is that 230-21 is referring to what are permitted uses in the zoning district. Because this is a conditional use, he feels 230-14 is what applies to this project.

Mr. Baird made a motion to allow 4.81 parking spaces per 1,000 square feet of leasable area (as noted on the drawings) for this site only on the parcel. The practical difficulty issue seems to be the permitting issue with DelDOT and the conservation district and how it ties in with neighboring developments.

Mayor Marabello asked for an amendment to the motion to include the landscaping will be as presented on this drawing. His goal is to create good looking projects, not a WalMart look.

Mr. Baird accepted the amended motion. Mayor Marabello seconded the motion.

Motion carried following a poll of the board.
Yes-Baird, Marabello
No-Willard Referred to his previous comments. While he appreciates the hardship that they want more impervious surface, if the square footage is reduced the parking requirement and maximum lot coverage can be met.

The hearing was adjourned at 11:10 am.

Respectfully Submitted,

Christine Crouch

Christine Crouch
Administrative Assistant/Recording Secretary

CITY OF MILFORD
DELAWARE

08-016
08-017
08-018

PLANNING AND ZONING DEPARTMENT
(302) 422-6616
FAX # (302) 424-5933

201 S. WALNUT STREET
PO BOX 159
MILFORD, DELAWARE 19963

APPLICATION

SITE PLAN CONDITIONAL USE SUB-DIVISION VARIANCE CHANGE OF ZONE
(circle all that apply)

The undersigned hereby makes formal application to the City of Milford for the approval of Prelim Site Plan, Prelim. Mjr Subdivision Conditional Use for the property described below. Applications shall be represented at the appropriate meetings or hearing. The applicant is aware that no applications will be accepted if violations exist or if any service fees, including taxes, are delinquent.

OWNER NAME: Shawnee Farm LLC. PHONE NUMBER: (302) 228-4559
ADDRESS: 105 Foulk Road, Wilmington, De 19803

SIGNATURE: Bruce Hugg DATE: 1-8-08
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION! FEE: ~~$700.00~~ $ 1480

APPLICANT NAME: Randy B. Duplechain, P.E. PHONE NUMBER: (302) 424-1441
ADDRESS: 23 N. Walnut Street, Milford, DE 19963

SITE LOCATION: ROAD Route 113 N,S,E,W SIDE Corner of FEET N,S,E,W OF
ROAD Shawnee Road SUBDIVISION NAME: LOT NUMBER: 8
SITE ADDRESS: ~~West~~ Route 113, ~~South~~ Route 36, Milford, DE

ZONING: EXISTING: C-3 PROPOSED: C-3 TAX MAP NUMBER: 1-30-3.00-261.00[redacted]

PRESENT USE: Agriculture PROPOSED USE: Commercial

AREA OF PETITION: 69.23 ~~43.81~~ +/- Acres AREA OF ADJACENT LAND IN SAME OWNERSHIP: Parcel to South ~~+/- 87.70~~ Acres 84.42

SANITARY FACILITIES:	EXISTING		PROPOSED	X
ELECTRIC SUPPLY:	EXISTING		PROPOSED	X
WATER SUPPLY:	EXISTING		PROPOSED	X
DWELLING UNITS:	EXISTING:	None	PROPOSED:	~~See Plan~~ Comm. Units #16
FRONT SETBACK:	REQUIRED:	30' FT	PROPOSED:	30' FT
REAR SETBACK:	REQUIRED:	50' FT	PROPOSED:	50' FT
SIDE SETBACKS:	REQUIRED:	20' FT	PROPOSED:	20' FT

WETLANDS ON SITE? (YES) NO COMPREHENSIVE PLAN RECOMMENDATION: Commercial
ZONING CHAPTER ~~Ordinance~~ 230-14, 230-14 C(11), 230-50
VARIANCE INFORMATION (IF APPLICABLE):

CONTACT FOR APPLICATION: Randy Duplechain, P.E. PHONE: (302) 424-1441
APPLICATION RECEIVED BY: Christine Crouch DATE:

DAC MTG: 01.30.08
P.C. MTG: 02.19.08
COUNCIL MTG: 03.24.08

~~B.O.A MTG:~~

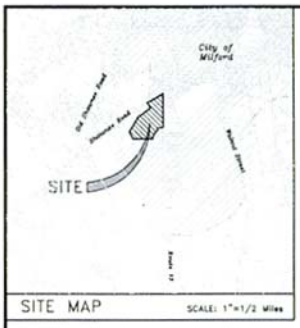
CYPRESS HALL COMMERCIAL

PRELIMINARY PLAN

CONDITIONAL USE/SITE PLAN SUBMISSION

CITY OF MILFORD, SUSSEX COUNTY, DELAWARE

DBF PROJECT NO. 1423A001 JANUARY 2008



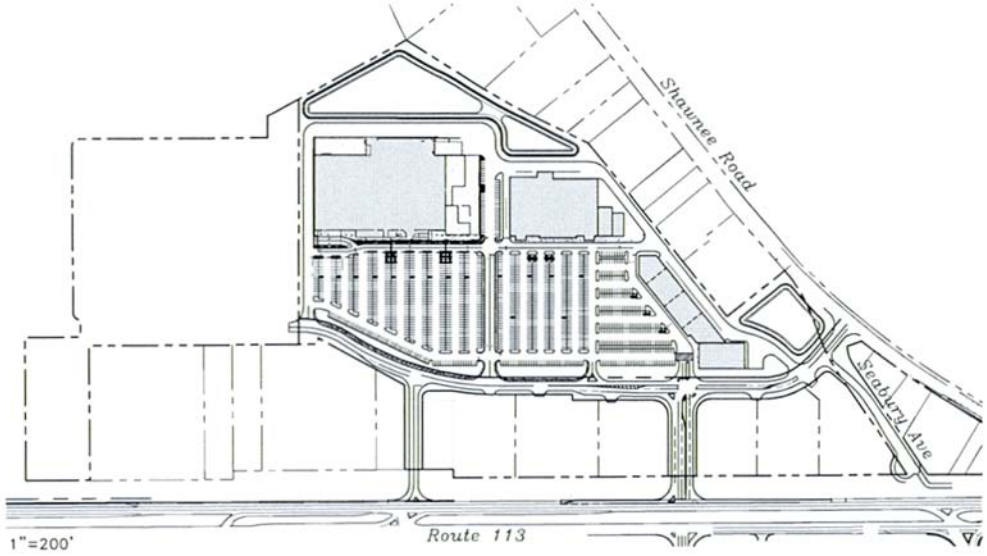
SITE MAP SCALE: 1"=1/2 Miles



N.W.I. MAP SCALE: 1"=2000'



SOILS MAP SCALE: 1"=2000'



1"=200'

INDEX OF DRAWINGS

1	TITLE SHEET
2	PRELIMINARY RECORD PLAN INCLUDING BOUNDARY & TOPOGRAPHIC SURVEY DATA
3	PRELIMINARY SITE PLAN
4	PRELIMINARY DRAINAGE PLAN
5	PRELIMINARY UTILITY PLAN
6	PRELIMINARY LANDSCAPE PLAN

MILFORD CITY COUNCIL

DATE: _____ SIGNATURE: _____

PLANNING AND ZONING

DATE: _____ SIGNATURE: _____

OWNERS CERTIFICATION

I/WE, CEDAR-BRANDYWINE CYPRESS HALL, LLC, HEREBY CERTIFY THAT WE ARE THE OWNERS OF THE PROPERTY DESCRIBED ON THIS PLAN, THAT THE PLAN WAS MADE AT OUR DIRECTION, THAT ALL STREETS SHOWN THEREON NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC USE AND THAT ALL PROPOSED MONUMENTS AND MARKERS SHOWN HEREON WILL BE SET AT THE LOCATION INDICATED, AND THAT WE ACKNOWLEDGE THIS PLAN TO BE OUR ACT AND DESIRE THE PLAN TO BE DEVELOPED AS SHOWN IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

DATE: _____ SIGNATURE: _____

CEDAR-BRANDYWINE CYPRESS HALL, LLC.
MANAGING PARTNER

ENGINEERS CERTIFICATION

I, RANDY S. DUPLECHAIN HEREBY CERTIFY THAT I AM A REGISTERED ENGINEER IN THE STATE OF DELAWARE, THAT INFORMATION SHOWN HEREON HAS BEEN PREPARED UNDER MY SUPERVISION AND TO MY BEST KNOWLEDGE AND REPRESENTS GOOD ENGINEERING PRACTICES AS REQUIRED BY THE APPLICABLE LAWS OF THE STATE OF DELAWARE.

DATE: _____ SIGNATURE: _____

RANDY S. DUPLECHAIN, P.E.

DAVIS, BOWEN & FRIEDEL, INC.
ARCHITECTS, ENGINEERS & SURVEYORS
SALISBURY, MARYLAND (410) 543-9091
MILFORD, DELAWARE (302) 424-1441

CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	511.83'	172.84'	171.99'	N 57°16'30" E	19°20'56"
C2	511.83'	130.04'	129.68'	N 52°34'23" E	14°33'35"
C3	25.00'	39.27'	35.36'	S 44°34'00" W	90°00'00"
C4	25.00'	39.27'	35.36'	N 45°26'00" W	90°00'00"
C5	510.00'	162.22'	179.61'	S 18°14'23" W	13°46'47"
C6	940.00'	789.61'	766.14'	N 69°57'30" E	48°07'59"
C7	222.00'	193.03'	187.01'	N 24°36'30" W	49°48'29"
C8	25.00'	37.98'	34.60'	S 02°11'53" E	85°28'29"
C9	537.00'	336.11'	330.58'	N 27°41'04" W	35°51'55"
C10	50.00'	78.54'	70.71'	S 45°00'00" E	90°00'00"
C11	50.00'	78.54'	70.71'	S 45°00'00" W	90°00'00"
C12	1060.00'	158.79'	158.61'	N 04°32'55" E	08°35'10"
C13	25.00'	39.42'	35.46'	S 45°10'21" E	90°23'47"

LINE DATA

LINE	BEARING	DISTANCE
L1	N 50°08'55" E	85.71'
L2	N 28°31'36" E	110.82'
L3	N 14°06'12" E	212.32'
L4	N 52°53'43" E	223.38'
L5	N 38°53'03" E	79.04'
L6	N 51°30'54" E	70.04'
L7	N 69°19'41" E	104.20'
L8	N 89°39'03" E	55.50'
L9	S 89°23'59" E	22.00'
L10	N 00°27'25" W	199.98'
L11	N 00°26'53" W	100.27'
L12	N 00°43'30" W	100.27'
L13	N 89°39'18" E	23.10'
L14	N 00°00'00" E	85.43'
L15	N 90°00'00" E	22.00'
L16	N 45°19'22" E	66.64'
L17	N 49°52'40" W	63.74'

NAD 83
DELAWARE STATE GRID

SHAWNEE ROAD
STATE ROUTE 38
80' ROW

RESIDUAL LANDS OF
SHAWNEE FARMS, LLC.
1-30-3.00-261.00
3128-210
ZONED MILFORD C-3
15.83 ACRES

NOW OR FORMERLY
SHAWNEE FARMS, LLC.
1-30-3.00-261.00
3128-210
ZONED MILFORD C-3
43.81 ACRES

SHOPPING CENTER
ZONED MILFORD C-3
29.91 ACRES

OUT PARCEL
P-1
2.12 ACRES
92,429 SQ. FT.

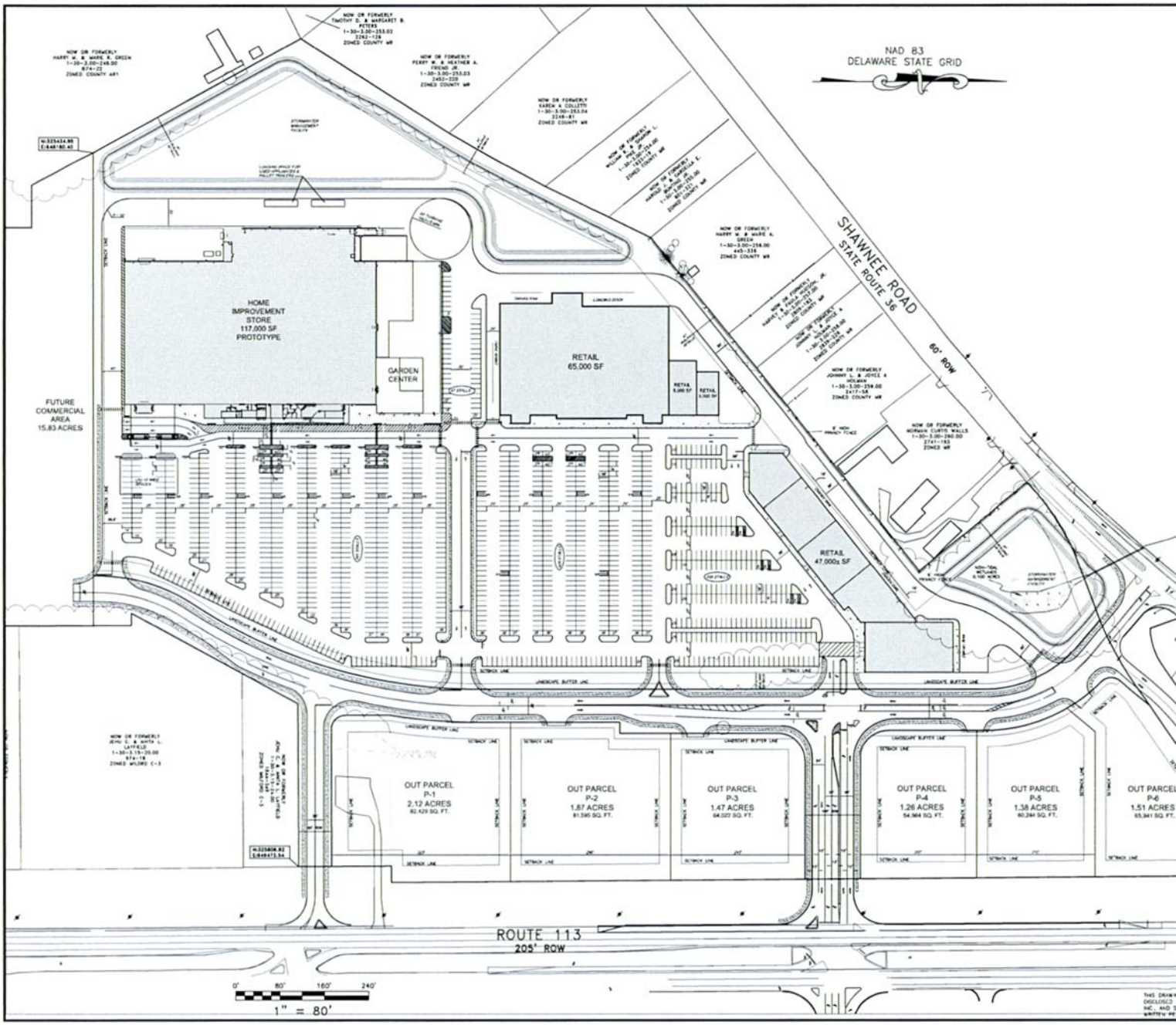
OUT PARCEL
P-2
1.87 ACRES
81,595 SQ. FT.

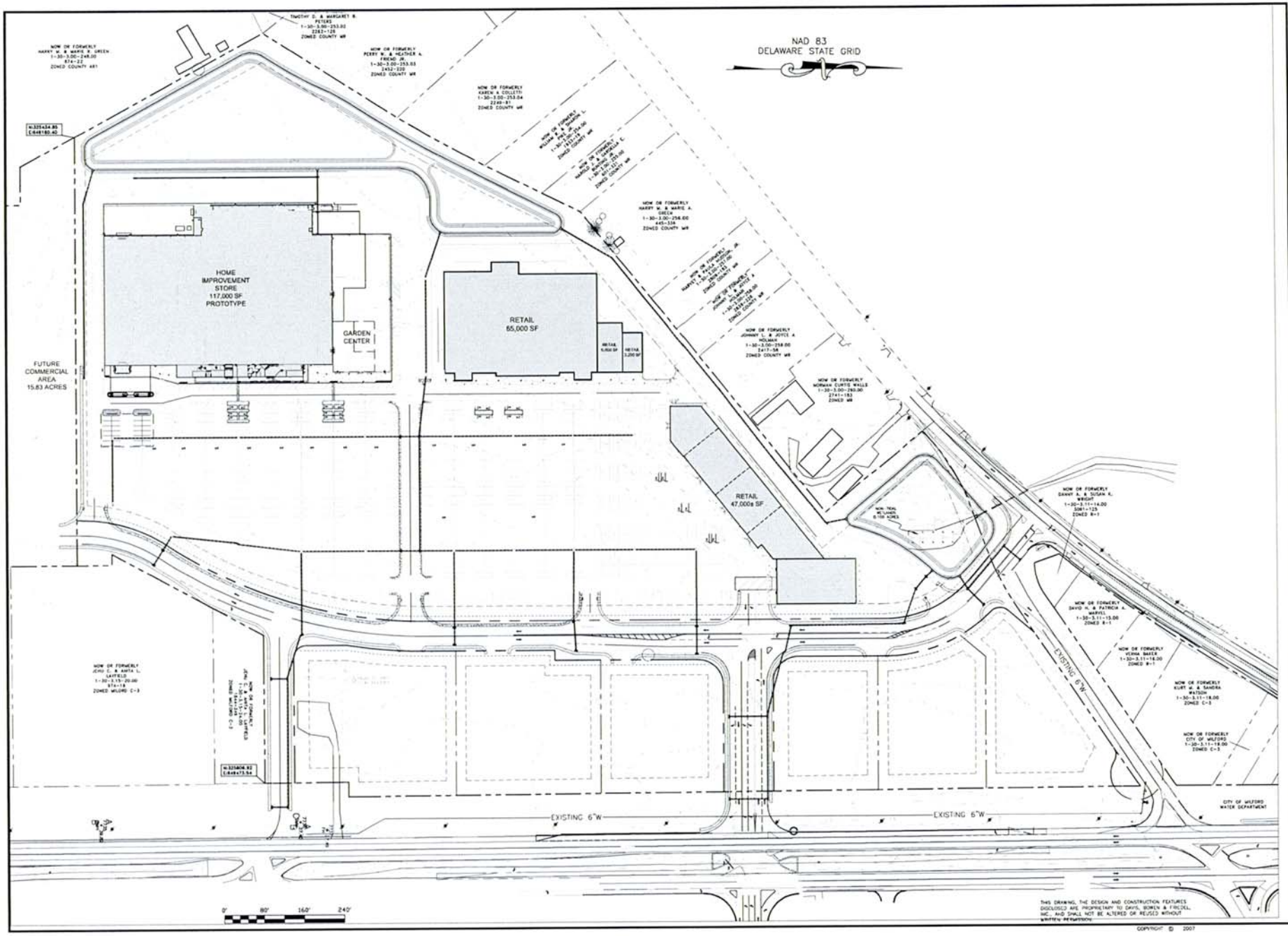
OUT PARCEL
P-3
1.47 ACRES
64,027 SQ. FT.

OUT PARCEL
P-4
1.26 ACRES
54,944 SQ. FT.

ROUTE 113
205' ROW

0' 80' 160' 240'


NAD 83
DELAWARE STATE GRID
SHAWNEE ROAD
STATE ROUTE 36
60' ROW
HOME IMPROVEMENT STORE 117,000 SF PROTOTYPE
GARDEN CENTER
RETAIL 65,000 SF
RETAIL 47,000± SF
FUTURE COMMERCIAL AREA 15.83 ACRES
OUT PARCEL P-1 2.12 ACRES 92,429 SQ. FT.
OUT PARCEL P-2 1.87 ACRES 81,595 SQ. FT.
OUT PARCEL P-3 1.47 ACRES 64,022 SQ. FT.
OUT PARCEL P-4 1.26 ACRES 54,964 SQ. FT.
OUT PARCEL P-5 1.38 ACRES 60,244 SQ. FT.
OUT PARCEL P-6 1.51 ACRES 65,941 SQ. FT.
ROUTE 113
205' ROW
0' 80' 160' 240'
1" = 80'



THIS DRAWING, THE DESIGN AND CONSTRUCTION FEATURES DISCLOSED ARE PROPRIETARY TO DAVIS, BOWEN & FRIEDEL, INC., AND SHALL NOT BE ALTERED OR REUSED WITHOUT WRITTEN PERMISSION.

COPYRIGHT © 2007

DAVIS, BOWEN & FRIEDEL, INC.
ARCHITECTS, ENGINEERS & SURVEYORS
SALISBURY, MARYLAND (410) 543-9091
MILFORD, DELAWARE (302) 424-1441

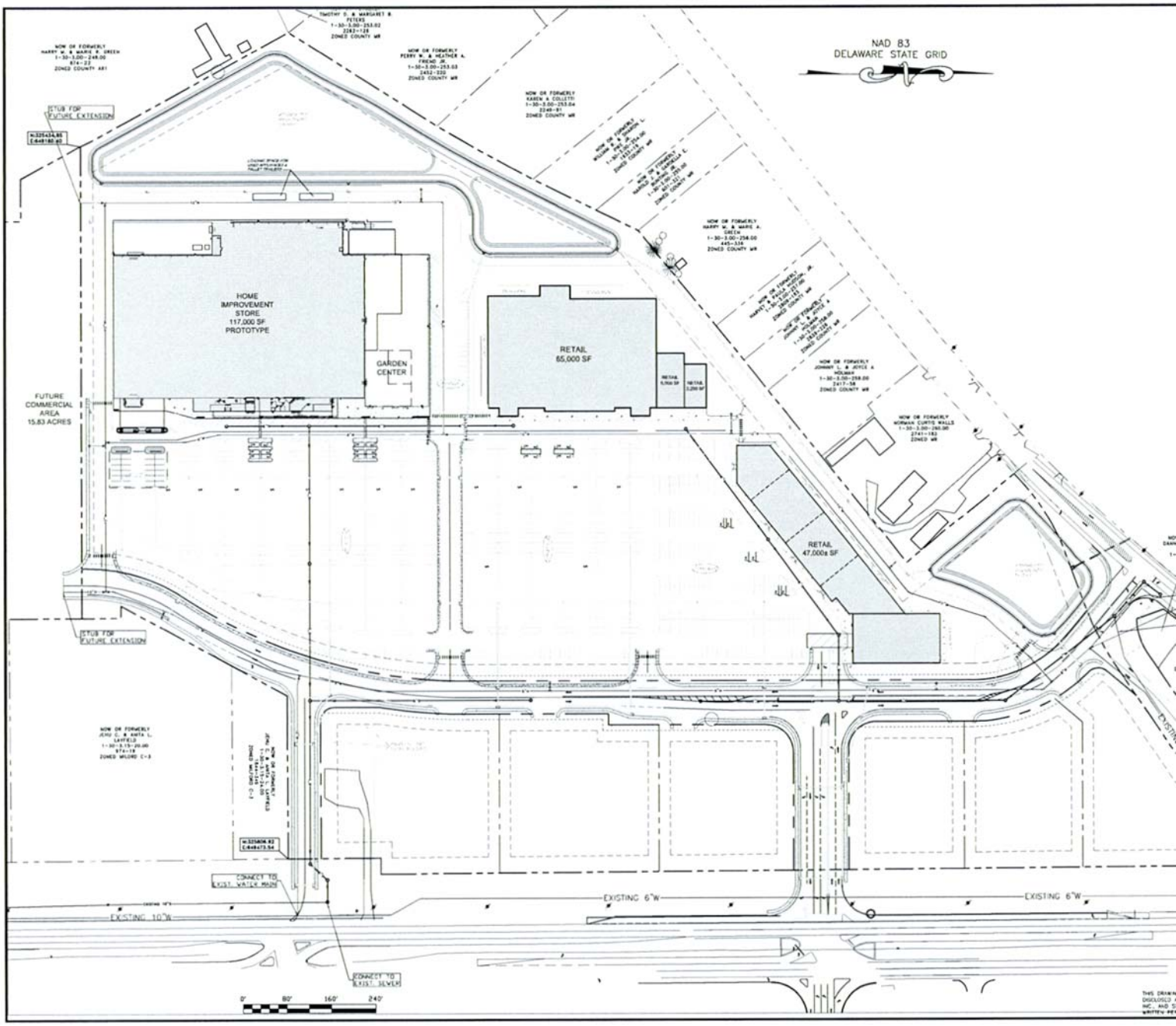
PRELIMINARY GRADING AND DRAINAGE PLAN

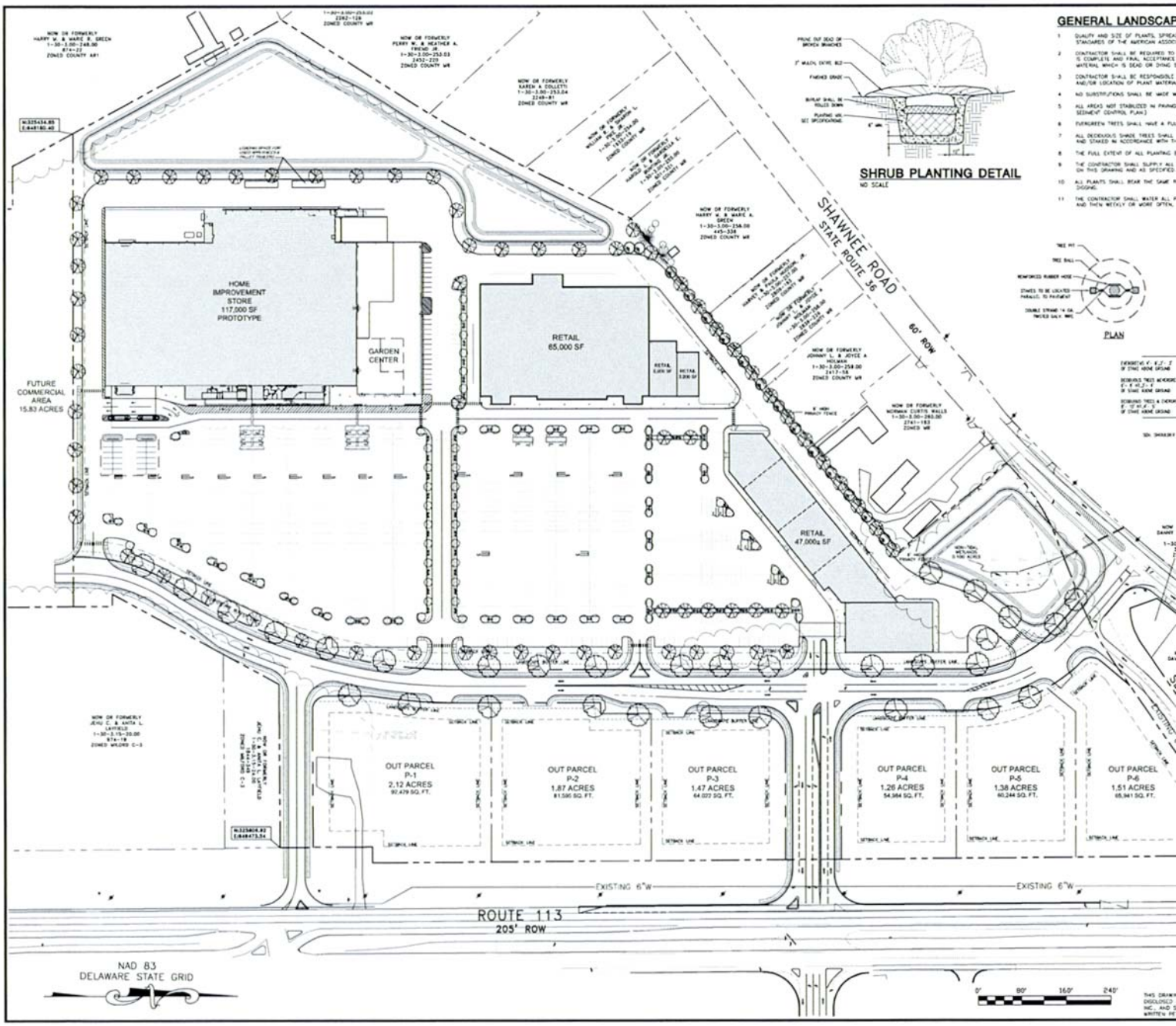
CYPRESS HALL COMMERCIAL

CEDAR CREEK HUNDRED, CITY OF MILFORD

SUSSEX COUNTY, DELAWARE

Date:	01-10-08
Scale:	1"= 80'
Des./Dr.:	BK - DB
Proj. No.:	1692A003A
Dwg. No.:	4


NAD 83
DELAWARE STATE GRID
STUB FOR FUTURE EXTENSION
HOME IMPROVEMENT STORE 117,000 SF PROTOTYPE
GARDEN CENTER
RETAIL 65,000 SF
RETAIL 47,000± SF
FUTURE COMMERCIAL AREA 15.83 ACRES
STUB FOR FUTURE EXTENSION
CONNECT TO EXIST. WATER MAIN
CONNECT TO EXIST. SEWER
EXISTING 10"W
EXISTING 6"W
EXISTING 6"W
0'
80'
160'
240'


GENERAL LANDSCAP
SHRUB PLANTING DETAIL
NO SCALE
PLAN
SHAWNEE ROAD
STATE ROUTE 36
60' ROW
HOME IMPROVEMENT STORE
117,000 SF
PROTOTYPE
GARDEN CENTER
RETAIL
65,000 SF
RETAIL
47,000± SF
FUTURE COMMERCIAL AREA
15.83 ACRES
OUT PARCEL P-1
2.12 ACRES
92,429 SQ. FT.
OUT PARCEL P-2
1.87 ACRES
81,595 SQ. FT.
OUT PARCEL P-3
1.47 ACRES
64,022 SQ. FT.
OUT PARCEL P-4
1.26 ACRES
54,964 SQ. FT.
OUT PARCEL P-5
1.38 ACRES
60,244 SQ. FT.
OUT PARCEL P-6
1.51 ACRES
65,941 SQ. FT.
EXISTING 6"W
EXISTING 6"W
ROUTE 113
205' ROW
NAD 83
DELAWARE STATE GRID
0'
80'
160'
240'

CITY OF MILFORD
PLANNING COMMISSION

RESOLUTION NO. PC10-011

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILFORD, DELAWARE, RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF MILFORD
THE APPROVAL OF AN EXTENSION OF A PRELIMINARY MAJOR SUBDIVISION
FOR
SHAWNEE FARM LLC
AT STATE RT 113 AND STATE RT 36
FOR AN 8 LOT, 16 COMMERCIAL UNIT SUBDIVISION
TO BE KNOWN AS CYPRESS HALL COMMERCIAL
IN A C-3 ZONING DISTRICT
TAX MAP 1-30-3.00-261.00 (69.23+/- Ac)

WHEREAS, the owner and applicant has made application with the City of Milford; and,

WHEREAS, the proposed application shall comply with the standards and regulations of the Code of the City of Milford; and,

WHEREAS, the Planning Commission met and heard said application during a public hearing on May 18, 2010; and,

WHEREAS, by a vote of recommended approval of the application.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission has recommended approval of the application to the Mayor and City Council of the City of Milford, Delaware with the following recommendations:

1.

APPROVED: _____
Charles Rini,
Planning Commission Chairman

SIGNED: _____
Christine Crouch,
Planning Commission Rec Secretary

CITY OF MILFORD ORDINANCE

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2010-7

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent employment, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 204 of the Code of the City of Milford, entitled Taxation, is hereby amended to include a new Article to read as follows:

ARTICLE II—EXEMPTION OF NEW IMPROVEMENTS ADDED TO PROPERTY

§204-6 Eligibility for new improvement exemption of real property taxes.
The exemption shall apply to any improvement to any property (residential, commercial, industrial, etc.) located within the City limits that results in an increase in the improvement assessment as contained in the City's General Assessment Records. The building permit for the said improvements must be submitted to the City prior to June 30, 2011. The exemption shall be based on the change in the improvement assessment value only. The land assessment is not eligible for exemption under this Article.

§204-7 Amount of the exemption.
The amount of the exemption shall be determined by subtracting the improvement assessment value prior to the new construction from the improvement assessment value following the new construction.

§204-8 Application of the exemption and limitations.
The dollar amount of the exemption shall be multiplied by the property tax rate in the first full tax year following the issuance of a certificate of occupancy by the City. The dollar amount of the exemption shall be limited to a maximum of $1,000 for residential properties and limited to a maximum of $5,000 for all other properties. The exemption shall only be good for one year immediately following the issuance of a certificate of occupancy.

§204-9 Appeals.
An aggrieved taxpayer may appeal from the disposition of an exemption claim in the same manner as is provided for appeals from assessments generally.

Section 2. This article shall be deleted from the Code of the City of Milford one year after the expiration of the exemption eligibility period.

Section 3. Dates
Introduction to City Council—May 10, 2010
Projected Adoption by City Council—May 24, 2010
Projected Effective Date—June 3, 2010

A complete copy of the Code of the City of Milford is available for review through the City Clerk's Office by calling 302-424-3712 or by accessing the website cityofmilford.com

CITY OF MILFORD ORDINANCE

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2010-8

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 185 of the Code of the City of Milford, entitled Sewers, Article III §24 Impact Fee Established, shall be amended to add a subsection D to read as follows:

> §185-24 D. The sewer impact fee described in §185-24C shall be waived for all permits issued between June 3, 2010 and December 31, 2010. The waiver shall be for a maximum of 5 EDUs per project. The City will continue to collect the impact fee charged by Kent County during this period.
>
> §185-24 D (1) To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:
>
> | | |
> |---|---|
> | Single Family Residential | 6 Months |
> | Multi Family Residential | 12 Months |
> | Commercial | 12 Months |
>
> §185-24 D (2) Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 2. Dates
Introduction to City Council—May 10, 2010
Projected Adoption by City Council—May 24, 2010
Projected Effective Date—June 3, 2010 - December 31, 2010

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Sewer Impact Fees, whose terms are defined in §185-24C, except as provided herein.

A complete copy of the Code of the City of Milford is available for review through the City Clerk's Office by calling 302-424-3712 or by accessing the website cityofmilford.com

CITY OF MILFORD ORDINANCE

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2010-9

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. §222-31 of the Code of the City of Milford, entitled Water, shall be amended to add a subsection I to read as follows:

> §222-31 I. The water impact fee described in §222-31H shall be waived for all permits issued between June 3, 2010 and December 31, 2010. The waiver shall be for a maximum of 5 EDUs per project.
>
> §222-31 I. (1) To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:
>
> | | |
> |---|---|
> | Single Family Residential | 6 Months |
> | Multi Family Residential | 12 Months |
> | Commercial | 12 Months |
>
> §222-31 I. (2) Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 2. Dates
Introduction to City Council—May 10, 2010
Projected Adoption by City Council—May 24, 2010
Projected Effective Date—June 3, 2010 - December 31, 2010

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Water Impact Fees, whose terms are defined in §222-31H, except as provided herein.

A complete copy of the Code of the City of Milford is available for review through the City Clerk's Office by calling 302-424-3712 or by accessing the website cityofmilford.com

CITY OF MILFORD ORDINANCE

NOTICE IS HEREBY GIVEN the following ordinance is currently under review by Milford City Council:

ORDINANCE 2010-10

WHEREAS, the City desires to encourage the building of residential and commercial structures within the City limits; and,

WHEREAS, it is recognized that financial incentives are an effective means of encouraging individuals and corporations to invest in the City of Milford; and,

WHEREAS, investment within the City of Milford creates opportunities for temporary and permanent jobs, expands the City's tax base, and increases the use of City utilities.

NOW, THEREFORE THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 119 of the Code of the City of Milford, entitled Electrical Standards, shall be amended to add a section to read as follows:

> The electric impact fee established under this Chapter shall be waived for all permits issued between June 3, 2010 and December 31, 2010.
>
> To qualify for the impact fee waiver, construction must be completed and a certificate of occupancy received in accordance with the following schedule:
>
> | | |
> |---|---|
> | Single Family Residential | 6 Months |
> | Multi Family Residential | 12 Months |
> | Commercial | 12 Months |
>
> Any structure that does not receive a certificate of occupancy in accordance with this schedule shall be ineligible for the impact fee waiver and shall pay the required impact fee in full prior to the issuance of a certificate of occupancy.

Section 2. Dates
Introduction to City Council—May 10, 2010
Projected Adoption by City Council—May 24, 2010
Projected Effective Date—June 3, 2010 - December 31, 2010

Synopsis: During the time this Ordinance is in effect, whose dates are specified herein, there shall be a moratorium upon the collection of City Electric Impact Fees, whose terms are defined in the Electric Tariff of Chapter 119, except as provided herein.

A complete copy of the Code of the City of Milford is available for review through the City Clerk's Office by calling 302-424-3712 or by accessing the website cityofmilford.com

051010

Sponsor: Sen.____ Rep. ___

DELAWARE STATE SENATE

145th GENERAL ASSEMBLY

Senate Bill #

AN ACT TO RE-INCORPORATE THE CHARTER OF THE CITY OF MILFORD BY AMENDING AND SUBSTITUTING CHAPTER 726, VOLUME 57 LAWS OF DELAWARE ENTITLED "AN ACT CHANGING THE NAME OF THE TOWN OF MILFORD TO "THE CITY OF MILFORD" AND ESTABLISHING A CHARTER THEREFORE" AS AMENDED RELATING TO GOVERNMENT, ADMINISTRATION, VOTING, AND ELECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 726, Volume 57 Laws of Delaware entitled "An Act Changing the Name of 'The Town of Milford' to 'The City of Milford' and establishing a Charter Therefore' as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows:

"MILFORD CHARTER

Table of Contents Page

Article I. Incorporation, Territory and Annexation

Article II. Nominations and Elections

Article III. Powers of the City – Council and Mayor

Article IV. Council Government

Article V. Administration and Appointees

Article VI. Financial Procedures

Article VII. Taxation, Assessors ad Assessment of Taxes

Article VIII. Borrowing Of Money and Issuance of Bonds

Article IX. Tax Increment Financing and Special Development Districts

Article X. Severance

Article XI. Transitional Provisions

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01 - Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02 - Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book __ Page __) and for Sussex County (Book __ Page __) in the State of Delaware (official recorded copies to be kept by the City Clerk) as presently exists and as hereinafter amended:

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to Section 1.04 of this Charter. The Council may, at any time hereafter, cause a survey and plot to be made of the City, and the survey and plot, when made and approved by the Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03 - Wards

The City of Milford shall be divided into four wards and a map entitled "Official Ward Map, Milford, Delaware" will delineate the ward boundaries with legal descriptions of each ward attached and kept on file in the Office of the City Clerk. The official ward map shall be identified by the signature of the Mayor, be attested by the City Clerk and bear the seal of the City. The map, legal descriptions and any future changes shall be recorded in both Kent and Sussex County within a reasonable time after the effective date of the amendment approved by City Council. City Council shall adopt the official map and any future amendments by ordinance.

The City Council may provide for a fifth Ward and re-arrange the boundaries of the four Wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04 - Annexation

The City may from time to time extend its boundaries through the process of annexation in accordance with Delaware Code and the following procedures shall apply:

(a) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.

(4) The annexation/rezoning application shall also be referred to the Planning Commission for a Public Hearing and review and recommendation to City Council. Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application.

(5) Following the public hearing and subject to the acceptance of the Plan of Services, City Council may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. If the resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(6) Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.

(7) If the resolution receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners, but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford, by written Petition with the signature of

each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.

(4) The annexation/rezoning application shall also be referred to the Planning Commission for a Public Hearing and review and recommendation to City Council.

(5) Within sixty (60) days of the recommendation by the Planning Commission, a resolution shall then be considered by City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory to its then limits and territory. Said resolution shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation and zoning. The resolution shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

(6) The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(7) Within sixty (60) days following the public hearing, and upon the acceptance of the Plan of Services by the State of Delaware, the City Council may pass a resolution annexing such territory to the City of Milford, subject to the approval of the property owners in the territory to be annexed. Said approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council.

(8) In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution failed to receive the required affirmative vote.

(9) Following the affirmative vote but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less

than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the proposed resolution.

(10) The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

(11) At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. In the event that an individual holds a Power of Attorney, duly executed and acknowledged, specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. Property owners in the area proposed to be annexed shall have only one vote regardless of the number of parcels owned.

(12) The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

(13) The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until eight

o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(14) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof. The Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation.

(15) In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election.

(16) If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to §1.04(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots, if an election is required, annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference. An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution adopted by City Council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04 of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

(d) Property shall be designated to a contiguous ward(s) when annexed into the City pursuant to Article I.

Article II. Nominations and Elections.

2.01- City Elections

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five electors of the City to be appointed by the Council. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective Ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. City Council shall appoint an election clerk(s) for each Ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty (30) days prior to the registration deadline or natural persons owning property within the City of Milford at least thirty (30) days prior to the registration deadline, and who are over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. A Corporation, Partnership, Limited Partnership or other legally created entity is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.

(e) It is the responsibility of those registered voters who own property in more than one Ward to declare at least sixty (60) days prior to the election which Ward they will vote in on the day of the election. In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote once only where he or she resides.

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. The person having the highest number of votes, for each office, shall be declared duly elected in accordance with State law, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of time as required by State law.

(h) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(i) In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within thirty (30) days and the registration books shall remain closed until the outcome of the Special Election is determined.

(j) Not less than sixty (60) days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) registered voters in the Ward in the City of Milford in which the candidate resides. Nominations for the Office of Mayor shall be filed with the City Manager not less than sixty (60) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) registered voters in the City of Milford.

2.02 - Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once the declaration is issued, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

2.03- Absentee Ballot Procedures

Absentee voting in the City of Milford is in accordance with State law.

2.04 - Voting Machines for Local Office and Mayor and Council Ballots

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides.

(b) Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

2.05 - Ballots for Ordinances and Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

2.06 - Voting Machines for Referenda and Annexation Elections

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

2.07- Council Districts; Adjustment of Districts

(a) Number of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January of the second year following the decennial census, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters and Districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that the summary, including both the map and descriptions of the recommended districts, must be published in two newspapers of general circulation in the City of Milford, no less than one month prior to its adoption.

(e) The Commission may, but is not required to, establish five Wards instead of four, with two Councilpersons to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – Council and Mayor

3.01- Enumerated Powers

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof

(2) A contract for professional services

(3) A contract which is less than Thirty Thousand Dollars ($30,000). Such a contract shall not be for a portion of a project or proposal that would otherwise require bidding. The aggregate amount shall not exceed Thirty Thousand Dollars ($30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City.

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford in accordance with the provision of Article VIII of this Charter.

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and

in accordance with such rules and regulations as the City Council shall from time to time resolve or decree.

(g) Notwithstanding any of the provisions of Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article IX of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.02- Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03- Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

3.04- Notice of Action

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

3.05- Investigations

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than $500.00**,** or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The Council shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and accept each annual audit.

3.07 – Mayor - General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.

3.08 - Vice Mayor

At the annual organizational meeting, the Council shall also elect by a majority vote of the entire Council a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor.

3.09 - General Powers and Duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Article IV. Council Government – Composition, Qualifications, Vacancies and Procedure

4.01- Composition of Government

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the Council, consisting of a Mayor and eight (8) Councilpersons. Whenever the word "Mayor" is used, it shall refer solely to the Mayor. Whenever the word "Council" is used it shall refer to the eight (8) Councilpersons. The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. The Mayor and Councilpersons shall each serve for a term of two years.

4.02 Annual Organizational Meeting.

At seven o'clock (7:00) p.m. on the second Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City.

4.03 - Compensation and Expenses

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.04- Prohibitions

(a) Except where authorized by law, no Mayor or Councilperson shall hold any other City office or employment during the term for which he or she was elected to the Office of Mayor or Council, and no former Mayor or Councilperson shall hold any compensated appointive City office or employment until two (2) years or more after the expiration of the term of office for which he or she was elected.

(b) Appointments and removals. Neither the Mayor, Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Mayor or Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) Interference with Administration. Except for the purposes of inquiries and investigations under Section 4.08, the Mayor or Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Mayor or Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05 - Vacancies, Forfeiture of Office; Filling of Vacancies

(a) Vacancies.

(1) The Office of the Mayor shall become vacant upon death, resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City.

(2) The Office of a Councilperson shall become vacant upon death resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the Ward in which he/she resided at the time of the election.

(b) Forfeiture of Office. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, or (3) is convicted of a crime involving moral turpitude.

(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is less than three (3) months, the vacancy shall be filled in the next general election. If a vacancy occurs in the Council and the remainder of the unexpired term is less than six (6) months but more than three (3) months, the Council may within 45 days of the vacancy occurring, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is six (6) months or greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06 - Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the United States of America, a bona fide resident of the Ward in the City of Milford where they are

seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective term(s) of office nor shall any member of Council be eligible to serve in such elected office unless they continue to be a resident of their Ward during their respective terms of office.

(d) If a Council member files and runs for Mayor, and is elected before his or her Council term has expired, the elected Mayor's Council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

4.07- Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.08 - Procedure

(a*)* Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held in compliance with State law and may be on the call of the Mayor or of four or more members. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matters permitted by State Law.

(b) Rules and Journal. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 4.05(c), shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions (resolution includes actions taken upon motion whether by roll call or voice vote and whether or not the Resolution has been prepared as a writing) relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code;

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted; and

(i) Change of zone or conditional use of land.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - Ordinances in General

(a) Form**.** Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by the Mayor, any member of City Council or the City Manager at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to the Mayor, each Council Member and to the City Manager. An ordinance shall be placed on the agenda for introduction and for adoption by title; the introduction and the adoption may not be on the same meeting date. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) "Publish" Defined. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) A brief summary of the Ordinance, and

(2) The places where complete copies of it have been filed and the times when they are available for public inspection.

4.11 - Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09(b), shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12 - Codes of Technical Regulation

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section 4.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations, as well as the adopting ordinance, shall be authenticated and recorded by the City Clerk pursuant to Subsection 4.13(a).

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing

(a) Authentication and Recording. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations

included in the Code.

ARTICLE V. Administration and Appointees

5.01 - Form of Government

The form of government established by this charter shall be known as the "Council-Manager" form.

5.02 - City Manger - Appointment; Qualifications and Compensation

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

5.03 - City Manager - Removal

The Council shall remove the Manager from office in accordance with the following procedures and those conditions contained in the City Manager's employment contract:

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

5.05 - Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He or she shall appoint, and when he deems it necessary for the good of the service, suspend or remove City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He or she may authorize any administrative officer, who is subject to his direction and supervision, to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He or she shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He or she shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(d) He or she shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(e) He or she shall prepare and submit the annual budget and capital program to the Council.

(f) He or she shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(g) He or she shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(h) He or she shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(i) He or she shall perform such other duties as are specified in this Charter or may be required by the Council.

5.06 - City Clerk - Appointment and Duties

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all Council proceedings and documents, manage the City's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the Council.

5.07 - City Solicitor

At the Annual organization meeting, the City Council shall appoint a City Solicitor who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

5.08 - Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. The terms of his employment shall be contained in an employment contract

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. The Council shall, from time to time, make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall

have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the provisions of State law and the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties

of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

5.09 - City Holding Cells

The Council may maintain a holding cell for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to transport to a detention facility, hearing and trial or arraignment.

5.10 - City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He or she shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he or she may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He or she shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He or she shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

5.11 - Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and

financial records, but under a records disposal program and schedule approved by the Council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and Council shall direct and which will keep the Council, City Manager and the public informed of the financial condition of the city.

5.12 - Planning Department

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the Council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the Council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

5.13 - City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures

6.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

6.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

6.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

6.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated

income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

6.05- Capital Program

(a) Submission to Council. The Manager shall prepare and submit to the Council a five-year capital program at the time the annual budget is submitted to City Council as defined in Section 6.02.

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action on Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

6.07- Council Action on Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

6.08- Public Records

Copies of the budget and the capital program as adopted for the fiscal year are public records and shall be made available to the public through the Freedom of Information Act and the City of Milford website.

6.09- Amendments after Adoption

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available un-appropriated revenues to meet such appropriations, the Council may exercise short term borrowing authority as provided in Section 8.07 of this Charter.

(c) Reduction of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by

him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer of Appropriations. At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may by majority vote transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse 0f Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration of Budget

(a) Work Programs and Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if they deem it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his\her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article VII. Taxation, Assessors and Assessment of Taxes

7.01 - Not less frequently than every ten years, there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02 - It shall be the duty of the City Manager to include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment. In the year that a supplement assessment is made, the General Assessment then in force as modified by the supplemental assessment, shall constitute the assessment for the year.

7.03 - The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04 - The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

7.06 - The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as adjusted by the supplemental assessment as made in said year, to be hung in two public

places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.07 - At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

7.08 - The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City. If any taxable fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.

7.09 - The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.10 - The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.11 - The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.12 - (a) Not later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the City Clerk commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by Council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, 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 tax 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.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(3) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(4) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(f) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(g) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(h) The provisions of this Section 7.12, other than the provisions of subsection (b) of this Section 7.12, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article IX of this Charter, provided that all references in this Section 7.12 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

7.13 – Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

7.14- Assessment, Payment, and Collection of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing of Money and Issuance of Bonds

8.01 - The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(d) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and

maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(e) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03 - The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 - It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "For the Proposed Borrowing" and upon the other half of said ballot shall be printed the words, "Against the Proposed Borrowing", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he or she, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05 - The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case or as recommended by bound counsel, it shall also provide a sinking fund therefore.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

8.07- Short Term Borrowing

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project funding. The money shall be paid back in no longer than five (5) years.

Article IX. Tax Increment Financing and Special Development Districts

9.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with Delaware Code relating to the Municipal Tax Increment Financing Act and Delaware Code relating to Special Development Districts.

9.02 – Non-Recourse

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

Article X. Severance

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions

11.01- Officers and Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance of Officers and Employees. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he or she shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices and Agencies

(a) Transfer of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property and Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency

assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

11.04- State and Municipal Laws

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective, are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

11.05- Survival of Powers and Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. Repealer

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled "An Act Changing the Name of 'The Town of Milford' to 'The City of Milford' and establishing a Charter therefore' as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act."

Section 2. The Charter shall become effective upon signature of the Governor.

Synopsis

This Charter replaces the current City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council, with participation from the public, met in numerous meetings beginning in September 2008 to reorganize and revise their charter. Most of the existing charter has remained the same though some revisions were made and the charter was reorganized. This bill is a result of that effort and the following summarizes those changes from the previous charter:

A table of contents delineating the articles has been included at the outset.

The Charter has been reorganized by changing the order of the articles, moving various sections to more appropriate articles and consolidating articles. The order of the articles is more logical. First, the territory and annexation procedures are set out, followed by the election process, the powers of the city, the form of government, the administration, then the financial articles involving taxing and borrowing, followed by various miscellaneous provisions.

The existing Charter had two articles for the power of the city with a structure article between and a separate article for the City Manager and other administrative appointments. Those appointed offices have now been combined into one article.

The election article was moved from Article IX to Article II.

The most significant substantive changes are as follows:

- The territory of Milford shall be established by an official map recorded in the appropriate county.
- The wards shall be delineated by official maps recorded in the appropriate county and by metes and bounds.
- Annexation procedures have been developed to include state requirements.
- Annexation agreements are recognized and annexed property designated to contiguous Wards when annexed.
- In the case of a special election for annexation, property owners within the property to be annexed are limited to one vote.
- Elections have been made consistent with state law.
- In the event of a tie vote for an elected office, a special election for that office will be held within thirty days.
- The deadline to file for Office of Mayor or Council Person changes from thirty to sixty days before the election.
- Filling vacancies for Mayor or Council have been clarified.
- The residency requirement for Mayor or City Council has changed from thirty days to one year.
- Allows five year capital budget to be submitted with annual budget and not three months in advance.
- Short term borrowing not to exceed the amount of annual tax billing was clarified to include aggregate borrowing and without special election.

City of Milford

Resolution 2010-7

Amending the Charter of the City of Milford

A Resolution amending the City of Milford Charter, subject to approval of the Council of the City of Milford in accordance with Title 22, Chapter 8, Section 811 of the Delaware Code.

THE CITY OF MILFORD HEREBY ORDAINS:

WHEREAS, the Town of Milford was first incorporated on February 5, 1807; and
WHEREAS, on January 18, 1932, the Charter of the City of Milford, contained in Chapter 726, Volume 57, Laws of Delaware, entitled "An Act Changing the Name of the Town of Milford to 'The City of Milford' and Establishing a Charter Therefore" was consolidated into one complete act; and
WHEREAS, since this time, the Charter has been amended seven times, with the last comprehensive review occurring in1999; and
WHEREAS, periodically, the Charter is reviewed to help ensure that it is current and that it properly reflects the overall direction of this community; and
WHEREAS, on August 25, 2008, the City Council appointed persons to a Charter Review Committee and charged the committee with reviewing and proposing amendments to the City of Milford Charter; and
WHEREAS, following a series of meeting, the Charter Review Committee presented a draft of the proposed Charter to City Council on January 25, 2010 at a public meeting;
WHEREAS, the City Council has thoroughly and completely reviewed the proposal and after considering the amendments, the Council called for a Public Hearing to be held on April 26, 2010 at which time all citizens so desiring were afforded the opportunity to be heard; and
WHEREAS, the City Council has henceforth considered the approval or rejection of various amendments to the Charter; and
WHEREAS, City Council finds it to be in the public interest to declare the adoption of the amendments to the City's Charter, and to adopt the amended Charter, including the rearrangement and renumbering of various articles and paragraphs in the Charter authorized by the Charter.

NOW, THEREFORE, BE IT RESOLVED the City Solicitor of the City of Milford is authorized and directed to forward a copy of this Resolution and revised City of Milford Charter to members of the Delaware General Assembly and to seek the assistance and support of those members of the General Assembly for this City of Milford Charter Amendment.

BE IT FURTHER RESOLVED that the General Assembly of the State of Delaware is hereby requested, during its 2010 Session, to approve by no less than a two-thirds vote of all members elected to each branch, the amendment of the City Charter of the City of Milford, Delaware in the form and manner, attached hereto as Exhibit A.

_____

Mayor Joseph Ronnie Rogers

_____

City Clerk Teresa K. Hudson

Adopted: May 24, 2010

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 12, 2008

A meeting of the Charter Review Committee was held in the Meeting Room of the Delaware Rural Water Association Facility on Friday, September 12, 2008.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr., Councilman Irvin Ambrose, City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the Subcommittee Meeting to order at 10:18 a.m. Mr. Spillane asked if the committee should have a vice chairman and asked if anyone was interested. Mr. Ambrose said to expedite things, he would volunteer.

Mr. Spillane stated he has no problem with the public speaking on certain issues. He then explained that each section will be reviewed and the different ideas noted. At the next committee meeting, we will continue the review. A final decision will be made by the committee. The proposal would then be presented to council and a public hearing scheduled before a final vote is taken by city council.

ARTICLE I. INCORPORATION

1.01- INCORPORATION

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- TERRITORIAL LIMITS

The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more

or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western

boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to Article X. The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

Mr. Baird advised there has been a great deal of debate about how to address the description of the town limits statewide because of the associated expenses. However, it has been left up to individual municipalities at this time. Due to the numerous changes to its boundaries, he feels the charter should not have to be changed each time.

There were several options discussed including drafting a generic statement that refers to the number of acreage as is recorded in the county. It was also suggested a reference be made in the charter to a separate ordinance which could be updated more frequently.

It was agreed the language would be changed to read 'include the municipal territory, as amended from time to time, as shown on the official zoning map of the City of Milford.

1.03- WARDS

The City of Milford shall initially be divided into four Wards:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction

to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Po nd to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred

Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to

the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

It was agreed there is an imbalance in the number of people now living in the four wards and particularly in Ward 1 which includes the majority of the larger developments. Though other subdivisions have been approved in other wards, there is currently little or no activity taking place. It will probably take many years for those to be built out.

Section 9.07 addresses the adjustment of districts which relates to ward boundaries. According to the charter, by the first day of January of every tenth year from the adoption of this Charter, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to keep as nearly as possible the same number of qualified voters, as determined from the registration for the last statewide general election. It states that districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. Currently, there are approximately 406 voters in the Fourth Ward and 664 in the First Ward which is a 50% difference.

When these ward areas are adjusted, it must be taken into consideration the current council members at that time to prevent them from being displaced by their residence ending up in another ward.

Mr. Brooks recalled that the last time this was done, the city solicitor presented six different scenarios which took into consideration the location of each serving council person.

It was agreed that because the wards are not in compliance, this definitely needs further exploration.

1.04- ANNEXATION

In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished pursuant to the following procedures shall be lawful: (a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee

composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written

report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The

failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested

to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford.

Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory

previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for

the closing of the polls.

Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

It was agreed above section should be checked against the current state law and will be readdressed at a later date:

ARTICLE II. POWERS OF THE CITY

2.01- POWERS OF THE CITY

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows: (a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may

transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

There was a discussion about how to define professional services to prevent different interpretations. The city manager said that professional service is legal, architectural and engineering services.

Mr. Baird referred to the definition for professional offices in the zoning code. He assumes that professional services are encompassed within those offices. The zoning code reads the following:

'PROFESSIONAL OFFICE: Includes the office of a physician, dentist, optometrist, minister, architect, landscape architect, City planner, engineer, insurance agent, realtor, accountant, lawyer, author or similar professional activity.'

Mr. Baird said the language can be taken out though he prefers to leave it flexible. Mr. Ambrose suggested it be worded professional services to include those items defined in the zoning code. The committee agreed it should be spelled out and should conclude 'with or similar professional activity' as was recommended by the city manager.

(3) No contract shall be made by Council for any purpose, the contract price of which is in excess of Thirty Thousand Dollars ($30,000), without public competitive bidding; and

Mr. Ambrose questioned the $30,000 threshold being raised. Mr. Baird feels it should be raised to $50,000 and recalled that amount being previously considered by council at the time they increased it to $30,000. When asked for some justification, Mr. Baird said his decision is based on today's costs. In this manner, the bidding process would be waived for any purchases or expenses up to $50,000.

Mr. Spillane feels that when a bid is advertised, more businesses or contractors are made aware of it which will give them the opportunity to at least submit a proposal. Mr. Baird disagreed explaining that when a bid is written, there is no flexibility because the requirements are very specific. Allowing this increase to $50,000 will allow more flexibility because Mr. Baird will be able to talk to different contractors to determine how they are able to do the work.

He explained that when we bid it, it is necessary to prepare plans and specifications and everyone is bidding on the exact same thing. If there is flexibility, he can interact with individuals who may be able to come up with a better method of doing it.

Mr. Spillane suggested this matter be deferred for a later decision.

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

Mr. Baird addressed the requirement of the mayor having to sign all formal contracts. He feels there are times when elected officials may not be available to come to city hall and sign the documents. Therefore, the contract is then prolonged until the proper signature can be obtained. He is recommending that his signature as the City Manager qualify to sign off on contracts for the city. When the mayor was out of town or unavailable for some reason, Mr. Brooks advised that as vice mayor, he would sign off on documents that needed immediate attention.

The city manager feels there are a number of routine agreements and contracts that currently require the mayor's signature because of this requirement. The mayor has to be contacted to come in and sign the documents. With this change, Mr. Baird would be able to sign off as the city manager.

He said he is unsure if it as simple as replacing the mayor's signature with the city manager though it may still be appropriate for the mayor to sign certain documents. Mr. Baird asked that the committee give this some thought and consider allowing him to sign contracts.

Mr. Spillane asked if there have been problems with the mayor being unavailable to sign documents. The city manager said there has always been someone available but most of these documents come across his desk and this would enable that process to keep it moving until it is completed. It would prevent a few days of delay while waiting for the correct signature.

Mr. Spillane does not want a situation to occur where a contract is signed and the mayor and council were unaware of it or there is no public record of the city entering into such an agreement. Mr. Baird said this authorization could be granted only on items approved by city council. He has seen other language that he will bring back before the committee.

The city clerk questioned whether the mayor's signature is required because he is the executive officer of the city and the city is incorporated. Additional information will be obtained.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *ADD* ***in accordance with the provision of Section 11 of this Charter.*** **REMOVE** ~~a sum or sums not exceeding in the aggregate of two times the previous year=s tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

The city manager explained this section currently establishes the debt limit for the city. The latter part of the section requires that a promissory note loan must be paid back in two years and asked if this addresses only a short term loan.

The city clerk then referred to Article XI which deals with all aspects of borrowing. Section 11.07 discussed short term borrowing and states the city may borrow up to the amount of the annual tax billings for short term billing which must be paid within a five-year period.

Mr. Baird believes there may be some conflicting language in this section and Section XI. He believes the purpose of Section 2.01(e) is to give the city the authority to borrow funds for the purpose of conducting public and similar projects. He recommends Section 2.01(e) be shortened with a reference to the procedures outlined in Section 11.

The city manager will follow-up with our bond counsel.

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by ordinance decree.

It was confirmed that a pension system has been established by way of contracting with the State Municipal and County Pension system.

(g) Notwithstanding any of the provisions of this Section 2.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article XIA of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

Mr. Baird advised that section (g) was a recent addition when the City received the special tax district authority granted by state legislators through the recent charter amendment.

2.02- CONSTRUCTION

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- INTERGOVERNMENTAL RELATIONS

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

2.04- NOTICE OF ACTION

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence

of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

Mr. Spillane asked if council, as individuals, should be subject to law suits. Mr. Baird explained that any of councils' actions on behalf of the city could be held accountable as an entity. Mr. Brooks pointed out that any person who feels they have a case has the right to sue the city which generally includes various individuals. The city manager agreed noting that most law suits against the city or city council name each individual councilperson. A legal interpretation will be obtained with regard to this section including the purpose of the one year notification requirement; the city clerk was previously informed this was additional protection which could be used if a suit is filed after a year.

ARTICLE III. STRUCTURE OF GOVERNMENT

3.01- FORM OF GOVERNMENT

The form of government established by this charter shall be known as the "council-manager" form.

3.02- COMPOSITION OF GOVERNMENT

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) councilmembers. Whenever the word council is used in this chapter, it shall refer to the eight (8) councilmembers. Whenever the word mayor is used, it shall refer solely to the mayor.

3.03- QUALIFICATIONS FOR MAYOR AND CITY COUNCIL

No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City thirty (30) days preceding the day of the election; and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.

There was concern raised over the residency requirement that allows a person to move to Milford the day of the deadline and file for the office of mayor or council. Besides conflicting with other ordinances as well as some provisions of the new state law, the city clerk does not feel this is enough time to meet the proper notification requirements for elections.

Following a lengthy discussion about deadlines in other towns, it was agreed that a residency requirement of sixty days before the deadline date is well within reason. It was agreed the filing deadline for offices should also be extended to at least sixty days before the election.

With no further sections to be reviewed at this time, Chairman Spillane adjourned the Charter Review Committee at 11:29 a.m.

The next meeting is scheduled for Wednesday, October 1, 2008 at 10:00 a.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 1, 2008

A meeting of the Charter Review Committee was held in the Meeting Room of the Delaware Rural Water Association Facility on Wednesday, October 1, 2008.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.

City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 10:25 a.m. Review continued on the following sections of the City of Milford Charter:

3.03- QUALIFICATIONS FOR MAYOR AND CITY COUNCIL

No person shall be eligible for election as Mayor unless they have been a resident of the State of Delaware and the City or in an area annexed into the city for ONE YEAR ~~thirty (30) days~~ preceding the day of the election; and are over the age of eighteen years prior to the day of the election. No person shall be eligible as a member of Council unless they have been a resident of the State of Delaware and the City or in an area annexed into the city for ONE YEAR ~~thirty (30) days~~ preceding the day of the election and are over the age of eighteen years prior to the day of the election. ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

REPLACE WITH: The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be residents of the City during his/her respective terms of office nor any member of Council shall be eligible to serve in such elected office unless they continue to be residents of their ward during their respective terms of office.

There was a discussion regarding the residency requirements to be eligible to run for mayor and council. Mr. Spillane said that after reviewing a number of charters, he has found they range from 30 days to one or two years though most require one to two years residency. It was agreed that one year was within reason.

Mr. Baird also recommended a one year ward requirement for council. Mr. Brooks felt that if a person had been a resident of the city for a minimum of a year, there should be no minimum residency requirement in the ward as long as they were residing in the correct ward at the time they filed.

The minimum age requirement was also discussed. Many towns require 21-year minimum age. After consideration, it was agreed to leave the minimum age at 18 years.

A question regarding annexed areas was brought up and whether a minimum one year residency should also be required. A comparison to the Matlinds Estates annexation was made where this situation could have occurred because the city annexed an existing subdivision. After considering several different scenarios, it was agreed that a person living in an annexed area should be eligible if they had resided in that annexed area for a minimum of one year prior to the day of the election.

ARTICLE IV. POWERS OF CITY COUNCIL

4.01- COMPOSITION, ELECTION, TERM OF OFFICE

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. Only ~~qualified~~ REGISTERED voters of the City, meeting the qualifications for Mayor and City Council as outlined in Section 3.03, shall be eligible to hold the office of Councilperson or Mayor. The Mayor and Councilpersons shall each serve for a term of two years. At ~~7:30~~ 7:00 o'clock P.M., on the SECOND Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

It was agreed that the language "qualified" voters needed to be clarified. The consensus was the language be changed to 'registered'. In the past, it was assumed that candidates submitting petitions were required to be registered voters. Several related areas of the code regarding voter qualifications were also reviewed. However, there was a question regarding non-resident property owners who are eligible to vote, but are not eligible to hold the office of mayor or council. To clarify that, only registered voters, meeting the qualifications for Mayor or City Council as outlined in Section 3.03, would be added.

To be compliant with the Municipal Election Law enacted in 2006, the mayor and council will be sworn in the second Monday following the election versus the following Monday as the charter currently reads, to allow for the 7-day minimum time requirement.

The meeting time was also changed from 7:30 p.m. to 7:00 p.m.

4.02- COMPENSATION AND EXPENSES

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

It was confirmed that this only addresses the authority in which compensation may be changed and not the actual compensation which is addressed in another section. Mr. Spillane noted that expenses incurred by the mayor or council can be turned in for reimbursement.

Mr. Baird questioned the interpretation of this section. He stated that council could adopt an ordinance increasing the mayor and council pay at least six months before the next general election, but that increase would not become effective until after the next election.

He added that if council was uncomfortable with that, the language could be changed prohibiting any current councilperson from receiving a pay increase until after the April 2010 election. In that manner, the term of every current council member would expire before the effective date which would allow an election cycle to occur for all eight council members and mayor.

The mayor confirmed that the way it is written now, if an increase was approved at this time, because it is within six months of the next election, it would become effective in May for all sitting council members. He added that if council wishes to stretch it out longer, it could be approved six months and one day into the current year which would make its effective date after two elections which would require all of council to go through an election.

It was agreed to leave the language as it is currently written.

4.03- GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Mayor Marabello questioned the definition of council. He then referred to the following section:

3.02- COMPOSITION OF GOVERNMENT

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) councilmembers. Whenever the word "mayor" is used, it shall refer solely to the mayor. Whenever the word "council" is used in this chapter, it shall refer to the eight (8) councilmembers.

SUGGESTED ADDITION: The council shall be the legislative body of the city and composed of eight (8) members elected as herein provided.

The mayor feels the government and exercise of powers referred to in 3.02 apply to both the mayor and council; however, the conflict occurs in the following sentence which indicates the word 'council' refers to the eight councilmembers.

Mr. Baird then referred to Article 5 that addresses more specific powers and duties of the mayor. However, there is no section that specifically identifies the power and duties of city council.

Mayor Marabello asked if 'in an elective body called the council' should be deleted. He suggested it read 'shall be vested in an elective body consisting of a mayor and eight councilmembers'.

Mr. Spillane asked if the charter should be changed to give the mayor more power as the mayor is in charge of many cities and towns. Mr. Brooks referred to the City of Dover who has a full-time mayor with specific duties. Dover's City Council has a council president who actually runs their meetings.

Mr. Baird views the structure of the government in Milford as a council-manager form of government and the mayor is part of the elected body. The mayor and council hire the city manager to run the city. The relationship between the mayor and council is the mayor does not have a vote unless there is a tie. The mayor's power is in his ability to set the agenda and his direction and purpose is to get council's support to move on the mayor's agenda.

Mr. Spillane and Mr. Baird agreed that the mayor is the 'leader' of the city and council makes decisions. Mr. Baird added that in some respect, the mayor has the right to decide what council can addresses. If it is something the mayor is against, he could make a case and hold that back from getting to council depending on how strong the mayor wants to be and how much latitude he has.

Some recommendations were made to the section.

4.04- PROHIBITIONS

(a) HOLDING OTHER OFFICE. Except where authorized by law, no MAYOR or Councilperson shall hold any other City office or employment during the term for which he or she was elected to the Office of Mayor or Council, and no former Mayor or Councilperson shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she was elected to the Council.

It was recommended 'mayor' be added to this section to make the policy consistent among all elected officials.

(b) APPOINTMENTS AND REMOVALS. Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) INTERFERENCE WITH ADMINISTRATION. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) 4.08, the Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately.

Section Numbers Corrected.

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than $100.00, or by imprisonment for not more than ten (10) days, or both.)

Mr. Baird agrees that inquiries to city employees need to come through him. However, he asked if requests from individual council members should also be addressed in this area. He explained that some requests are very basic and in the form of a simple inquiry, but some requests may need to be reviewed by council.

Mr. Brooks noted that all of his city issues are taken directly to Mr. Baird and all police matters are through Chief Hudson. He does not go directly to city employees.

Mr. Baird advised that he recently received a request for information which contradicts the action taken by city council. Mr. Baird feels it needs to come back to city council because he does not think council will agree with it. This person requested our attorney research the matter and provide a written opinion before the next meeting. Mr. Baird is concerned that this individual council person is appealing the decision made by council and is using city resources to overturn one of their decisions.

Mr. Brooks agrees that if Mr. Baird is uncomfortable with making a decision, it should be brought back before council.

Mr. Baird is unsure if this type situation should be handled in the charter or as a separate policy. He emphasized that by continuing to use city resources in this case, it is contradictory to the action taken by council. It was agreed these situations will be handled at a later date.

The consensus of the committee was that the mayor and council go through the city manager or police chief with any inquiry involving their department(s).

4.05- VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES

(a) VACANCIES. The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.

1 The office of Mayor shall become vacant upon death or resignation, removal from office in any manner authorized by law, or the Mayor is convicted of a crime involving moral turpitude or ceases to be a lawfully registered voter of the City and a resident of the City.

2 The office of a Councilperson shall become vacant upon death or resignation, removal from office in any manner authorized by law, or the Councilperson is convicted of a crime involving moral turpitude or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.

For consideration: Unexcused Absence. Any member of the council who is absent from three consecutive meetings, unless excused by the council shall forfeit his seat.

Mr. Brooks recalled that at one time, a council person was unable to be absent from three consecutive council meetings without a legitimate excuse.

Mayor Marabello asked if that should be considered and recalled a similar situation with the planning commission. Mr. Spillane suggests council address such situations among themselves. Mr. Brooks pointed out that absences can cause problems when it results in only four or five council members being present. This is especially a problem because the charter requires four affirmative votes for an item to pass.

(b) FORFEITURE OF OFFICE. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

(c) FILLING OF VACANCIES. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special

election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- JUDGE OF QUALIFICATIONS

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.07- APPOINTMENT AND DUTIES OF CITY CLERK

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the Council. ~~keep the journal of its proceedings and perform such other duties as are assigned to him or her by this~~ The City Clerk shall be subject to the direction of the City Manager acting for the Mayor and Council.

The city clerk advised that though the city clerk has always been appointed by council, she always worked under the direction of the city manager. Mr. Baird agreed and feels the language needs to be cleaned up with that intent. He feels by adding The City Clerk shall be subject to the direction of the City Manager acting for the Mayor and Council, will clarify our current operating system.

Mr. Spillane said if council appoints the clerk, he feels they have a person they can go to with a request. Looking at other cities, most city clerks in other towns are appointed by council and their charters are very similar to ours. He is concerned that changing it may cause the city clerk to become more bogged down with work.

Mr. Baird explained that this section spells out the clerk's duties, but includes 'performs other duties as are assigned to him or her by this Charter or by the Council' which would cover council.

Mayor Marabello said that if he wants to speak with departments such as planning or billing, he only does that with the tacit approval of the city manager. When he goes to the city clerk, he does not have that same feeling. He prefers going to Ms. Hudson directly without checking with the city manager.

Mr. Baird said he is not opposed to that but he is looking at this from an operating standpoint. He questioned if the council would oversee her daily activities or evaluate her on an annual basis. He explained this would not change the interaction with the city clerk though she would fall under the city manager which to him makes more sense.

Additional consideration will be given though the recommendations were added.

It was reaffirmed that once the final recommendations were added to the charter, it would be presented to city council and a public hearing scheduled. After adoption by council, it will be forwarded to the general assembly for their comments and passage.

Though Mr. Spillane preferred holding weekly subcommittee meetings; it was agreed that a minimum of at least two weeks are needed.

The next meeting was scheduled for Wednesday, October 15th at 2 p.m. at Delaware Rural Water Association.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 15, 2008

A meeting of the Charter Review Committee was held in the Meeting Room of the Delaware Rural Water Association Facility at 210 Vickers Drive, Milford, Delaware on Wednesday, October 15, 2008.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr., Councilman Irvin Ambrose, City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 2:05 p.m.

4.08- INVESTIGATIONS

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than $100.00, or by imprisonment for not more than ten (10) days, or both.

No changes recommended.

4.09- INDEPENDENT AUDIT

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council SHALL ~~may~~, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ ACCEPT each annual audit.

City Manager Baird advised that the city council does not approve a city audit but can only accept its findings because it is an independent audit. The city clerk pointed out that in the case of monthly finance reports, council is also unable to officially approve them as they are submitted for informational purposes only.

According to the city manager, any report should be accepted unless there is some specific action needed.

Mayor Marabello questioned the three-year audit requirement and asked if that means we need to limit each firm to three years. Mr. Baird said Mr. Portmann can probably site some financial accounting principles though it is not a good idea to continue to use an auditor for an indefinite period of time. When asked how long we have used the current firm, Mr. Brooks recalled asking that question last year and was informed they do an excellent job. The mayor understands there are some substantial start up costs involved when hiring a new firm. However, the reason for change is to prevent too much familiarity. The charter does site a three-year maximum and he asked if the language needs to be changed.

The city clerk said though it may be the same firm, there are often different auditors and each year, they check a variety of records in addition to those required by law. She added it is a long process and not a matter of two or three days. It takes some time for an accountant to become accustomed with our process.

Mr. Spillane feels that a new firm will bring fresh ideas and could be more up to date on new auditing rules. He worries about how the public perceives it. Mr. Brooks feels that every auditing firm hired by the city has been extremely thorough and has always done a very extensive audit. He has never heard any negative public comments.

Mr. Baird then contacted Finance Director Jeff Portmann by telephone for his opinion. It was suggested that a review of the auditing firm by the finance committee could be done every three years or five years and a determination made at that time.

Mr. Portmann agrees and added that the finance committee or audit committee could review the activity from his perspective, from a city manager's perspective and from a council perspective. He said we would still have some discretion, but would not be required to change firms if we were satisfied with their work.

He confirmed the current audit firm is in its second three-year contract which is actually their fifth year.

Mr. Ambrose asked Mr. Portmann how he felt about having two firms that were alternated every three years. Mr. Portmann said the disadvantage of changing is that typically the first year, a new firm has a lot of work to do in order to fully understand the city's business and typically do not bill out their full rate because of the learning curve ahead of them. He does not see a problem switching firms though it does take some time to become accustomed to the city.

Instead of switching out firms, he again recommended an audit committee be established to review the firm. He suggests the committee include the chair and members of the finance committee, the city manager and the finance director. That committee could also decide on a three year or five year contract. He thinks it may be better to form an audit committee and go through the procedure and use that feedback to put a policy in place in order to accurately weigh the pros and cons.

Mr. Spillane prefers to bid the audit every three years to make sure we are not paying more than is necessary. Mr. Baird said that if we add the language for a review every three years by the finance or audit committee, those type things could be considered. A firm that is aware the city is going out to be bid would do a more accurate job. Mayor Marabello said being familiar with this type of work, it would be difficult to accept bids from just any auditing firms as the city must guarantee the firm is capable of doing a professional audit. He feels that Mr. Portmann's opinion must be heavily considered. He is very familiar with Mr. Portmann's ability and knows he is very thorough and feels his standards will need to be met by these firms.

It was also pointed out the state and federal auditors also come in and examine certain financial records.

It was recommended that the only wording change would be....council may, be changed to council SHALL, without requiring competitive bids, designate such accountant.....

Mr. Ambrose feels we should still consider reviewing the firm at the end of the three years and determining whether or not we are satisfied with the product.

When asked under what circumstances council could accept a state audit as the official annual audit, Mr. Baird explained that only if the state were to come in and perform an extensive audit of our financial records. That would be similar to the audit performed by the state auditor's office at the City of Harrington last year, though it would be a very unique situation.

When the state comes in on an annual basis, it is generally for a very narrow, defined scope and specific monies or accounts are targeted.

4.10- PROCEDURE

(a) MEETINGS. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of four or more members and, whenever practicable, upon no less than twelve (12) hours' notice to each member. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter which would tend to defame or prejudice the character or reputation of any person, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

The city manager feels paragraph A covers the frame work as far as minimum amount of meetings needed.

Considering the increasing length of meetings and the additional items now being addressed on the fourth Monday, Mr. Ambrose feels it may be appropriate to schedule a third meeting during the month.

Mr. Brooks recalled the recent meeting when five public hearings were scheduled to begin at 7:00 p.m. The regular council meeting did not start until 9:30 p.m. at which time a number of items needed to be discussed. A workshop then followed; he feels it was too much for one night. He suggested our agendas be more carefully reviewed in an attempt to prevent that many issues have to be addressed in one night.

Because the meetings are running so late, he feels it is important to take into consideration not just council members, but the city employees as well as anyone who is scheduled on the agenda. He agrees it would be better to schedule a third Monday during the month to prevent having a number of other items on the public hearing night.

Mr. Ambrose agrees that is needed to give each agenda item the correct attention particularly at the end of the night. He understands Mr. Brooks' concern and recommends that public hearings be held on a specific night with no other meetings scheduled.

The committee then suggested holding public hearings exclusively on the fourth Monday, while designating the third Monday for a workshop or a special council meeting with a limited agenda. The fourth Monday works well for public hearings with regard to application submission and required advertising in addition to the planning commission hearings.

Mr. Spillane suggested limiting the number of public hearings to three in one night. He feels that any additional applications be postponed until the next meeting. This is particularly important when it is a controversial hearing and a lot of discussion is expected. He also thinks council needs to be careful voting the same night and believes that the vote on many items should be postponed until the next meeting.

The committee agreed that this should be discussed during a future workshop with all of city council.

(b) RULES AND JOURNAL. The Council shall determine its own rules and order of business

and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

Mr. Baird feels that there should be some sort of policy in place that describes the rules council is operating under but can easily be changed. Mr. Ambrose agrees that should not be in the charter.

(c) VOTING. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 4.05 ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council (DEFER FOR COUNCIL ACTION).

Mr. Ambrose questioned why four affirmative votes are needed instead of a majority vote. He feels this can become a real problem especially considering that five members of council constitute a quorum. Mr. Brooks compared it to the areas of the charter that require a super majority, which is six votes, as in the case of overturning a planning commission decision.

Mr. Ambrose agrees and reiterated that a normal vote should pass with a majority vote.

Mr. Spillane suggested that if only five people are present, the vote be postponed until more council members are present. He feels that waiting two more weeks will not hurt the applicant if only five members are present. The applicant could present his case, but prefers the vote be postponed.

Mr. Baird explained that if only five members of council hear the presentation and the item is postponed until the following meeting when eight members are present, council members are then voting on something they did not participate in or were not privy to which is another problem.

When asked what the rationale is behind the four affirmative votes, Mr. Baird feels that though it is not a super majority of the entire council, it is still a strong majority of council voting in favor of something. Even though five or six members are present, it is still a large number supporting it.

Mr. Ambrose said that if five members make a quorum, this requires an 80% vote for an issue that has no super majority mandate. In the case of overturning a planning commission vote, only a 2/3 or 66% vote is needed which does not make sense.

Mr. Spillane feels that when the charter was written it was based on eight people in attendance at all times. When three people are absent, it becomes a problem. He thinks in such cases, the vote needs to be postponed as he previously stated.

It was also noted if a quorum is in attendance, the meeting is held, the application is presented and the applicant expects a vote to be taken. However, with the way the charter is currently written, if four affirmative votes aren't received, it does not pass.

Mr. Brooks feels that if it comes down to a three-three tie, the mayor should be able to break the tie and the motion either pass or fail.

Mr. Spillane thinks that if a council member is absent, it is only fair to the public that we receive their opinion. Though it might be difficult to make an applicant wait two more weeks or a month, he thinks every council member should hear each and every issue.

In that case, Mr. Ambrose says the hearing needs to be postponed if only five members are present. It was again pointed out that if a councilperson does not hear the presentation, they should not come to the next meeting and participate in the vote.

Mr. Ambrose pointed out there are times when council members are absent for legitimate reasons. He prefers this be changed so that if a quorum is present, the vote is determined by a majority except where a super majority is needed.

Mr. Brooks agrees and pointed out the way it is currently written, the only time the mayor would break a tie is when it is a four-four tie.

The mayor is still uncomfortable with a three-two vote and feels there must be some valid reason it was written in that manner.

Mr. Spillane feels we need to keep the charter as it is currently written and any item would be approved by a minimum four votes. He does not understand why the vote cannot be postponed until the following meeting when more members are present.

Mr. Baird said if there is a concern with a three to two vote, the quorum needs to be increased. Mr. Brooks recalled a number of nights when only five members were present as a result of council members being absent for legitimate reasons. He asked why a council meeting can be held with five members, it the majority vote does not count.

It was agreed that this issue also be presented to council as a separate issue before the committees' recommendations are presented to council. Council will need to act on this as well as the three-year auditing firm issue previously discussed.

Section numbers were also corrected in section 4.10.

4.11- ACTION REQUIRING AN ORDINANCE

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(8) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

The committee discussed whether it was necessary to establish a new department by ordinance. Reference was made to at least two departments (engineering and meter) created over the past several years without an ordinance. When asked if an ordinance was needed, Mr. Baird pointed out that certain departments are already addressed in the charter. There was a discussion about whether an ordinance should be prepared that specifies each department in the city. Mr. Baird then advised the issue is covered in more detail in Article 7-'Creation of Departments'. Therefore, it can be stricken to prevent any future confusion.

It was then agreed the latter part of paragraph 1 be removed to read 'Adopt or amend an administrative code'. The city manager said that in lieu of an ordinance, it can be done by a resolution of city council.

The article number in paragraph 3 was corrected.

In regard to paragraph 7, it was confirmed the assessed value in the city is $7,487,267. It was confirmed that any sale or lease of city property in the amount of $1,497,454 (as of this date) or more would require an ordinance.

4.12- ORDINANCES IN GENERAL

(a) FORM. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…"

Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) PROCEDURE. An ordinance may be introduced by <u>THE MAYOR, any member OF CITY COUNCIL OR THE CITY MANAGER</u> at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall

distribute a copy to THE MAYOR, each member of COUNCIL and to the City Manager. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

Mr. Baird recommends the City Manager and Mayor be added to above paragraph otherwise an ordinance can only come from a city council member. (Those titles were also added to the next sentence for consistency.)

Mr. Spillane asked if a council member was able to bring an ordinance to a meeting and have it introduced that night; Mr. Baird explained it would have to be in the proper form and an item on the agenda to address it.

As it is written now, an ordinance requested by the city manager or staff cannot be presented without a council member introducing it.

(c) EFFECTIVE DATE. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

No changes recommended.

(d) "PUBLISH" DEFINED. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) A BRIEF SUMMARY OF THE ORDINANCE, ~~the ordinance or a brief summary thereof~~, and (2) the places where complete copies of it have been filed and the times when they are available for public inspection.

The city manager feels that with today's technology and computers, he does not feel it is necessary to have an ordinance printed in the newspaper especially considering the increasing costs of publication. He said that typically it is buried in the back of the paper and the ordinance receives front page press coverage anyway. Mr. Spillane is concerned with the number of people who do not have a computer.

Mr. Baird suggests it include no more than an announcement of its adoption by title, chapter number and effective date. The notice would also advise the public where a copy of the proposed ordinance is available for review.

4.13- EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 8.09 (b) ~~5.09(b)~~. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and

printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

Referenced section numbers corrected only.

4.14- CODES OF TECHNICAL REGULATIONS

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(a) The requirements of Section 4.12 ~~2.12~~ for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(b) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection 4.15(a) ~~2.15(a)~~.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

Referenced section numbers corrected.

It was questioned whether the Electric Tariff was considered a technical regulation code; the city manager thought that portions would fall under that.

According to Mr. Baird, this section deals with standard specifications used throughout the city. It is a technical engineering document rather than an administrative provision. He recommends council adopt the regulations for a three or five-year period. Revisions could be made during that interim with the approval of the city manager and city engineer. The document would then come back every five years for full adoption by city council.

Mr. Baird explained this would allow the regulations to be changed during the interim without councils' involvement. Once council adopts the code, any amendments would be based on the city engineers' recommendations and the document changed accordingly. Thereafter, every five years, council would formally adopt the document.

The city manager feels we could handle it in this manner in the adopting ordinance. The adopting ordinance would spell out how it is amended and would address administrative amendments as well as the legislative action needed every five years.

4.15- AUTHENTICATION AND RECORDING; CODIFICATION PRINTING

(a) AUTHENTICATION AND RECORDING. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) CODIFICATION. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

No changes to above section.

The next meeting was scheduled for Wednesday, October 29, 2008 from 10:00 a.m. to noon at City Hall Mr. Baird asked that Sections 5, 6, 7 and 8 be reviewed at that time. Those sections include the Powers and Duties of Mayor, City Manager, Administrative Departments which include the City Solicitor, Police Department, Finance Department, Planning Commission, Comprehensive Plan, Board of Adjustment, State Law and Financial Procedures.

With no further business at this time, Councilman Spillane adjourned the Charter Review Committee at 3:53 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 31, 2008

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Friday, October 31, 2008.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irv Ambrose

City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 10:06 a.m. Review continued on the following sections of the City of Milford Charter:

ARTICLE V. POWERS AND DUTIES OF MAYOR
5.01- GENERAL POWERS

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City.

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor.

Mr. Brooks advised there are a number of committees that are no longer active and asked if some could be dissolved. The mayor will review the standing committees for those that are no longer active.

Mayor Marabello also suggested adding a provision that the mayor makes appointments with the approval of council. He recommends it become part of the charter and part of the responsibilities of the mayor. Mr. Brooks said it has always been tradition that if a committee is needed, the mayor makes the appointments. Mr. Ambrose agrees but feels a provision should be added in the charter that the mayor establishes all standing committees in addition to ad hoc committees with the confirmation of council. Mr. Spillane does not feel council should vote each time the mayor wants to change a committee or wants to appoint another committee.

SUGGESTION: The mayor may appoint such committees as he deems necessary for the proper administration of the city or city council may, by resolution, authorize the mayor to appoint certain committees which are deemed necessary to carry out the provisions of this authority. Standing committees shall be reviewed by city council.

Mr. Baird said this gives the mayor the authority to appoint committees, however, if city council determines the need for a certain type of committee, they can give authorization to the mayor. He suggests this be added to "Powers of the Mayor".

The city clerk then referred to the section of the charter giving the mayor the authority to sign contracts and recalled the previous recommendation that the city manager have the authority to sign contracts.

In response, Mr. Baird recommended the following language:
"The city manager shall sign warrants pursuant to appropriations or resolutions made by the town council."

Mr. Baird explained that the city manager or mayor should be able to sign items approved by council. Mr. Spillane prefers the checks and balance system in place when council sees the contracts and the mayor reviews it again at the time it is signed. The city manager feels that once a project is approved by council, his signature would allow the process to move much quicker.

Mr. Spillane does not feel it is a problem because the mayor is available everyday. The charter was set up for the mayor and council to oversee such agreements or contracts. Even though something may already be approved, this is another way of assuring the document is correct and written as it was explained to council.

Mr. Brooks feels that the city manager and police chief are appointed by city council and are given the authority to act on behalf of city council in such situations.

A discussion followed about what type contracts the mayor should sign. Mr. Brooks noted that the vice mayor would also have that right if the mayor was unavailable for some reason.

Mr. Baird explained that he should have the authority to sign 'routine' type contracts; however, a determination of what was is routine needs to be made.

The city clerk prefers the charter clarify which contracts need the mayor's signature versus a signature by the city manager.

Mr. Baird feels that anything requiring the approval of city council should be signed by the mayor. Comparing the recent contracts acted on by council at the last meeting, the DELDOT agreement and the agreement between Lighthouse Estates and the city should have the mayor's signature. However, the proposal for the engineering services is more of an administrative item that the city manager should be able to sign.

It was agreed that any documents requiring the city seal need to be signed by the mayor and attested by the city clerk. Deeds or anything similar in nature should also be signed by the mayor.

Mr. Spillane referred to Section 2.01 that requires council approval for purchases over $30,000. He suggested the city manager sign any agreements below that amount. Mr. Baird explained the charter only requires bidding on purchases or contracts over $30,000.

Mr. Ambrose added that purchases should be made if it was previously approved in the budget. Mr. Baird feels that if something is approved as part of the budget and is not a capital item, he should have the right to make the purchase without council approval. He noted that most items over $30,000 are capital items which have gone through the bidding process and council has approved its award.

Mayor Marabello feels any official agreement, particularly if it requires a seal, should be signed by the mayor. He suggested the committee incorporate a threshold to ensure the process is clear.

Mr. Ambrose reiterated if a specific item is approved in the budget, it should not have to come back for another approval by council. However, the city manager may want to inform council of the purchase if it is a major purchase. Mr. Brooks suggested that be done through the manager's monthly report.

Mr. Spillane is concerned that we will get to the point that everything is signed by the city manager. This will leave city council completely out of the loop and therefore, unaware of most of these purchases or contracts. He compared this to the 27 changes made to city hall that council was unaware of. He also heard there were a number of problems related to sidewalk repairs that should have been presented to council.

Mr. Ambrose suggests that if a document needs the city seal, the mayor's signature is required. Mr. Brooks added

that if the mayor is unavailable, the vice mayor should be able to sign in his absence. Mr. Baird agrees the mayor is required to sign documents that require the city seal.

Mr. Ambrose recommends all bonds, deeds, significant contracts and leases contain the city seal. Mr. Baird explained that contracts vary and many do not require the seal.

Mr. Spillane suggests the charter be kept as currently written mainly because there is no problem getting the mayor to sign documents.

It was agreed that further exploration is needed on this section. This is an area that further guidance is needed from city council.

ARTICLE VI. CITY MANAGER

6.01- APPOINTMENT; QUALIFICATIONS, COMPENSATION

The Council shall appoint a City Manager for an indefinite term. City Council shall enter into a specific employment contract with the City Manager setting for the terms of his employment. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

Mr. Ambrose discussed whether a city manager should be required to live in the city though he has no problem with that person living in the immediate area. Mr. Baird advised that industry wide, residency requirements are going by the wayside for a variety of reasons. The city clerk is unaware of any town other than Newark or Wilmington with such requirements.

(SUGGESTION: The City Council shall appoint a city manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment and may reside outside the City while in office with the approval of the Council. The City Council may enter into an employment contract with the city manager. An employment contract with a city manager shall be in writing and shall specify the conditions of employment. The contract shall state the city manager serves at the pleasure of the City Council and may provide for severance pay or other benefits in the event the employment of the city manager is terminated at the pleasure of the legislative body.

The following section needs to be checked for consistency with the employment contract of the city manager:

6.02- REMOVAL

The Council shall remove the Manager from office in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later

than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- ACTING CITY MANAGER

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He shall have the following powers and duties:

(1) He shall appoint, and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this Charter or may be required by the Council.

Mr. Baird reverted back to the issue of who is authorized to sign documents. Referring to the Town of Georgetown's Code-City Manager Duties, reads 'in conjunction with the Mayor, he shall sign warrants pursuant to appropriations or resolutions made by council. He shall and submit to council such reports as may be required. To perform other duties as may be prescribed by the charter.'

Mr. Baird said that in this manner, when a new mayor comes on board, the city manager and mayor can work out the responsibilities for each position. He feels it could change on a case-by-case basis depending on the mayor in office.

ARTICLE VII. ADMINISTRATIVE DEPARTMENTS

7.01- GENERAL PROVISIONS

(a) CREATION OF DEPARTMENTS. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.

Mr. Baird asked for an interpretation of what is meant by creation of departments and what defines a department. Mr. Ambrose recalled the metering department being created as those employees previously fell under the electric and water departments. The engineering department is another department established during the past couple of years. Both departments were created without council approval.

The city clerk pointed out that though they were not created by an individual vote, they were established at the time the budget was being discussed which later required council approval. Mr. Baird said if he was planning to completely reorganize city operations, he would bring that proposal to council for an endorsement. He would not expect a lot of resistance as it would be more of a reporting situation versus needing an approval.

Mr. Ambrose said his interpretation of this section is that council establishes the departments and the city manager manages them. Mr. Brooks said once the city manager is appointed, it is up to him to make any necessary changes within his departments he feels are necessary.

It was agreed this section will remain as currently written.

(b) DIRECTION BY MANAGER. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.

7.02- CITY SOLICITOR

The City Council shall select and appoint a City Solicitor for an indefinite term who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

There was a discussion about whether or not the solicitor was needed at every meeting in order to save on legal fees. Mr. Baird said his previous practice has always been to look at the agenda and make a decision on whether the attorney was needed.

It was recommended the solicitor attend all public hearings; on other nights the agenda will be reviewed by the mayor, city manager and city clerk for a determination if the solicitor is needed.

It was recommended he attend all planning commission meetings that involve public meetings and contentious issues.

7.03- POLICE DEPARTMENT

Mr. Baird suggested the language added to 6.01 with regard to an employment contract for the police chief be added as is consistent with the city manager. The committee was in agreement.

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. ADD <u>The terms of his employment shall be contained in an employment contract</u>.

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise.~~; and~~ ADD <u>The terms of the Police Chief's employment shall be contained in an employment contract</u>. The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Pol ice Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the following procedures:

It was agreed that the removal of office procedure should also be consistent with the Police Chief Bill of Rights and the language changed accordingly.

SUGGESTION: The Chief of Police shall be responsible to City Council and shall be removed from his position for just cause in accordance with the provisions of the Delaware Code Title 11, Chapter 93 Police Chief Due Process and in accordance with the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- CITY HOLDING CELLS ~~CITY JAIL~~

The Council may build and maintain a jail for the City, which shall be used as a place for the detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to hearing and trial or arraignment.

Mr. Spillane asked if a jail will be included in the plans for a new police department. It was noted that the police department has had holding cells for the past thirty years.

Mr. Baird suggested sections 7.04 and 7.05 remain in the charter. If they are removed, it may be difficult to re-incorporate them at a later date if they were needed. However, there was also a suggestion that 7.04 be entitled City Holding Cells to be consistent with what currently exists.

7.05- CITY ALDERMAN

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for

the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mayor Marabello asked if the alderman should be under the supervision of the city manager or council. He feels it may be more appropriate to report to council because it is an extension of the police department and the police chief reports to council.

There was a lengthy discussion regarding the pros or cons, but it was decided to that the alderman fall under the supervision of the city manager.

The City has not had an alderman since the very early 1980's.

7.06- FINANCE DEPARTMENT

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. The books and accounts of the finance department (RECOMMENDATION): are Considered Public Documents and Access Shall Be under the Guidance of the Delaware Freedom of Information Act. ~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

Mr. Brooks questioned the purpose of the last sentence that allows a person to walk into the finance department to review books at anytime.

It was agreed this should fall under FOIA with a formal request filed. The city manager suggested a change in the language as indicated above.

Mr. Spillane has no problem with the public following that procedure, but feels that mayor and council should be able to request this information anytime. Mr. Brooks said his concern is an employee would not be able to get their work done if they were doing nothing but accommodating requests for information.

It was pointed out that this does not prohibit council from making requests to review records, but only requires a procedure to get the information. Mr. Brooks said he has never had a problem with getting information from an employee but never expected to walk in someone's office in the middle of the day and stop them from doing their work to attend to his needs. He feels any requests should go through the city manager or police chief as has always been done in the past. They have always taken care of the problem or refer him to someone else for assistance.

Mr. Baird feels that Mr. Spillane's concern is how council inquiries are handled and whether they should be informal or formal. He does not feel that issue should be addressed in the charter. The recommended language indicates that the books in the finance department are public documents and are subject to public review under FOIA.

It was agreed to remove the language that regarding records being open for inspection at all times from the charter as such a process is clearly defined in state code.

7.07- PLANNING DEPARTMENT

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(1) To advise the City Manager on any matter affecting the physical development of the city;

(2) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(3) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(4) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(5) To review and make recommendations regarding proposed actions of the council in annexations;

(6) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(7) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

No change.

7.08- CITY PLANNING COMMISSION

~~There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance~~.

The city manager reminded council this is addressed in both the City Charter and Chapter 57 of the code.

Chapter 57 reads as follows:

Planning Commission.
57-1 Establishment.
There is hereby established, pursuant to 22 Del. C. § 701 et seq., the Milford Planning Commission.
57-2 Membership; terms of office.
The Commission shall consist of nine members to be appointed by the Council. The term of each member so appointed and confirmed shall be for three years, except that of the members first appointed, three shall be appointed to a term of three years, three shall be appointed to a term of two years and three shall be appointed to a term of one year.
57-3 Removal; vacancies.
Any member of the Planning Commission may be removed for cause, after a public hearing, by the Mayor with the approval of the City Council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.
57-4 Ex officio members.
The Mayor and City Manager shall be ex officio members of the Planning Commission and may exercise all of the powers of the regular members; provided, however, that an ex officio member may not hold an office on the Commission and shall have no right to vote on matters coming before the Commission.
57-5 Salaries and compensation.
All members of the Commission shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.
57-6 Officers; staff; custodian of records.
The Commission shall elect annually a Chairman and Secretary from among its own number and may employ experts, clerical help and other assistants. The Commission may appoint a custodian of its Comprehensive Plan and records, who *may be the City Manager or other employee of the Council.*
57-7 Rules of procedure; meetings; records.
The Commission shall adopt its own rules of procedure and determine the times of its meetings and methods of notice thereof. All meetings of the Commission at which any official action is taken shall be open to the public, and all records of the Commission shall be public records.
57-8 Powers and duties; reports.
The Milford Planning Commission shall have all the powers and authority vested in municipal planning commissions under the provisions of Title 22, Delaware Code, Chapter 7, subject to the same conditions and limitations set forth therein at the effective date of this chapter. The Planning Commission shall report at each monthly meeting of the Council and shall present copies of its minutes of the preceding month.

The city manager recalled when council recently reorganized the planning commission and assigned new terms. The appointments were made in accordance with Title 22 of the Delaware Code which is consistent with Chapter 57 of the Milford Code.

Title 22, Section 701, Delaware Code reads as follows:

701. Establishment; membership.
Any incorporated city or town may at any time establish a planning commission under this chapter. A planning commission

established hereunder shall consist of not less than 5 nor more than 9 members. Such members shall in cities be appointed by the mayor, subject to confirmation by the city council, and in towns where there is not a mayor shall be elected by the town commissioners. When a planning commission is first established the members thereof shall be appointed or elected for terms of such length and shall be so arranged that the term of at least 1 member shall expire each year and their successor shall be appointed or elected for terms of 2 to 5 years each. Any member of the planning commission so established in a city may be removed for cause after a public hearing by the mayor with the approval of city council; members of the planning commission elected by town commissioners shall be removed by them for cause after a public hearing by a majority vote. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in a city in the same manner as an original appointment and in a town by the town commissioners. Such a planning commission shall elect annually a chairperson and a secretary from among its own number and may employ experts, clerical and other assistants. It may appoint a custodian of its plan and records who may be the city engineer or town clerk.

PROPOSED ADDITION:

Pursuant to Title 22, Delaware Code, there is hereby established a Planning Commission for the City of Milford.

The members of the planning commission shall be recommended by the mayor, subject to appointment by a majority of the City Council. The planning commission shall consist of nine members serving three-year terms. Two members shall be selected from three wards and three members from one ward. The terms of the members shall be arranged so that each year, the terms of three members shall expire on September 1. Incumbent members of the planning commission are able to serve beyond the expiration of their term if recommended by the mayor and reappointed by the majority of city council.

All members must be residents of the City of Milford.

A final recommendation will be made after further review.

7.09- COMPREHENSIVE PLAN

SUGGESTION: The City of Milford shall adopt and modify their Comprehensive Plan in accordance with Title 22, Delaware Code.

REMOVE:

(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.

(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.

(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and

development regulations, urban renewal programs and expenditures for capital improvements.

7.10- IMPLEMENTATION OF THE COMPREHENSIVE PLAN

(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

It was agreed that Sections 7.09 and 7.10 also apply to state law. Mr. Baird explained the one inherent conflict in state law is the local planning commission has jurisdiction and the power to adopt the comprehensive plan. However, the planning commission is only the recommending body.

It was suggested that these two sections be deleted with a referral to Title 22 of Delaware Code though it will be later discussed.

7.11- BOARD OF ADJUSTMENT

The Council shall by ordinance establish a Board of Adjustment PURSUANT TO THE ZONING CODE and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Mr. Baird advised the Board of Adjustment is established by the zoning code. Mr. Spillane wants members from the public on the board.

The City of Milford Zoning Code reads as follows:

The Board of Adjustment shall have the following powers:

§230-27
The Board of Adjustment shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made in the administration of this chapter.

The Board of Adjustment shall authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship or exceptional practical difficulties and so that the spirit of the chapter shall be observed and substantial justice done.

The Board of Adjustment shall have original jurisdiction and powers to grant a permit for a special exception use only under the terms and conditions established by this chapter, under the following stipulations and guiding principles:

The use for which application is being made is specifically authorized as a special exception use for the zone in which it is located.
The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:
Character of the neighborhood.
Conservation of property values.
Health and safety of residents and workers on adjacent properties and in the surrounding neighborhood.
Potential congestion of vehicle traffic or creation of undue hazard.
Stated principles and objectives of this chapter and the Comprehensive Master Plan of the City of Milford.

The Board of Adjustment shall have the responsibility for the interpretation of this chapter.

230-28 Authority.
In exercising its powers the Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in the administration and enforcement of this chapter. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition, prescribe a reasonable time limit within which such act shall be completed, if applicable

230-29 Appeals.
Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or commission of the City of Milford affected by a decision of the Code Official of the City of Milford in the administration of this chapter. Such appeal shall be taken within 30 days of the aggrieved decision by filing with the Code Official a letter of appeal specifying the reason for appeal. The Chairman shall transmit to the Board all the papers constituting the record upon which the action appealed was taken.

230-30. Filing Fee.
A filing fee shall accompany each appeal to help offset the cost of the hearing. Said filing fee is set forth in § 230-57.

230-31. Effect of Appeals Upon Proceedings
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record on application on notice to the Code Official for due cause shown.

230-32. Hearings
The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice as well as due notice to the parties of interest and notify by mail the registered owners of all property within 200 feet of the property upon which the appeal centers. The appeal shall be decided within a reasonable time not to exceed 60 days from the date of the filing of such appeal. Failure of the Board to decide within sixty days shall constitute denial. Upon the hearing, any party may appear in person, by agent or by attorney, provided that said agent or attorney produces authorization from his principal for acting in such a capacity.

230-33. Petition to Court.
Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer,

department, board or commission of the City of Milford may present to a court of record a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds for the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe the time within which a return must be made and served upon the petitioner attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application or notice to the Board and on due cause shown, grant a restraining order.

230-34. Duties in case of writ of certiorari.
The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of such portions as may be called for such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

230-35. Membership.
The Board of Adjustment shall consist of the Mayor, City Manager and City Solicitor or may be established as provided in 22 Del. C. 322.

230-36 Making and adopting rules.
The Board of Adjustment shall make and adopt rules in accordance with the provisions of this chapter.

230-37 Meetings.
Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his/her absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examination and other official actions, all of which shall be immediately filed in the City Hall and shall be a public record.

230-38. Referrals to Planning Commission.
The Board may refer to the Planning Commission any applications or appeals for the Planning Commission's review and recommendation.

Mr. Baird then read the following from the state code (Title 22 Section 322 (D):

1) In cities or incorporated towns not having heretofore adopted a home rule charter pursuant to Chapter 8 of this title, the board of adjustment shall consist of the chief engineer of the street and sewer department, the city solicitor and the mayor or an authorized agent of the mayor. If the city or incorporated town has no city engineer or city solicitor, then the mayor or chief executive of such city or town shall appoint 2 members.

2) In cities or incorporated towns having heretofore or hereafter adopted a home rule charter pursuant to Chapter 8 of this title, the legislative body thereof may establish a board of adjustment consisting of 5 members who shall be residents of the city or incorporated town and who shall have knowledge of and experience in the problems of urban and rural development, and who, at the time of appointment, shall not be candidates-elect for or incumbents of an elective public office. The mayor or chief executive officer of such city or incorporated town, with consent of the legislative body thereof, shall appoint 4 members for terms of 4 years, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. The mayor or chief executive officer of such city or incorporated town, with the consent of the legislative body thereof, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of that appointing official. The members shall be entitled to compensation as determined by the city or incorporated town.

3) Any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town.

There was a debate about whether or not Milford is in violation of state code with its current membership. Mr. Baird sees

the value of seeing the mayor, city manager and city solicitor as members because of their familiarity of the issues. In his position, he intentionally stays away from applicants applying to the planning commission or who are involved in an appeal process. If he is asked to comment, he could not deal with it objectively.

Mr. Spillane believes it should be five separate people in the city.

Mr. Baird confirmed that the Town of Georgetown had five citizens.

Mr. Baird feels that that paragraph 3 is the most appropriate. His recommendation is to appoint three people to serve as the board with two alternates. He believes it will be difficult to find qualified members to serve on an as-needed basis though the board has been meeting on a monthly basis over the past year.

Mr. Brooks and Mr. Ambrose feel appointees will need some type of training in order to be qualified. Mr. Spillane added the planning commissioners need to be trained as well.

There remains concern about whether Milford's Board of Adjustment is legal with its current membership. Mr. Baird will follow up with further information. However, to ensure we are in compliance, he proposed the following language:

SUGGESTION:
There shall be a Board of Adjustment pursuant to the provisions of Chapter 3 of Title 22, Municipalities, of the Delaware Code.

7.12- STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.

The next meeting was scheduled for Wednesday, December 3rd from 10:00 a.m. to noon at Milford City Hall. The review will begin with Article VIII-Financial Procedures. The committee will re-review sections beginning with 7.08.

Respectfully submitted,

Terri K. Hudson, CMC
City of Milford

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 3, 2008

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, December 3, 2008.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irv Ambrose and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 10:16 a.m. Review continued on the following sections of the City of Milford Charter:

7.08- City Planning Commission

There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:

(1) To advise the City Manager on any matter affecting the physical development of the City.

(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.

(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.

(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.

MR. SPILLANE FEELS A CONFLICT OF INTEREST SHOULD BE DEFINED WITH REGARD TO VOTING. IT WAS NOTED THAT CITY OFFICIALS FALL UNDER CHAPTER 10 OF THE STATE CODE WITH REGARD TO CONFLICTS OF INTEREST.

MR. BROOKS POINTED OUT THAT THESE SECTIONS NEED TO COMPLY WITH TITLE 22 OF THE STATE CODE AND RECOMMENDED SOME SORT OF REFERENCE IN THE CHARTER.

7.09
7.10
7.11
7.12

IT WAS AGREED THE ABOVE SECTIONS WILL BE REVIEWED TO ENSURE THEY COINCIDE WITH STATE LAW OR THE CHARTER SHOULD REFER TO THE RELATED SECTIONS OF DELAWARE CODE.

Article VIII. Financial Procedures

8.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

THOUGH IT WAS CONSIDERED DEFINING THE FISCAL YEAR AS BEGINNING ON JULY 1ST, IT WAS DECIDED TO LEAVE THE LANGUAGE AS IS CURRENTLY WRITTEN.

8.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

8.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

8.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

8.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program at least three months prior to the final date for submission of the operating budget.

MR. AMBROSE RECALLED THIS BEING DONE TWO YEARS AGO, BUT WANTS TO ENSURE IT IS DONE ON AN ANNUAL BASIS. OTHERWISE, THE CHARTER WILL NEED TO BE CHANGED. THE COMMITTEE AGREED.

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

8.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

IT WAS QUESTIONED WHETHER THE CAPITAL PROGRAM WAS ADOPTED BY AN OFFICIAL RESOLUTION. HOWEVER, THE PROPOSED BUDGET IS NOW ADOPTED BY RESOLUTION OF WHICH CAPITAL ITEMS ARE INCLUDED.

8.08- Public Records

Copies of the budget and the capital program as adopted (ADD) **FOR THE FISCAL YEAR** shall be public records and ~~shall be made~~ (ADD) **ARE** available to the public (ADD) **THROUGH THE FREEDOM OF INFORMATION (FOIA) PROCESS** ~~at suitable places~~ (ADD) **AND THE CITY OF MILFORD WEBSITE** ~~in the City~~.

MR. BROOKS AGREES THE DOCUMENTS ARE PUBLIC RECORDS BUT FEELS THEY SHOULD BE MADE AVAILABLE THROUGH A FOIA REQUEST TO PREVENT 'ANYTIME' REQUESTS FOR SUCH RECORDS THROUGHOUT THE WORKDAY. THE COMMITTEE AGREED; MR. AMBROSE ASKED THAT THE CHARTER REFLECT THE BUDGET IS AVAILABLE ON THE CITY WEBSITE.

A DISCUSSION ABOUT WHETHER TO INCLUDE AMENDMENTS TO THE BUDGET SHOULD BE NOTED ON THE WEBSITE. IT WAS NOTED THAT ANY CHANGES VOTED ON BY COUNCIL ARE REFLECTED ON THE AGENDAS AND IN THE MEETING MINUTES. MR. AMBROSE POINTED OUT THAT THE MAJORITY OF CHANGES INVOLVE TRANSFERS FROM ONE LINE ITEM TO ANOTHER.

THE END OF YEAR AUDIT IS ALSO POSTED ON THE WEBSITE WHICH DEPICTS ANY AMENDMENTS. MONTHLY FINANCE REPORTS ARE ALSO AVAILABLE ON THE WEBSITE.

IT WAS AGREED THE LANGUAGE WOULD BE CHANGED AS INDICATED ABOVE.

8.09- Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance <u>may</u> make supplemental appropriations for the year up to the amount of such excess.

IT WAS NOTED THAT THIS SECTION, AND THOSE THAT FOLLOW, REQUIRE LEGISLATIVE ACTION THROUGH THE ADOPTION OF ORDINANCES OR RESOLUTIONS, THOUGH THESE ACTIONS ARE TYPICALLY BEING DONE BY COUNCIL VOTE. AFTER SOME DISCUSSION, IT WAS AGREED TO LEAVE THE LANGUAGE AS IT CURRENTLY READS BECAUSE IT INCLUDES THE WORD 'MAY' INSTEAD OF 'SHALL'.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations <u>may</u> be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council <u>may</u> by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made..

The following was taken from the minutes of the January 8, 2009 meeting because they apply to Section 8.09 reviewed on this date:

MAYOR MARABELLO BELIEVES THERE IS A CONFLICT WITH THE TIMING OF REPAYMENT AS IS NOTED IN SECTION 8.09 OF THE CHARTER (SEE BELOW):

8.09- Amendments After Adoption

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may (ADD) EXERCISE SHORT TERM BORROWING AUTHORITY AS PROVIDED FOR IN SECTION 11.07 OF THIS CHARTER ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

MR. BAIRD SUGGEST THAT UNDER EMERGENCY APPROPRIATIONS, THE CHARTER REFER TO 11.07 TO PREVENT ANY INCONSISTENCIES. THE LANGUAGE WAS CHANGED AS NOTED ABOVE.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it <u>may</u> by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ (ADD) **BY MAJORITY VOTE** transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

FOLLOWING A DISCUSSION ABOUT THE PROPER PROCEDURE, IT WAS AGREED TO INSERT 'BY MAJORITY VOTE' AND REMOVE 'BY RESOLUTION' BECAUSE THIS IS DONE ON A MORE FREQUENT BASIS THAN 'A' - 'C'.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this

section may be made effective immediately upon adoption.

8.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

MR. AMBROSE EXPLAINED THIS ALLOWS UNEXPENDED CAPITAL FUNDS TO BE CARRIED OVER FOR THREE YEARS. THE COMMITTEE AGREED THIS SHOULD REMAIN AS WRITTEN.

8.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly

authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article IX. Nominations And Elections.

9.01- City Elections

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five citizens of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

ABOVE SECTION WILL BE CHANGED TO COMPLY WITH DELAWARE CODE.

c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or owns property within the City of Milford, and who is over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election.

(ADD) IT IS THE RESPONSIBILITY OF THOSE registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election.

IT WAS AGREED THE THIRTY DAY DEADLINES WOULD REMAIN IN THIS SECTION; THE BALANCE OF THE SECTION SHOULD BE COMPARED TO STATE LAW.

(e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly, and the person having the highest number of votes, for each office, shall be declared duly elected, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

ABOVE SECTION WILL BE CHANGED TO COMPLY WITH DELAWARE CODE.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

ABOVE SECTION WILL BE CHANGED TO COMPLY WITH DELAWARE CODE.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

ABOVE SECTION WILL BE CHANGED TO COMPLY WITH DELAWARE CODE.

(h) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.

SEVERAL OPTIONS WERE CONSIDERED IN LIEU OF DETERMINING A TIE ELECTION BY LOT. IT WAS AGREED THAT HAVING A RUN-OFF ELECTION AS IS DONE IN THE CITY OF DOVER. ONLY THOSE REGISTERED VOTERS ELIGIBLE AT THE TIME OF THE ANNUAL ELECTION ARE ELIGIBLE TO VOTE IN THE RUN-OFF ELECTION.

SUGGESTION: IN THE EVENT OF A TIE VOTE FOR ANY OFFICE, A SPECIAL ELECTION FOR SAID OFFICE(S) ONLY SHALL BE HELD WITHIN 30 DAYS AND THE REGISTRATION BOOKS SHALL REMAIN CLOSED UNTIL THE OUTCOME OF THE SPECIAL ELECTION IS DETERMINED.

(i) Not less than **(ADD) SIXTY (60)** ~~thirty (30)~~ days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) qualified voters resident in the Ward in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) qualified voters resident in the City.

The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.

THE COMMITTEE AGREED THAT ADDITIONAL TIME IS NEEDED TO PREPARE FOR THE ELECTION, PARTICULARLY WITH THE NEW REQUIREMENTS BY STATE LAW. THEREFORE, PETITIONS WILL

NEED TO BE FILED 60 DAYS IN ADVANCE OF THE ELECTION VERSUS 30 DAYS.

9.02- Absentee Ballot Procedures

(ADD) THIS SECTION MUST COMPLY WITH DELAWARE CODE.

The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

9.03- Council Ballots

(a) Names On Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.

9.04- Watchers And Challengers

CHANGE LANGUAGE TO COINCIDE WITH STATE LAW. ONLY ONE CHALLENGER IS PERMITTED IN THE LEGAL VOTING AREA AT A TIME; EXCHANGE COULD BE MADE WITH MORE THAN ONE CHALLENGER FOR THE CANDIDATE. HOWEVER, CHALLENGER MUST HAVE IN HIS/HER POSSESSION A NEW CHALLENGER FORM SIGNED BY THE CANDIDATE THEY ARE REPRESENTING. THIS ACTION IS SPELLED OUT IN THE STATE ELECTION LAW.

A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.

9.05- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

THERE WAS A DISCUSSION ABOUT WHETHER MILFORD HAS EVER HAD SUCH AN ELECTION. NO ONE RECALLED THIS OCCURRING OTHER THAN THE SPECIAL ELECTIONS FOR BOND ISSUES. IT WAS CONFIRMED THAT EVEN IF A CHARTER CHANGE WAS APPROVED BY CITY VOTERS, IT WOULD STILL NEED LEGISLATIVE ACTION FOR FINAL APPROVAL.

9.06- Voting Machines

The Council may provide for the use of mechanical or other devices for voting or counting the votes not

inconsistent with law.

ALSO COVERED BY STATE LAW.

9.07- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January of every tenth year from the adoption of this Charter, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last statewide general election, but districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

COMMITTEE MEMBERS DISCUSSED VARIOUS WAY TO DIVIDE THE CITY INTO FOUR WARDS SO THAT THE POPULATION IS MORE EVENLY DIVIDED. MR. SPILLANE FEELS THERE IS A NEED TO ADJUST THE WARDS PARTICULARLY WITH THE LARGE NUMBERS NOW IN THE FIRST WARD WITH

THE INCLUSION OF HEARTHSTONE, ORCHARD HILL AND MATLINDS ESTATES.

THERE WERE ALSO QUESTIONS ABOUT HOW REDISTRICTING COULD AFFECT THE COUNCIL MEMBERS CURRENTLY IN OFFICE.

IT WAS AGREED IT NEEDS TO BE DONE BUT IS GOING TO REQUIRE A GREAT DEAL OF STUDY.

MR. BROOKS ADVISED THAT A NUMBER OF CITIES HAVE A COUNCIL MEMBER OR TWO THAT ARE AT-LARGE MEMBERS.

MR. AMBROSE STATED THAT IN THE LAST ELECTION, THERE WERE 2,022 REGISTERED VOTERS IN THE CITY; 664 IN THE FIRST WARD, 491 IN THE SECOND WARD, 456 IN THE THIRD WARD AND 406 IN THE FOURTH WARD. THERE ARE 33.3% MORE IN THE FIRST WARD IN COMPARISON TO THE FOURTH WARD.

MR. BROOKS POINTED OUT THE NUMBER OF PROPOSED SUBDIVISIONS THAT WILL EVENTUALLY IMPACT THE NUMBERS IN THE VARIOUS WARDS. HOWEVER, BECAUSE OF THE ECONOMY AND SLOW DOWN IN CONSTRUCTION, THEY ARE NOT BEING DEVELOPED AT THIS TIME.

MR. AMBROSE SAID THE OTHER OPTION IS TO GO TO FIVE WARDS WHICH IS ALLOWED IN THE CHARTER, THOUGH THE CITY MANAGER PREFERS TO KEEP IT AT FOUR.

THIS IS ALSO ADDRESSED IS IN C-2, SECTION 1.03, WARD BOUNDARIES OF THE CHARTER.

ACTUAL REDISTRICTING HAS NOT BEEN DONE SINCE BEFORE THE LAST CHARTER AMENDMENT IN 1999 THOUGH IT IS REQUIRED EVERY TEN YEARS.

IT WAS AGREED THAT SECTION 9.07 WOULD BE REVIEWED AGAIN AT THE NEXT MEETING.

Article X. Taxation, Assessors And Assessment Of Taxes

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

MAYOR MARABELLO ASKED IF THE REASSESSMENT SHOULD BE DONE MORE FREQUENTLY. HE SUGGESTED THAT EVERY YEAR, A DIFFERENT GEOGRAPHICAL SECTION OR A PERCENTAGE OF THE CITY BE REASSESSED UNTIL THE ENTIRE CITY IS DONE EVERY THREE YEARS, FOR EXAMPLE.

MR. BROOKS SAID TO KEEP IN MIND THE SIGNIFICANT COSTS OF A REASSESSMENT AND WHETHER IT WOULD BE FINANCIALLY PRUDENT TO BE DONE ON A MORE FREQUENT MANNER.

MR. AMBROSE EXPLAINED THAT AFTER A REASSESSMENT IS DONE AND PROPERTY VALUES ARE INCREASED, THE TAX RATE MUST BE ROLLED BACK TO PREVENT ADDITIONAL TAXES BEING COLLECTED AS A RESULT OF THE NEW VALUE. THE CITY IS UNABLE TO MAKE ANY MONEY ON REASSESSMENT.

THE MAYOR WILL CHECK ON WHAT OTHER MUNICIPALITIES ARE DOING.

MR. AMBROSE ADVISED THAT CITY JUST PAID OFF THE COSTS OF THE LAST ASSESSMENT THAT

WAS MORE THAN $200,000. AT THE TIME, IT WAS PAID OUT OF A RESERVE ACCOUNT AND HAS BEEN REIMBURSED OVER A PERIOD OF TIME.

MR. AMBROSE ALSO RECALLED THE CITY BOUGHT A NEW SOFTWARE PROGRAM THAT AUTOMATICALLY COMPUTES PROPERTY VALUES BASED ON THE CURRENT YEAR. AS A RESULT, FUTURE REASSESSMENTS SHOULD BE LESS COSTLY.

IT WAS THEN AGREED THAT THIS SECTIONS SHOULD BE REVISITED.

10.02

It shall be the duty of the City Manager each year to ***(SUGGESTION) INCLUDE SUPPLEMENTAL ASSESSMENTS PREPARED BY THE ASSESSOR(S) FOR THE PURPOSES OF ADDING PROPERTY NOT INCLUDED IN THE LAST ASSESSMENT OR INCREASING OR DECREASING THE ASSESSMENT VALUE OF PROPERTY WHICH WAS INCLUDED IN THE LAST GENERAL ASSESSMENT***. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that ***A SUPPLEMENTAL ASSESSMENT IS MADE,*** a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ **(CHANGE) SUPPLEMENTAL** assessment, shall constitute the assessment for the year.

THE MAYOR QUESTIONED THE TERM 'SCRAP ASSESSMENT' AND WHETHER IT SHOULD BE REPLACED WITH ANOTHER TERM. 'SUPPLEMENTAL ASSESSMENT' IS A MORE ORDINARY TERM AND IS BEING RECOMMENDED.

10.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

10.04

The property of the City Assessors shall be assessed by the Council.

IT WAS QUESTIONED WHETHER 10.04 WAS PROPERLY WORDED OR IF THIS LITERALLY REFERS TO THE ACTUAL PROPERTY OF THE CITY ASSESSOR WHICH SHOULD BE ASSESSED BY AN IMPARTIAL ASSESSOR. SECTION 10.04 NEEDS TO BE CLARIFIED.

10.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ **(CHANGE) ADJUSTED** by the ~~scrap~~ **(CHANGE) SUPPLEMENTAL** assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information.

Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

10.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

10.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

10.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

10.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

MR. AMBROSE ADVISED THE TOTAL ASSESSMENT OF PROPERTIES IN THE CITY ARE APPROXIMATELY $748 MILLION; AFTER EXEMPT PROPERTIES ARE DEDUCTED, $620 MILLION WORTH OF PROPERTIES ARE TAXED.

MAYOR MARABELLO ASKED IF THE PROPERTY OWNERS LEASING THEIR BUILDINGS TO STORE FRONT CHURCHES ARE TAX EXEMPT. MR. SPILLANE SAID WE NEED TO CONSIDER HOW MANY STORE FRONT CHURCHES ARE OPENING AND THE CITY NEEDS TO CONTROL THEM.

WHEN ASKED IF THE PROPERTIES ARE TAX EXEMPT BECAUSE OF THE USE BY CHURCHES, MAYOR MARABELLO SAID WE NEED SOME TYPE OF FORMAL PROCESS TO APPLY FOR TAX EXEMPT STATUS.

THE MAYOR BELIEVES THAT IF THE CHURCH IS BEING USED FOR ANY TYPE OF BUSINESS ENTITY, IT IS TAXABLE. HE WILL FOLLOW UP ON THIS MATTER.

A LONG DISCUSSION FOLLOWED ABOUT WHEN A NEW PROPERTY IS BILLED FOR TAXES. A POLICY WAS MADE SEVERAL YEARS AGO THAT TAXES WOULD NOT BE BILLED ON IMPROVEMENTS UNTIL THE CERTIFICATE OF OCCUPANCY IS ISSUED. MR. SPILLANE FEELS THAT ANY TIME A NEW ZONE IS APPROVED, THE TAXES NEED TO BE CHANGED AND A BILL ISSUED AT THAT TIME.

It was agreed the next subcommittee meeting would be held Thursday, January 8, 2008 from 10:00 a.m. to 12 noon*.

The review would begin with section 10.11 in addition to those sections cited for another review.

Councilman Spillane adjourned the subcommittee meeting at 12:00 noon.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

*Time was later changed from 6:00 p.m. to 8:00 p.m.

Minutes Amended to include Changes to Section 8.09 01/22/09

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 8, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, January 8, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irv Ambrose
City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 6:00 p.m. Review continued on the following sections of the City of Milford Charter.

A re-review of the following sections was requested by committee members at December meeting:

9.07- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January (ADD) OF THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS ~~of every tenth year from the adoption of this Charter~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last statewide general election, but districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous

Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

OPTIONS WERE CONSIDERED TO DIVIDE THE WARDS WITH MORE BALANCED NUMBERS THAN CURRENTLY EXIST.

THE CHARTER REQUIRES THAT EACH WARD CONTAIN AS NEARLY AS POSSIBLE THE SAME NUMBER OF VOTERS AND THAT NO WARD SHALL DIFFER BY MORE THAN 10% IN THE SMALLEST WARD.

Each district shall contain as nearly as possible the same number of qualified voters, determined from the registration for the last statewide general election, but districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

IT WAS AGREED THIS SHOULD BE REMOVED OR ADDRESSED BECAUSE THERE IS MORE THAN A 50% DIFFERENCE IN THE FIRST WARD AND FOURTH WARD.

AT THE END OF 2008, THERE WERE 2,022 REGISTERED VOTERS IN THE CITY; 664 IN THE FIRST WARD, 491 IN THE SECOND WARD, 456 IN THE THIRD WARD AND 406 IN THE FOURTH WARD. THERE ARE 33.3% MORE IN THE FIRST WARD IN COMPARISON TO THE FOURTH WARD.

MR. BAIRD ALSO QUESTIONED THE REQUIREMENT THAT IN JANUARY OF EVERY TENTH YEAR FROM THE ADOPTION OF THE CHARTER (CHARTER WAS ADOPTED IN 1999 MAKING 2009 THE TENTH YEAR) A REPORT SHALL BE FILED WITH A RECOMMENDATION FOR ADJUSTMENT OF THE WARD BOUNDARIES.

IT WAS SUGGESTED THAT IT COINCIDE WITH THE DECENNIAL CENSUS AND THAT INFORMATION BE UTILIZED FOR THIS PURPOSE. HOWEVER, MOST OF THE DETAIL WILL COME OUT IN CENSUS TRACKS WHICH DO NOT FOLLOW OUR WARD LINES.

SEVERAL OPTIONS WERE CONSIDERED INCLUDING TAKING THE NUMBER OF DWELLING UNITS IN EACH WARD AND USING AN AVERAGE NUMBER PER HOUSEHOLD. THOSE NUMBERS WOULD BE TAKEN FROM THE CENSUS.

AT-LARGE COUNCIL MEMBERS WAS ALSO DISCUSSED.

MR. BAIRD FEELS THE ONE PIECE OF ACCURATE INFORMATION THE CITY HAS IS VOTER REGISTRATIONS BECAUSE WE HAVE HARD NUMBERS AND ADDRESSES ON FILE. IF THE WARD BOUNDARIES ARE BASED OFF VOTER REGISTRATION AND NOT POPULATION, THAT IS EASIER FOR COUNCIL TO MANAGE IN DRAWING THE LINES. THERE IS A CONCERN BECAUSE OF THE NUMBER OF DISCREPANCIES AS A RESULT OF REGISTERED VOTERS RELOCATING WITHOUT NOTIFYING THE CITY FOR VOTING PURPOSES.

BECAUSE OUR ELECTION DISTRICTS DO NOT FOLLOW THE STATE ELECTION DISTRICTS, THE CITY MANAGER IS CONCERNED ABOUT POSSIBLE DISCREPANCIES THAT THOSE NUMBERS COULD INCLUDE THE POSSIBILITY OF THE INCLUSION OF RESIDENTS WHO LIVE OUTSIDE THE CITY LIMITS.

THE CITY CLERK NOTED THAT THE DEPARTMENT OF ELECTIONS HANDLE BOTH DOVER AND

NEWARK ELECTIONS, THOUGH THEY HAVE DISTRICTS THAT VARY FROM THE STATE AND COUNTY DISTRICTS.

IT WAS AGREED THE STATE DEPARTMENT OF ELECTIONS WOULD BE CONTACTED TO DETERMINE IF THERE IS ANY POSSIBLE WAY THEY COULD ASSIST WITH THESE NUMBERS.

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

MAYOR MARABELLO FEELS THAT REASSESSMENTS SHOULD BE DONE MORE FREQUENTLY THAN EVERY TEN YEARS.

THE COST OF THE LAST REASSESSMENT WAS OVER $260,000 WHICH WAS JUST PAID OFF LAST YEAR, THEREFORE, THE COSTS DID NOT JUSTIFY WHAT WOULD BE GAINED BY REASSESSING MORE FREQUENTLY.

10.04

The property of the City Assessors shall be assessed by the Council.

THE CITY MANAGER CONFIRMED THE INTENT IS THAT THE CITY ASSESSOR DOES NOT ASSESS HIS OWN PROPERTY. FROM A PRACTICAL PURPOSE, MR. BAIRD RECOMMENDS HE ASSESS HIS OWN PROPERTY AND PROVIDE WITH COMPARABLES TO CITY COUNCIL.

ACCORDING TO THE CITY MANAGER, A THIRD PARTY WILL DO THE PHYSICAL ASSESSMENT AND OUR CURRENT ASSESSOR IS MORE OF MAINTENANCE. OUR CURRENT SOFTWARE WILL GREATLY ASSIST WITH THE PERIMETERS DURING THE NEXT REASSESSMENT.

THIS IS STANDARD LANGUAGE IN MOST MUNICIPAL CHARTERS.

THE COMMITTEE THEN PROCEEDED WITH THEIR REVIEW OF THE FOLLOWING NEW SECTIONS:

10.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ (ADD) CITY CLERK, commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

THE LANGUAGE WAS UPDATED FROM SECRETARY TO CITY CLERK.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed.

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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

WHEN ASKED HOW UNPAID TAXES ARE BEING HANDLED, MR. BAIRD ADVISED THAT THE FIRST NOTICE IS BEING MAILED IN OCTOBER AFTER THE DUE DATE. A SECOND NOTICE IS THEN MAILED STATING THAT IT MUST BE PAID BY A SPECIFIC DATE AND INFORMING THEM THE CITY RESERVES THE RIGHT TO FILE A LIEN ON THE PROPERTY. AFTER THE THIRD NOTICE, THE LIEN IS FOLLOWED.

MR. AMBROSE WOULD LIKE TO MAKE SURE THAT IS FOLLOWED UP ON NOTING THERE ARE MULTIPLE PROPERTIES THAT HAVE BEEN DELINQUENT FOR SEVERAL YEARS THOUGH NO LEGAL ACTION HAS BEEN TAKEN.

THE MAYOR ASKED IF THE ALDERMAN LANGUAGE SHOULD BE REMOVED, BUT THE CITY MANAGER PREFERS THAT BE LEFT IN THE CHARTER IN CASE THAT IS RECONSIDERED IN THE FUTURE.

MR. BAIRD FEELS THAT PARAGRAPH D SHOULD BE REWRITTEN WITH MORE MODERN LANGUAGE. IT IS ALSO SPELLED OUT IN THE STATE STATUTE AND SHOULD BE COMPARED.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in an for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post

office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the

City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and

praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

MR. BAIRD FEELS THAT PARAGRAPH O IS A CATCH-ALL FOR THIS SECTION. THE STATE HAS PUT SOME PROVISIONS IN PLACE FOR THE COUNTIES WHICH IS A MUCH MORE STREAMLINE PROCESS THAN WHAT IS SPELLED OUT IN THE PREVIOUS PARAGRAPHS. PARAGRAPH O ALLOWS THE CITY TO PIGGYBACK ON THE PROVISIONS THE COUNTIES HAVE TO COLLECT DELINQUENT TAXES. THE CITY FILES THE DOCUMENTS WITH THE SHERIFF'S OFFICE AND THEY PERIODICALLY HAVE TAX SALES AND AT THAT POINT AND TIME, THE PROPERTY IS SOLD. THE MONEY WOULD THEN COME BACK TO THE CITY.

(p) The provisions of this Section 10.11, other than the provisions of subsection (b) of this Section 10.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 **Del. Laws**, c. 199, 3/25/08)

10.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

10.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article XI. Borrowing Of Money And Issuance Of Bonds

11.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to

issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

11.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(1) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(2) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(3) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor;

(4) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefor;

(5) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

11.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(1) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(2) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(3) The manner in which it is proposed to be secured;

(4) The manner in which it is proposed that it shall be paid or funded, or both;

(5) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(6) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

11.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At

least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "FOR THE PROPOSED BORROWING", and upon the other half of said ballot shall be printed the words, "AGAINST THE PROPOSED BORROWING", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

IT WAS ASKED WHETHER OR NOT THE LANGUAGE 'PAPER BALLOTS' SHOULD BE REMOVED BECAUSE THE CITY CONSISTENTLY USES VOTING MACHINES.

THE COMMITTEE AGREED TO LEAVE THE LANGUAGE AS IS CURRENTLY WRITTEN TO ALLOW THE OPTION.

11.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time

to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefor.

MR. AMBROSE ASKED WHAT A SINKING FUND REFERS TO; MAYOR MARABELLO SAID THAT IS USED TO PAY OFF THE DEBT.

THE CITY MANAGER QUESTIONED WHETHER THAT IS THE ACTUAL PROCESS. THE CITY COUNCIL APPROPRIATES THAT MONEY ON AN ANNUAL BASIS FOR DEBT SERVICE. IT IS PAID OUT AS AN EXPENSE ON AN ANNUAL BASIS. HE DOES NOT BELIEVE THAT MONEY IS PUT INTO A DEBT RETIREMENT ACCOUNT.

THE MAYOR ADVISED THAT MONEY IS SEGREGATED AHEAD OF TIME THOUGH MR. AMBROSE SAID IT IS SEPARATED IN TERMS OF DEPARTMENT.

MR. BAIRD SAID THAT A LITERAL INTERPRETATION OF THAT LANGUAGE MAY MEAN THE CITY COULD SET UP A DEBT SERVICE FUND IN EACH CASE.

MR. BAIRD REFERRED TO *'ONLY IN A PROPER CASE'* AND QUESTIONED THE DEFINITION OF A PROPER CASE. THE MAYOR SAID THAT REQUIRES SO MUCH TO BE IN THE ACCOUNT EVERY MONTH AND IT CANNOT BE TAKEN OUT; HOWEVER, HE FEELS THE LANGUAGE SHOULD BE LEFT.

IT WAS CONSIDERED WHETHER THE WORD *SHALL* SHOULD BE CHANGEDTO *MAY* THOUGH MR. BAIRD WILL FOLLOW UP WITH THE FINANCE DIRECTOR.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor.

11.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

MR. BAIRD SAID THIS ALLOWS THE CITY TO REFINANCE BONDS AT A LOWER RATE WITHOUT GOING TO REFERENDUM AS LONG AS THEY ARE ELIGIBLE TO BE CALLED. THE CALLED FEATURE IS PUT ON BONDS WHEN THEY ARE FIRST SOLD SO SOMEONE BUYING THEM WILL NOT HAVE THEIR

BONDS CALLED WITHIN A CERTAIN AMOUNT OF TIME WHICH MAKES THEM MORE APPEALING.

THE MAYOR SAID HIS OPINION IS THAT IF YOU CAN GET A SUBSTANTIALLY LOWER RATE, YOU CAN ACTUALLY GET MORE MONEY THAN THE ORIGINAL INDEBTEDNESS AS LONG AS THE ULTIMATE PAYOUT IS THE SAME OR LESS. THE CITY MANAGER AGREED IT CAN BE DONE WITHOUT GOING TO A SPECIAL ELECTION.

THE CHARTER ALLOWS US TO SAVE THE CITIZENS MONEY WITHOUT ASKING THEIR PERMISSION.

11.07- Short Term Borrowing

ADD: ***NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, CITY COUNCIL MAY AUTHORIZE, BY RESOLUTION, SHORT TERM BORROWING BY THE CITY WITHOUT THE NECESSITY OF A SPECIAL ELECTION*****.*** The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project anticipative funding. The money shall be paid back in no longer than five (5) years.

MR. BAIRD ASKED IF THIS WOULD REQUIRE A PUBLIC REFERENDUM AND BELIEVES THE INTENT IS NOT TO HAVE A REFERENDUM. HE SUGGESTS THAT BE CLARIFIED AND THE ABOVE LANGUAGE ADDED.

MAYOR MARABELLO BELIEVES THERE MAY BE A CONFLICT WITH THE TIMING OF REPAYMENT AS IS NOTED IN SECTION 8.09 OF THE CHARTER (SEE BELOW):

8.09- Amendments After Adoption
(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may (ADD) EXERCISE SHORT TERM BORROWING AUTHORITY AS PROVIDED FOR IN SECTION 11.07 OF THIS CHARTER ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

MR. BAIRD SUGGESTS THAT UNDER EMERGENCY APPROPRIATIONS, THE CHARTER REFER TO 11.07 TO PREVENT ANY INCONSISTENCIES. THE LANGUAGE WAS CHANGED AS NOTED ABOVE (CHANGE REFLECTED IN 12/03/08 MINUTES).

Article XIA. Tax Increment Financing and Special Development Districts

11.A01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

11A.02 - Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code.

Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

SECTIONS 11A.01 & 11A. 02 WERE ADDED WITH THE CHARTER AMENDMENT IN MARCH OF 2008. NO ADDITIONAL CHANGED REQUIRED.

Article XII. Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XIII. Transitional Provisions

13.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

13.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding

a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

13.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

13.04- State And Municipal Laws

In General. All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

ACCORDING TO THIS LANGUAGE, IT APPEARS THE CHARTER SUPERSEDES STATE LAW IN THE CASE OF A CONFLICT. THERE WERE VARIED OPINIONS THOUGH THE CHARTER IS APPROVED BY THE GENERAL ASSEMBLY AND ACTUALLY BECOMES STATE LAW.

A LEGAL INTERPRETATION WILL BE OBTAINED FROM THE CITY SOLICITOR.

13.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Section 2.Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

After the completion of the preliminary review of the charter, it was agreed that the committee will continue the review of those sections with open ended questions. They will be identified and a list provided for the next meeting.

The next meeting was scheduled for Thursday, February 5, 2009 at 10:00 a.m.

Chairman Spillane adjourned the Subcommittee Meeting at 7:40 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 4, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Wednesday, February 4, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irvin Ambrose
City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 10:17 a.m. Following a completion of the preliminary evaluation, members began a final review process on the City of Milford Charter.

ARTICLE I. INCORPORATION

1.01- INCORPORATION

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- TERRITORIAL LIMITS

1.02- Municipal corporation continued; boundaries.
The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County, Office for Sussex County and State of Delaware as presently existing and as hereinafter amended.

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State~~

~~Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ ***Section 1.04 of this Charter*****.** The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- WARDS NEEDS AMENDING---ADD NEW LANDS–BOUNDARIES EXTENDED.

The City of Milford shall initially be divided into four Wards:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary

of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

1.04- ANNEXATION

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~ ***THE CITY MAY, FROM TIME TO TIME, EXTEND ITS BOUNDARIES THROUGH THE PROCESS OF ANNEXATION IN ACCORDANCE WITH 22 Del. Code, CHAPTER 1, SECTION 101*** and the following procedures ~~shall be lawful~~:

(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation~~. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. ***The Petition presented to the City Council shall include a legal description of the territory requested to be annexed, the reasons for the requested annexation, current and requested zoning, the most current recorded deed and a sealed survey that meets State of Delaware's Minimum Technical Standards. Following receipt of the completed paperwork and payment of the annexation fee, the City Clerk shall prepare a proposed ordinance. The proposed ordinance shall specify the current zoning in Kent County and proposed zoning in the City of Milford. The survey and property description shall be attached to the proposed ordinance.*** The City Council of Milford may then pass a ~~resolution~~ *ADOPT AN ORDINANCE* annexing such territory to the City of Milford. Such ~~resolution~~ *ORDINANCE* shall be passed

by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. ***Adoption of the ordinance shall constitute an amendment to the zoning map and all requirements of 22 Del. Code, Chapter 3 and Dover Code, Appendix B. Zoning, Article 10, Section 5 shall apply.*** ~~Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause~~ ***The City Council shall then cause the ordinance, survey and property description*** ~~a description and a plot~~ of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property. ~~;~~ ***The Petition presented to the City Council shall include a legal description of the territory requested to be annexed, the reasons for the requested annexation, current and requested zoning, the most current recorded deed and a sealed survey that meets State of Delaware's Minimum Technical Standards. Following receipt of the completed paperwork and payment of the annexation fee,*** the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or~~ The City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain

territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed

shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description

and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

ARTICLE II. POWERS OF THE CITY

2.01- POWERS OF THE CITY

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows: (a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

WHEN ASKED ABOUT THE DEFINITION OF PROFESSIONAL SERVICES, MR. BAIRD ADVISED OF A CLAUSE IN THE STATE PROCUREMENT LAW THAT ALLOWS UP TO $50,000 FOR PROFESSIONAL SERVICES WHICH CONTAINS A DEFINITION. HE SUGGESTS IT READ EITHER 'A CONTRACT FOR PROFESSIONAL SERVICES OR A CONTRACT FOR PROFESSIONAL SERVICES AS DEFINED BY STATE CODE'.

(3) No contract shall be made by Council for any purpose, the contract price of which is in excess of Thirty Thousand Dollars ($30,000), without public competitive bidding; and

DURING A DISCUSSION REGARDING THE $30,000 THRESHOLD BEING INCREASED, MR. BAIRD ADVISED THE AMOUNT VARIES IN THE STATE CODE DEPENDING ON THE TYPE OF PROJECT. HE FEELS THAT $50,000 IS WITHIN REASON CONSIDERING TODAY'S PRICES. THE MAYOR CONFIRMED THAT IN ADDITION TO CONTRACTS, IT WOULD INCLUDE PURCHASES UP TO $50,000. MR. BAIRD NOTED THAT IN MANY CASES, THE CITY IS ABLE TO USE STATE CONTRACT VERSUS GOING THROUGH ANOTHER BID PROCESS.

IN HIS RESEARCH, MR. SPILLANE FOUND THAT MOST TOWNS REQUIRE BIDDING FOR ANYTHING OVER $1,000.

THE FOLLOWING VOTE WAS TAKEN TO LEAVE THE $30,000 IN PLACE:

YES-SPILLANE, MARABELLO
NO-AMBROSE, BROOKS, BAIRD

THE FOLLOWING VOTE WAS TAKEN TO INCREASE THE $30,000 TO $50,000:

YES-AMBROSE, BROOKS, BAIRD
NO-SPILLANE, MARABELLO

MR. BAIRD ASKED THE COMMITTEE TO CONSIDER THE FOLLOWING LANGUAGE WHICH HE WORKED UNDER WHILE AT THE TOWN OF GEORGETOWN:

COMPETITIVE BIDDING SHALL NOT BE REQUIRED ON A PROJECT UNDER THE SUPERVISION OF THE CITY MANAGER. MR. BAIRD EXPLAINED THAT IN SUCH A CASE, HE WOULD STILL REPORT BACK TO COUNCIL BECAUSE THE FUNDS WOULD HAVE TO BE BUDGETED THOUGH THE BIDDING PROCESS WAS NOT NECESSARY EACH TIME. IT WAS DECIDED TO LEAVE THE LANGUAGE AS IS CURRENTLY WRITTEN.

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk. (e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *ADD* ***in accordance with the provision of Section 11 of this Charter.*** **REMOVE** ~~a sum or sums not exceeding in the aggregate of two times the previous year=s tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the~~

~~provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by ***RESOLUTION*** ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 2.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article XIA of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

2.02- CONSTRUCTION

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- INTERGOVERNMENTAL RELATIONS

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

2.04- NOTICE OF ACTION

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

MR. SPILLANE CONFIRMED THAT THE CITY CARRIES SUFFICIENT INSURANCE TO COVER ELECTED OFFICIALS. THERE WAS CONCERN EXPRESSED BECAUSE THERE IS NOTHING OFFICIALLY WRITTEN THAT STATES THE CITY WILL PROVIDE LEGAL REPRESENTATION IN SUCH CASES.

MR. BAIRD EXPLAINED THAT WHEN A COUNCIL MEMBER IS ACTING WITHIN THEIR OFFICIAL CAPACITY, THERE IS SUFFICIENT COVERAGE THOUGH THAT WOULD BE AT COUNCIL'S DISCRETION TO DETERMINE. THERE IS ALSO PUBLIC OFFICIALS LIABILITY INSURANCE THE CITY PURCHASES ON BEHALF OF COUNCIL IN CASE SOMEONE WANTS TO TAKE ACTION AGAINST A DECISION MADE WHILE ACTING IN OFFICIAL CAPACITY. HOWEVER, IF SOMEONE IS ACTING ON THEIR OWN BEHALF, THAT WOULD NOT BE COVERED.

ARTICLE III. STRUCTURE OF GOVERNMENT

3.01- FORM OF GOVERNMENT

The form of government established by this charter shall be known as the "council-manager" form.

3.02- COMPOSITION OF GOVERNMENT

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) councilmembers.

Whenever the word "mayor" is used, it shall refer solely to the mayor. Whenever the word "council" is used in this chapter, it shall refer to the eight (8) councilmembers.

THE LANGUAGE STATING COUNCIL SHALL BE THE LEGISLATIVE BODY OF THE CITY AND COMPOSED OF EIGHT (8) MEMBERS ELECTED AS HEREIN PROVIDED WAS DECIDED NOT TO BE ADDED TO THE CHARTER.

MR. SPILLANE CONFIRMED THE MAYOR IS SPELLED OUT IN A DIFFERENT SECTION AND RECOMMENDS THE LANGUAGE REMAIN AS IS CURRENTLY WRITTEN.

3.03- QUALIFICATIONS FOR MAYOR AND CITY COUNCIL

No person shall be eligible for election as Mayor ~~or Council~~ unless they have been a resident of the ***UNITED STATES OF AMERICA, THE*** State of Delaware and the CITY ***OF MILFORD AND HAVING CONTINUOUSLY RESIDED THEREIN OR IN AN AREA ANNEXED TO THE CITY FOR A PERIOD OF ONE YEAR PRECEDING THE DAY OF THE ELECTION*** ~~thirty (30) days preceding the day of the election;~~ and are over the age of *eighteen* ***TWENTY-ONE*** years prior to the day of the election. ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

NO PERSON SHALL BE ELIGIBLE FOR ELECTION AS CITY COUNCIL UNLESS THEY HAVE BEEN A RESIDENT OF THE UNITED STATES OF AMERICA, THE STATE OF DELAWARE AND THE WARD IN THE CITY FOR WHICH THEY ARE SEEKING ELECTION AND HAVING CONTINUOUSLY RESIDED THEREIN OR IN AN AREA ANNEXED TO THE CITY FOR A PERIOD OF ONE YEAR PRECEDING THE DAY OF THE ELECTION AND ARE OVER THE AGE OF *EIGHTEEN* TWENTY-ONE YEARS PRIOR TO THE DAY OF THE ELECTION.

THE MAYOR SHALL BE ELIGIBLE TO SERVE IN SUCH ELECTED OFFICE UNLESS HE/SHE DOES NOT CONTINUE TO BE A RESIDENT OF THE CITY DURING HIS/HER RESPECTIVE TERMS OF OFFICE NOR ANY MEMBER OF COUNCIL SHALL BE ELIGIBLE TO SERVE IN SUCH ELECTED OFFICE UNLESS

THEY CONTINUE TO BE RESIDENTS OF THEIR WARD DURING THEIR RESPECTIVE TERMS OF OFFICE.

DO WE WANT TO ADDRESS A COUNCIL MEMBER RUNNING FOR MAYOR--

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor.

ARTICLE IV. POWERS OF CITY COUNCIL

4.01- COMPOSITION, ELECTION, TERM OF OFFICE

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. Only ~~qualified~~ ***REGISTERED*** voters of the City, ***MEETING THE QUALIFICATIONS FOR MAYOR AND CITY COUNCIL AS OUTLINED IN SECTION 3.03***, shall be eligible to hold the office of Councilperson or Mayor. The Mayor and Councilpersons shall each serve for a term of two years.

Add: ***ANNUAL ORGANIZATION MEETING***

At ~~7:30~~ **SEVEN** o'clock p.m., on the ***SECOND*** Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

A LONG DISCUSSION FOLLOWED REGARDING THE PROCEDURE TO APPOINT COMMITTEES THOUGH IT WAS AGREED THE PROCESS SHOULD BE WRITTEN.

COUNCILMAN OECHSLER ARRIVED AT THIS TIME.

IT WAS SUGGESTED THAT IT SHOULD BE CLEARLY DEFINED APPOINTMENTS ARE MADE BY THE MAYOR WITH THE APPROVAL OF CITY COUNCIL.

RECOMMENDED :

COMMITTEES:

STANDING COMMITTEES. AT THE ANNUAL ORGANIZATIONAL MEETING EACH YEAR, COMMITTEES WILL BE ESTABLISHED AND MEMBERS AND CHAIRPERSONS APPOINTED BY THE MAYOR. THE MAYOR SHALL BE AN EX OFFICIO MEMBER OF EACH STANDING COMMITTEE.

SPECIAL COMMITTEES. THE MAYOR MAY, FROM TIME TO TIME, APPOINT SUCH SPECIAL COMMITTEES AS MAY DEEM ADVISABLE OR AS PROVIDED FOR BY MOTION AND OBJECT THEREOF TO PERFORM SUCH DUTIES AS MAY BE ASSIGNED TO THEM.

ALL COMMITTEE APPOINTMENTS SHALL BE SUBJECT TO COUNCIL APPROVAL UNLESS AS OTHERWISE PROVIDED IN THIS CHARTER.

IN THE EVENT OF THE RESIGNATION OR REMOVAL OF ANY MEMBER OF ANY COMMITTEE, THE MAYOR SHALL APPOINT HIS OR HER SUCCESSOR, WHO SHALL LIKEWISE BE CONFIRMED BY A MAJORITY VOTE OF THE MEMBERS OF THE COUNCIL.

AS RECOMMENDED BY MR. BAIRD, APPOINTMENTS TO THE ANNEXATION COMMITTEE CAN BE CHANGED PERIODICALLY BY THE MAYOR.

4.02- COMPENSATION AND EXPENSES

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.03- GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

4.04- PROHIBITIONS

(a) HOLDING OTHER OFFICE. Except where authorized by law, no MAYOR or Councilperson shall hold any other City office or employment during the term for which he or she was elected to the Office of Mayor or Council, and no former Mayor or Councilperson shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she was elected to the Council.

(b) APPOINTMENTS AND REMOVALS. Neither the MAYOR OR Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the MAYOR OR Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) INTERFERENCE WITH ADMINISTRATION. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) 4.08, the MAYOR OR Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the MAYOR OR Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES

(a) VACANCIES. ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1 The office of Mayor shall become vacant upon death or resignation, removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City.

2 The office of a Councilperson shall become vacant upon death or resignation, removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.

With no further sections to be reviewed at this time, Chairman Spillane adjourned the Charter Review Committee at 12:02 p.m.

The next meeting is scheduled for Thursday, February 26, 2009 at 10:00 a.m. at Milford City Hall.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 26, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, February 26, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irv Ambrose and City Clerk Terri Hudson

Chairman Spillane called the subcommittee meeting to order at 10:01 a.m. to continue the final review process on the proposed amendments to the City of Milford Charter.

4.05- VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES

(b) FORFEITURE OF OFFICE. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

(c) FILLING OF VACANCIES. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- JUDGE OF QUALIFICATIONS

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.07- APPOINTMENT AND DUTIES OF CITY CLERK

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the Council. ~~keep the journal of its proceedings and perform such other duties as are assigned to him or her by this Charter or by this Council~~.

COMMITTEE MEMBERS PREFERRED THE LANGUAGE REMAIN AS THE CHARTER IS CURRENTLY WRITTEN THOUGH MORE DETAIL WAS ADDED TO THE CLERKS' DUTIES.

4.08- INVESTIGATIONS

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ **$500.00**, or by imprisonment for not more than ten (10) days, or both.

MAYOR MARABELLO RECOMMENDED THE FINE BE INCREASED AND LANGUAGE CHANGED TO 'A FINE OF NOT MORE THAN $500.00'. COMMITTEE MEMBERS AGREED.

IT WAS CONFIRMED THE CITY MANAGER HANDLES ANY PROBLEMS WITH HIS EMPLOYEES; ANY CRIMINAL ACTIVITY WOULD BE INVESTIGATED BY THE POLICE DEPARTMENT AS HAS BEEN DONE IN THE PAST.

4.09- INDEPENDENT AUDIT

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

4.10- PROCEDURE

(a) MEETINGS. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings **SHALL** be held **IN COMPLIANCE WITH 29 Del. C. §10004 AND MAY BE** on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter **PERMITTED IN 29 Del. C. §10004,** ~~which would tend to defame or prejudice the character or reputation of any person~~, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

(b) RULES AND JOURNAL. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

A LONG DISCUSSION REGARDING PUBLIC COMMENT RULES FOLLOWED. IT WAS AGREED THAT A RULE SHOULD BE ADDED THAT PROHIBITS DEROGATORY OR SLANDEROUS REMARKS OR PERSONAL ATTACKS. COMMENTS WOULD ALSO BE LIMITED TO THE CURRENT AGENDA OR PREVIOUS AGENDA AS WAS ORIGINALLY RECOMMENDED.

IT WAS SUGGESTED A THREE-MINUTE TIME LIMIT PER SPEAKER BE ADDED. THE COMMITTEE ALSO AGREED THAT MEETINGS SHOULD BE HELD THREE NIGHTS A MONTH WITH THE BUSINESS MEETING HELD THE SECOND MONDAY, PUBLIC HEARINGS ON THE FOURTH MONDAY AND A WORKSHOP ON A SEPARATE NIGHT.

CITY COUNCIL MEETING PROCEDURES AND RULES WILL NEED TO BE WRITTEN AND ADOPTED BY COUNCIL. MAYOR MARABELLO WILL READ THE RULES PRIOR TO THE OPENING OF THE COMMENT SESSION.

OFFICIAL RULES REGARDING HOW ITEMS ARE PLACED ON AN AGENDA WAS ALSO DISCUSSED. IT WAS AGREED THAT THE AGENDA WOULD BE OVERSEEN BY THE MAYOR, CITY MANAGER AND CITY CLERK.

(c) VOTING. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 4.05 ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

THERE ARE STILL VARIED OPINIONS REGARDING THE NUMBER OF VOTES NEEDED FOR AN ACTION OF COUNCIL TO BE BINDING. IT WAS AGREED THAT COUNCIL WILL NEED TO MAKE THE FINAL DECISION AND WHETHER MAJORITY RULES OR A SPECIFIC NUMBER OF VOTES IS REQUIRED IN INSTANCES NOT CITED IN THE CHARTER.

4.11- ACTION REQUIRING AN ORDINANCE

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(8) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.12- ORDINANCES IN GENERAL

(a) FORM. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…"

Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) PROCEDURE. An ordinance may be introduced by the Mayor, any member of City Council or the City Manager at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to the Mayor, each Council Member and to the City Manager. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) EFFECTIVE DATE. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) "PUBLISH" DEFINED. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) A BRIEF SUMMARY OF THE ORDINANCE ~~, the ordinance or a brief summary thereof~~, and (2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.13- EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 8.09 (b) ~~5.09(b)~~. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.14- CODES OF TECHNICAL REGULATIONS

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except

that:

(a) The requirements of Section 4.12 ~~2.12~~ for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(b) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection 4.15(a) ~~2.15(a)~~.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.15- AUTHENTICATION AND RECORDING; CODIFICATION PRINTING

(a) AUTHENTICATION AND RECORDING. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) CODIFICATION. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE V. POWERS AND DUTIES OF MAYOR

5.01- GENERAL POWERS

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. The Mayor may appoint such committees as he deems necessary for the proper administration of the City or City Council may, by resolution, authorize the Mayor to appoint certain committees which are deemed necessary to carry out the provisions of this authority. standing committees shall be reviewed by city council.

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. **WHILE SERVING IN THE PLACE OF THE MAYOR, THE VICE MAYOR SHALL NOT BE PERMITTED TO VOTE AS A MEMBER OF CITY COUNCIL EXCEPT IN THE CASE OF A TIE.**

ARTICLE VI. CITY MANAGER

6.01- APPOINTMENT; QUALIFICATIONS, COMPENSATION

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. The City Council may enter into an employment contract with the city manager. An employment contract with a city manager shall be in writing and shall specify the conditions of employment.

6.02- REMOVAL The Council shall remove the Manager from office in accordance with the following procedures **AND THE CONDITIONS OF THE MANAGER'S EMPLOYMENT CONTRACT:**

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- ACTING CITY MANAGER

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative officer of the City. He shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He shall have the following powers and duties:

(1) He shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) He shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He shall prepare and submit the annual budget and capital program to the Council.

(6) He shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) He shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VII. ADMINISTRATIVE DEPARTMENTS

7.01- GENERAL PROVISIONS

(a) CREATION OF DEPARTMENTS. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.

(b) DIRECTION BY MANAGER. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.

7.02- CITY SOLICITOR

At the annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

IT WAS AGREED THAT INSTEAD OF APPLYING A SET TERM, THE SOLICITOR COULD BE APPOINTED OR REAPPOINTED AT THE ORGANIZATION MEETING EACH YEAR.

7.03- POLICE DEPARTMENT

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. The terms of his employment shall be contained in an employment contract.

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief

of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the provisions of the Delaware Code Title 11, Chapter 93 Police Chief Due Process and the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- CITY HOLDING CELLS ~~CITY JAIL~~

The Council may ~~build and~~ maintain a ~~jail~~ **HOLDING CELL** for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to **TRANSPORT TO A DETENTION FACILITY**, hearing and trial or arraignment.

IT WAS AGREED THE INTENT OF THE HOLDING CELLS IS ONLY FOR TEMPORARY DETENTION UNTIL THE PRISONER CAN BE MOVED TO ANOTHER FACILITY; ANY LANGUAGE REFERENCING CITY JAILS SHOULD BE REMOVED.

7.05- CITY ALDERMAN

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for

the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

7.06- FINANCE DEPARTMENT

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. The books and accounts of the finance department are considered public documents and access shall be under the guidance of the Delaware Freedom of Information Act.~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

7.07- PLANNING DEPARTMENT

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(1) To advise the City Manager on any matter affecting the physical development of the city;

(2) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(3) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(4) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(5) To review and make recommendations regarding proposed actions of the council in annexations;

(6) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(7) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

7.08- CITY PLANNING COMMISSION

Pursuant to Title 22, Delaware Code and Chapter 57 of this Code, there is hereby established a Planning Commission for the City of Milford.

~~There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance~~.

7.09- COMPREHENSIVE PLAN

SUGGESTION: The City of Milford shall adopt and modify their Comprehensive Plan in accordance with Title 22, Delaware Code.

~~(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.~~

~~(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.~~

~~(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

~~7.10- IMPLEMENTATION OF THE COMPREHENSIVE PLAN~~

~~(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.~~

~~(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.~~

~~(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive~~

7.11- BOARD OF ADJUSTMENT

The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

SUGGESTION:

There shall be a Board of Adjustment pursuant to the provisions of Chapter 3 of Title 22, Municipalities, of the Delaware Code.

The City of Milford Zoning Code reads as follows:

The Board of Adjustment shall have the following powers:

§230-27

The Board of Adjustment shall hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made in the administration of this chapter.

The Board of Adjustment shall authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the

chapter will result in unnecessary hardship or exceptional practical difficulties and so that the spirit of the chapter shall be observed and substantial justice done.

The Board of Adjustment shall have original jurisdiction and powers to grant a permit for a special exception use only under the terms and conditions established by this chapter, under the following stipulations and guiding principles:

The use for which application is being made is specifically authorized as a special exception use for the zone in which it is located.

The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:

Character of the neighborhood.

Conservation of property values.

Health and safety of residents and workers on adjacent properties and in the surrounding neighborhood.

Potential congestion of vehicle traffic or creation of undue hazard.

Stated principles and objectives of this chapter and the Comprehensive Master Plan of the City of Milford.

The Board of Adjustment shall have the responsibility for the interpretation of this chapter.

230-28 Authority.

In exercising its powers the Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in the administration and enforcement of this chapter. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition, prescribe a reasonable time limit within which such act shall be completed, if applicable

230-29 Appeals.

Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or commission of the City of Milford affected by a decision of the Code Official of the City of Milford in the administration of this chapter. Such appeal shall be taken within 30 days of the aggrieved decision by filing with the Code Official a letter of appeal specifying the reason for appeal. The Chairman shall transmit to the Board all the papers constituting the record upon which the action appealed was taken.

230-30. Filing Fee.

A filing fee shall accompany each appeal to help offset the cost of the hearing. Said filing fee is set forth in 230-57.

230-31. Effect of Appeals Upon Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record on application on notice to the Code Official for due cause shown.

230-32. Hearings

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice as well as due notice to the parties of interest and notify by mail the registered owners of all property within 200 feet of the property upon which the appeal centers. The appeal shall be decided within a reasonable time not to exceed 60 days from the date of the filing of such appeal. Failure of the Board to decide within sixty days shall constitute denial. Upon the hearing, any party may appear in person, by agent or by attorney, provided that said agent or attorney produces authorization from his principal for acting in such a capacity.

230-33. Petition to Court.

Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer, department, board or commission of the City of Milford may present to a court of record a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds for the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe the time within which a return must be made and served upon the petitioner attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application or notice to the Board and on due cause shown, grant a restraining order.

230-34. Duties in case of writ of certiorari.

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of such portions as may be called for such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

230-35. Membership.

The Board of Adjustment shall consist of the Mayor, City Manager and City Solicitor or may be established as provided

in 22 Del. C. 322.

230-36 Making and adopting rules.

The Board of Adjustment shall make and adopt rules in accordance with the provisions of this chapter.

230-37 Meetings.

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his/her absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examination and other official actions, all of which shall be immediately filed in the City Hall and shall be a public record.

230-38. Referrals to Planning Commission.

The Board may refer to the Planning Commission any applications or appeals for the Planning Commission's review and recommendation.

Title 22 Section 322 (D) states:

1) In cities or incorporated towns not having heretofore adopted a home rule charter pursuant to Chapter 8 of this title, the board of adjustment shall consist of the chief engineer of the street and sewer department, the city solicitor and the mayor or an authorized agent of the mayor. If the city or incorporated town has no city engineer or city solicitor, then the mayor or chief executive of such city or town shall appoint 2 members.

2) In cities or incorporated towns having heretofore or hereafter adopted a home rule charter pursuant to Chapter 8 of this title, the legislative body thereof may establish a board of adjustment consisting of 5 members who shall be residents of the city or incorporated town and who shall have knowledge of and experience in the problems of urban and rural development, and who, at the time of appointment, shall not be candidates-elect for or incumbents of an elective public office. The mayor or chief executive officer of such city or incorporated town, with consent of the legislative body thereof, shall appoint 4 members for terms of 4 years, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. The mayor or chief executive officer of such city or incorporated town, with the consent of the legislative body thereof, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of that appointing official. The members shall be entitled to compensation as determined by the city or incorporated town.

3) Any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural

development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town.

COUNCIL INPUT NEEDED BEFORE A RECOMMENDATION IS MADE.

7.12- STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.

With no further review at this time, Chairman Spillane adjourned the Charter Review Committee meeting at 12:02 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
April 2, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, April 2, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello, Councilman Owen Brooks, Jr. and Councilman Irv Ambrose
City Manager David Baird and City Clerk Terri Hudson

Also: Councilman James Oechsler, Jr.

Chairman Spillane called the subcommittee meeting to order at 10:02 a.m. to continue the final review process on the proposed amendments to the City of Milford Charter.

The chairman re-reviewed the following section also discussed at the previous last meeting:

7.08- CITY PLANNING COMMISSION

PURSUANT TO TITLE 22 OF THE DELAWARE CODE AND CHAPTER 57 OF THIS CODE, THERE IS HEREBY ESTABLISHED A PLANNING COMMISSION FOR THE CITY OF MILFORD.

~~There shall be a~~ ***The*** City Planning Commission ***shall consist*** ~~consisting~~ of nine (9) members appointed by the Council. ~~Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term.~~ Members of the Commission shall hold no other City office. ~~The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.~~

7.09- COMPREHENSIVE PLAN

THE CITY OF MILFORD SHALL ADOPT AND MODIFY THEIR COMPREHENSIVE PLAN IN ACCORDANCE WITH TITLE 22 OF DELAWARE CODE.

~~(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form~~

~~policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.~~

~~(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.~~

~~(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

7.10- IMPLEMENTATION OF THE COMPREHENSIVE PLAN

IMPLEMENTATION OF THE COMPREHENSIVE PLAN SHALL CONFORM WITH TITLE 22 OF DELAWARE CODE.

~~(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.~~

~~(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.~~

~~(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive~~

7.11- BOARD OF ADJUSTMENT

The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

The options outlined in the state code were again considered and the most appropriate city officials and/or number of residents to serve on the board. The committee was divided about whether to place three or five citizens on the board. However, everyone agreed the residents would need significant training in order to be properly prepared.

After a lengthy discussion, it was decided to leave the language as is currently written. The committee felt the composition of the board and any needed amendments, including the number of board members, would be addressed in the Zoning Code Sections §230-27 to 230-38.

The City of Milford Zoning Code reads as follows:

The Board of Adjustment shall have the following powers:

§230-27

The Board of Adjustment shall hear and decide appeals where it is alleged that there is error in any order, requirement,

decision or determination made in the administration of this chapter.

The Board of Adjustment shall authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, due to special conditions, a literal enforcement of the provisions of the chapter will result in unnecessary hardship or exceptional practical difficulties and so that the spirit of the chapter shall be observed and substantial justice done.

The Board of Adjustment shall have original jurisdiction and powers to grant a permit for a special exception use only under the terms and conditions established by this chapter, under the following stipulations and guiding principles: The use for which application is being made is specifically authorized as a special exception use for the zone in which it is located. The design, arrangement and nature of the particular use is such that the public health, safety and welfare will be protected and reasonable consideration is afforded to the:

Character of the neighborhood.

Conservation of property values.

Health and safety of residents and workers on adjacent properties and in the surrounding neighborhood.

Potential congestion of vehicle traffic or creation of undue hazard.

Stated principles and objectives of this chapter and the Comprehensive Master Plan of the City of Milford.

The Board of Adjustment shall have the responsibility for the interpretation of this chapter.

230-28 Authority.

In exercising its powers the Board may, in conformity with this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made in the administration and enforcement of this chapter. Any order, requirement, decision or determination of the Board which requires or permits a specific act to be undertaken shall, as a condition, prescribe a reasonable time limit within which such act shall be completed, if applicable

230-29 Appeals.

Appeals to the Board may be taken by any person aggrieved or by any other officer, department, board or commission of the City of Milford affected by a decision of the Code Official of the City of Milford in the administration of this chapter.

Such appeal shall be taken within 30 days of the aggrieved decision by filing with the Code Official a letter of appeal specifying the reason for appeal. The Chairman shall transmit to the Board all the papers constituting the record upon which the action appealed was taken.

230-30. Filing Fee.

A filing fee shall accompany each appeal to help offset the cost of the hearing. Said filing fee is set forth in 230-57.

230-31. Effect of Appeals Upon Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies, after the notice of appeal is filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record on application on notice to the Code Official for due cause shown.

230-32. Hearings

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice as well as due notice to the parties of interest and notify by mail the registered owners of all property within 200 feet of the property upon which the appeal centers. The appeal shall be decided within a reasonable time not to exceed 60 days from the date of the filing of such appeal. Failure of the Board to decide within sixty days shall constitute denial. Upon the hearing, any party may appear in person, by agent or by attorney, provided that said agent or attorney produces authorization from his principal for acting in such a capacity.

230-33. Petition to Court.

Any person or persons jointly or severally aggrieved by any decision of the Board or any taxpayer or any officer, department, board or commission of the City of Milford may present to a court of record a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds for the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision. The court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe the time within which a return must be made and served upon the petitioner attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, upon application or notice to the Board and on due cause shown, grant a restraining order.

230-34. Duties in case of writ of certiorari.

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of such portions as may be called for such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

230-35. Membership.

The Board of Adjustment shall consist of the Mayor, City Manager and City Solicitor or may be established as provided in 22 Del. C. 322.

230-36 Making and adopting rules.

The Board of Adjustment shall make and adopt rules in accordance with the provisions of this chapter.

230-37 Meetings.

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman or, in his/her absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact and shall keep records of its examination and other official actions, all of which shall be immediately filed in the City Hall and shall be a public record.

230-38. Referrals to Planning Commission.

The Board may refer to the Planning Commission any applications or appeals for the Planning Commission's review and recommendation.

Title 22 Section 322 (D) of the Delaware Code states:

1) In cities or incorporated towns not having heretofore adopted a home rule charter pursuant to Chapter 8 of this title, the board of adjustment shall consist of the chief engineer of the street and sewer department, the city solicitor and the mayor or an authorized agent of the mayor. If the city or incorporated town has no city engineer or city solicitor, then the mayor or chief executive of such city or town shall appoint 2 members.

2) In cities or incorporated towns having heretofore or hereafter adopted a home rule charter pursuant to Chapter 8 of this title, the legislative body thereof may establish a board of adjustment consisting of 5 members who shall be residents of the city or incorporated town and who shall have knowledge of and experience in the problems of urban and rural development, and who, at the time of appointment, shall not be candidates-elect for or incumbents of an elective public office. The mayor or chief executive officer of such city or incorporated town, with consent of the legislative body thereof, shall appoint 4 members for terms of 4 years, provided that the terms of the original members shall be established in a manner that 1 shall expire each year. The mayor or chief executive officer of such city or incorporated town, with the consent of the legislative body thereof, shall appoint 1 member who shall be chairperson and who shall serve at the pleasure of that appointing official. The members shall be entitled to compensation as determined by the city or incorporated town.
3) Any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town.

7.12-STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.

Article VII.

City Manager Baird feels that the title of Article VII should be changed (Administrative Departments 7.01 - 7.12 includes General Provisions, City Solicitor, Police Department, City Jail, City Solicitor, Finance, Planning Department, City Planning Commission, Comprehensive Plan, Implementation of Comprehensive Plan and State Law). He feels this is a mix of topics and some of these sections should be placed in other areas.

He recommends that one section cover appointed officials—city manager, chief of police, city clerk, planning commission, board of adjustment, etc.

RECOMMENDATION: MAKE A NEW ARTICLE TITLED APPOINTED OFFICIALS AND PLACE ALL APPOINTEES IN THE SECTION. ANOTHER SUBSECTION WOULD BE ADDED FOR THE POLICE DEPARTMENT.

IT WAS AGREED TO TAKE CURRENT ARTICLE VI (CITY MANAGER) AND PUT IN ARTICLE IV. REMOVE SECTIONS 02, 03, 04, 05, 08, 11, 12 FROM ARTICLE VII AND PLACE UNDER ARTICLE IV. ARTICLE VII WILL DEAL EXCLUSIVELY WITH EACH DEPARTMENT UNDER THE CITY MANAGER.

Mr. Baird feels that would clarify who falls under the jurisdiction of city council. The consensus of the committee was the charter needs to be clear those departments that fall under the city manager and that the employees in the police department answer solely to the police chief.

Mr. Baird suggested that by the next charter review meeting, he will have a proposal for the charter structure though nothing will change as far as management of departments and employees of the city manager and the police chief.

Article VIII. Financial Procedures

8.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

Mr. Baird suggests the budget be submitted by the end of May which will give city council a month to adopt it once it is formally presented.

Mr. Brooks feels that the manner in which it has been handled has always worked; however, members agreed this will not change anything other than the language.

8.02- Submission of Budget Date

On or before the last day of the ***ELEVENTH*** ~~twelfth~~ month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

8.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

8.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

It was agreed the capital program and annual budget should go hand-in-hand.

8.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program ***AT THE TIME THE ANNUAL BUDGET IS SUBMITTED TO CITY COUNCIL AS DEFINED IN SECTION 8.02.*** ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

8.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

8.08- Public Records

Copies of the budget and the capital program as adopted ***FOR THE FISCAL YEAR*** shall be public records and ~~shall be made~~ ***ARE*** available to the public ***THROUGH THE FREEDOM OF INFORMATION (FOIA) PROCESS*** ~~at suitable places~~ ***AND THE CITY OF MILFORD WEBSITE*** ~~in the City~~.

8.09- Amendments After Adoption

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may ***EXERCISE SHORT TERM BORROWING AUTHORITY AS PROVIDED IN SECTION 11.07 OF THIS CHARTER.*** ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ ***BY MAJORITY VOTE*** transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

8.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

8.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly

authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article IX. Nominations And Elections.

9.01- City Elections

(A) THE ANNUAL MUNICIPAL ELECTION SHALL BE HELD ON THE FOURTH SATURDAY IN THE MONTH OF APRIL BETWEEN THE HOURS OF TWELVE (12) NOON AND EIGHT (8:00) O'CLOCK IN THE EVENING, AT SUCH PLACES AS SHALL BE DETERMINED BY THE COUNCIL, DUE NOTICE GIVEN AS REQUIRED IN 15 DEL. C. §7553.

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than

five ~~citizens~~ ***ELECTORS*** of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or ***NATURAL PERSONS OWNING*** ~~owns~~ property within the City of Milford ***FOR AT LEAST THIRTY DAYS PRIOR TO THE REGISTRATION DEADLINE, BOTH OF WHOM ARE*** ~~and who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. ***A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR OTHER LEGALLY CREATED ENTITY, IS PROHIBITED FROM REGISTERING AND VOTING AS A NON-RESIDENT PROPERTY OWNER UNLESS TITLED IN AN INDIVIDUAL NAME.***

IT IS THE RESPONSIBILITY OF THOSE registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election.

(e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~, and~~ The person having the highest number of votes, for each office, shall be declared duly elected IN ACCORDANCE WITH ***15 DEL. C. §7553*****,** and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following

said election.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(h) In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.

SUGGESTION: IN THE EVENT OF A TIE VOTE FOR ANY OFFICE, A SPECIAL ELECTION FOR SAID OFFICE(S) ONLY SHALL BE HELD WITHIN 30 DAYS AND THE REGISTRATION BOOKS SHALL REMAIN CLOSED UNTIL THE OUTCOME OF THE SPECIAL ELECTION IS DETERMINED.

(i) Not less than ***SIXTY (60)*** ~~thirty (30)~~ days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) ***REGISTERED*** ~~qualified~~ voters ~~resident~~ in the Ward ***IN THE CITY OF MILFORD*** in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) ***REGISTERED*** ~~qualified~~ voters~~ resident~~ in the City ***OF MILFORD*****.**

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.~~

9.02- Absentee Ballot Procedures

ABSENTEE VOTING IN THE CITY OF MILFORD IS IN ACCORDANCE WITH 15 Del. C. §§ 7570–7585. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~9.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

9.03- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING MACHINES FOR MAYOR AND CITY COUNCIL ELECTIONS. THE CITY OF MILFORD SHALL CONDUCT ALL ELECTIONS FOR LOCAL OFFICE USING VOTING MACHINES THAT THE DEPARTMENT OF ELECTION OF THE STATE OF DELAWARE PROVIDES.

(B) NAMES ON BALLOTS. THE DEPARTMENT OF ELECTIONS SHALL PREPARE THE VOTING MACHINES FOR THE ELECTION OF MEMBERS OF A MUNICIPAL GOVERNMENT BY LISTING THE NAMES OF ALL CERTIFIED CANDIDATES SUBMITTED BY THE MUNICIPALITY IN ALPHABETICAL ORDER BY LAST NAME WITHOUT POLITICAL PARTY OR OTHER DESIGNATION.

~~9.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~9.05=~~ **9.04**- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~9.06 - Voting Machines~~.

9.05- VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

THE COUNCIL MAY PROVIDE FOR THE USE OF MECHANICAL OR OTHER DEVICES FOR VOTING OR COUNTING THE VOTES NOT INCONSISTENT WITH LAW.

~~9.07=~~ ***9.06***- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January ***OF THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS*** ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

Article X. Taxation, Assessors And Assessment Of Taxes

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

The committee interpreted this to mean the assessment must be done at a minimum, every ten years.

10.02

It shall be the duty of the City Manager ~~each year~~ to ***INCLUDE SUPPLEMENTAL ASSESSMENTS PREPARED BY THE ASSESSOR(S) FOR THE PURPOSES OF ADDING PROPERTY NOT INCLUDED IN THE LAST ASSESSMENT OR INCREASING OR DECREASING THE ASSESSMENT VALUE OF PROPERTY WHICH WAS INCLUDED IN THE LAST GENERAL ASSESSMENT***. ~~prepare a scrap assessment which shall value and assess all~~

~~taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that ***A SUPPLEMENTAL ASSESSMENT IS MADE,*** ~~a scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ ***SUPPLEMENTAL*** assessment, shall constitute the assessment for the year.

10.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

10.04

The real property of the City Assessor(s) shall be assessed by the Council.

Mr. Baird explained that in this matter, mayor and council will simply review that assessment by reviewing comparables. If it appears to be out of line, another assessment would be performed by an outside assessor.

10.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ ***ADJUSTED*** by the ~~scrap~~ ***SUPPLEMENTAL*** assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

10.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

10.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

10.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

10.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

The next meeting will be scheduled following the election scheduled for April 25th. Chairman Spillane advised the review would continue with Section 10.10.

Councilman Spillane adjourned the Subcommittee Meeting at 12:02 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 4, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, June 4, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.
City Manager David Baird and City Clerk Terri Hudson

Chairman Spillane called the committee meeting to order at 10:06 a.m. to continue the final review process on the proposed amendments to the City of Milford Charter.

Review resumed with the following section:

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

MR. SPILLANE ASKED TO MAKE SURE THAT ANY CHURCHES RECEIVING A TAX EXEMPT STATUS ARE LEGALLY ENTITLED TO THAT BENEFIT PARTICULARLY THOSE USING STOREFRONT PROPERTIES. MR. BAIRD EXPLAINED THAT IS SPELLED OUT IN STATE LAW THOUGH THE PROPERTY OWNERS RENTING TO CHURCHES ARE REQUIRED TO PAY PROPERTY TAXES BECAUSE THEY ARE LEASING THE PROPERTY AS A BUSINESS.

10.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ (ADD) CITY CLERK, commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

MR. SPILLANE VERIFIED THAT LATE TAX BILLS ARE ACCESSED A LATE FEE. HE ALSO ASKED IF THE PROPERTY OWNERS ARE ASKED THE REASON THEY ARE PAYING LATE AND IF THE SAME PROPERTY OWNERS PAY LATE EVERY YEAR. MR. BAIRD ANSWERED THAT HISTORICALLY, IT IS THE SAME OWNERS WHO PAY LATE EACH YEAR. HOWEVER, THE MAYOR DOES NOT BELIEVE THERE IS A PROBLEM BECAUSE THE BUDGET REFLECTS PAYMENTS IN THE 90% RANGE SHORTLY FOLLOWING THE DUE DATE. MR. BROOKS ALSO POINTED OUT THE MAJORITY OF PROPERTY OWNERS HAVE PROPERTY TAXES INCLUDED IN THEIR MORTGAGE PAYMENT SO IT IS AUTOMATICALLY SENT BY THE MORTGAGE COMPANY.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed.

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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the

payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or

cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of

land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein. (p) The provisions of this Section 10.11, other than the provisions of subsection (b) of this Section 10.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 **Del. Laws**, c. 199, 3/25/08)

10.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

MR. BAIRD SAID THE TAX ASSESSOR SUGGESTED SOME LANGUAGE BE ADDED TO THE CHARTER AS IS CURRENTLY INCLUDED IN STATE CODE. HE EXPLAINED THAT IF THE CITY FOUND ADDITIONAL TAXES WERE OWED ON A PROPERTY, THEY ARE ONLY PERMITTED TO BILL THE CURRENT YEAR.

REFERENCES WERE MADE TO DELAWARE CODE, ARTICLE VIII, REVENUE AND TAXATION, CHAPTER 83, VALUATION AND ASSESSMENT OF PROPERTY.

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

MR. SPILLANE THEN REFERRED TO SECTION 13.04 OF THE CITY CHARTER:

HIS OPINION IS THE CITY CHARTER OVERRIDES STATE CODE. MR. SPILLANE FEELS THIS IS FURTHER CONFIRMED WHEN THE CHARTER BECOMES STATE LAW AFTER IT IS SIGNED BY THE GOVERNOR.

MR. SPILLANE RECOMMENDS THE CHARTER SPECIFICALLY STATE THAT PAST DUE TAXES CAN BE MADE RETROACTIVE AND THE CITY HAS THE LEGAL RIGHT TO COLLECT WHAT IS DUE FROM PREVIOUS YEARS.

MR. SPILLANE RECALLED VISITING THE SUSSEX COUNTY TAX OFFICE WHERE THEY INFORMED HIM THEY WERE ABLE TO COLLECT BACK TAXES FOR THREE YEARS. HE WOULD LIKE THAT INCLUDED IN MILFORD'S CHARTER.

MR. BROOKS BELIEVES WE SHOULD COMPLY WITH STATE LAW.

THE CITY MANAGER HAS A DIFFERENT INTERPRETATION AND DOES NOT BELIEVE THIS CHARTER SUPERCEDES STATE LAW. AS WAS DISCUSSED PREVIOUSLY, A LEGAL INTERPRETATION WILL BE OBTAINED FROM THE CITY SOLICITOR; ONCE HIS OPINION IS OBTAINED, IT WILL BE PRESENTED TO CITY COUNCIL.

10.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article XI. Borrowing Of Money And Issuance Of Bonds

THERE WAS ANOTHER DISCUSSION REGARDING THE POINT AT WHICH A SPECIAL ELECTION/REFERENDUM WAS NECESSARY FOR BORROWING MONEY. MR. BAIRD ASKED SPECIFICALLY WHY A SPECIAL ELECTION IS NEEDED. BEFORE CALLING FOR A PUBLIC REFERENDUM ON ALL BOND ISSUES, THE CITY MANAGER RECOMMENDS ADDING AN APPROPRIATE BOND CAP SO THE CITY CAN MORE EASILY MOVE FORWARD ON LARGE PROJECTS. MR. SPILLANE PREFERS ALLOWING THE PEOPLE TO DECIDE ON BOND ISSUES AND RECOMMENDS THE LANGUAGE REMAIN AS IS CURRENTLY STATED.

MAYOR SUGGESTED PLACING A CAP ON BORROWING TO ESTABLISH A POINT WHEN A REFERENDUM IS REQUIRED.

11.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon. All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

11.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for

the payment of, any of the following projects or purposes:

(1) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(2) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(3) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor;

(4) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefor;

(5) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

11.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner: The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(1) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(2) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(3) The manner in which it is proposed to be secured;

(4) The manner in which it is proposed that it shall be paid or funded, or both;

(5) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(6) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

11.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City.

At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "FOR THE PROPOSED BORROWING", and upon the other half of said ballot shall be printed the words, "AGAINST THE PROPOSED BORROWING", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be

entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

11.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable. The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefor.

MR. BAIRD REFERRED TO '*ONLY IN A PROPER CASE*' AND QUESTIONED THE DEFINITION OF A PROPER CASE. THE MAYOR SAID THAT REQUIRES A SPECIFIC AMOUNT TO BE IN THE ACCOUNT EVERY MONTH AND IT CANNOT BE TAKEN OUT; HOWEVER, HE FEELS THE LANGUAGE SHOULD BE LEFT AS IS CURRENTLY WRITTEN.

IT WAS CONSIDERED WHETHER THE WORD *SHALL* SHOULD BE CHANGED TO *MAY* THOUGH MR. BAIRD WILL FOLLOW UP WITH THE FINANCE DIRECTOR.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate

or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor.

11.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

11.07- Short Term Borrowing

ADD: ***NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, CITY COUNCIL MAY AUTHORIZE, BY RESOLUTION, SHORT TERM BORROWING BY THE CITY WITHOUT THE NECESSITY OF A SPECIAL ELECTION.***

The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

DISCUSSION CENTERED AROUND INTERIM BORROWING SUCH AS CONSTRUCTION BORROWING AND SHORT TERM CAPITAL PROJECT ANTICIPATIVE FUNDING.

THE CITY MANAGER FEELS THAT THE WORD 'ANTICIPATIVE' IS TOO RESTRICTIVE AND IT SHOULD BE STRICKEN. HE SAID IF WE HAD A PROJECT THAT WILL COST $1.5 MILLION, INSTEAD OF SPENDING RESERVES, CITY COUNCIL CAN SAY WE WILL PAY IT OFF IN FOUR YEARS. THIS WOULD ALLOW COUNCIL TO MAKE THAT DECISION WITHOUT A SPECIAL ELECTION. REMOVING 'ANTICIPATIVE' GIVES THE CITY MORE FLEXIBILITY IF NECESSARY. ANYTHING OVER $2.9 MILLION (TAX BILLING) WILL REQUIRE SPECIAL ELECTION.

Mr. Brooks left at this time**.**

Article XIA. Tax Increment Financing and Special Development Districts

11.A01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

11A.02 - Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code.

Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article XII. Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XIII. Transitional Provisions

13.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

13.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

13.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

AS DISCUSSED EARLIER, THE CITY SOLICITOR WILLARD WILL REVIEW THE FOLLOWING SECTION(S) FOR NEEDED CHANGES AND/OR ADDITIONS. HE WILL ALSO MAKE A DETERMINATION ON WHEN STATE LAW OVERRIDES OR SUPERCEDES THE CITY CHARTER:

13.04- State And Municipal Laws

In General. All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

13.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges

imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Section 2.Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

IT WAS DECIDED THAT A FINAL DRAFT OF THE ENTIRE CHARTER BE PREPARED AND PRESENTED TO COMMITTEE MEMBERS FOR THEIR REVIEW. THE FINAL DRAFT WILL ALSO BE PROVIDED TO THE CITY SOLICITOR FOR REVIEW AND INTERPRETATIONS AS NEEDED. THOSE ITEMS NEEDING A LEGAL OPINION WILL BE NOTED AS SUCH. UPON RECEIPT OF MR. WILLARD'S RECOMMENDATIONS, THE COMMITTEE WILL RECONVENE AND REVIEW THE DRAFT WITH HIS CHANGES BEFORE IT IS FORWARDED TO CITY COUNCIL.

DURING THE INDIVIDUAL REVIEW PROCESS, MR. SPILLANE ASKED THAT ANY QUESTIONS OR COMMENTS BE SENT TO HIM. THE CITY CLERK ALSO ASKED THAT SHE BE COPIED ON ALL RELATED CORRESPONDENCE.

THE FINAL DRAFT WILL BE PRESENTED TO COUNCIL DURING A SPECIAL MEETING TO EXCLUSIVELY ADDRESS THE CHARTER.

MR. BAIRD REMINDED MEMBERS THAT THE CHARTER AMENDMENT CANNOT BE INTRODUCED TO THE GENERAL ASSEMBLY UNTIL THEY GO BACK IN SESSION IN JANUARY.

THE NEXT COMMITTEE MEETING WAS THEN SCHEDULED FOR JULY 23, 2009 AT 10:00 A.M AT WHICH TIME MR. WILLARD'S RECOMMENDATIONS WILL BE INCORPORATED INTO THE DOCUMENT. ONCE THAT IS COMPLETE, THE SPECIAL WORKSHOP CAN BE SCHEDULED FOR CITY COUNCIL.

Board of Adjustment

MR. SPILLANE THEN REQUESTED THE BOARD OF ADJUSTMENT ORDINANCE BE REVIEWED AND A PROPOSED AMENDMENT PREPARED TO COINCIDE WITH TITLE 22 OF THE DELAWARE CODE. IT WAS AGREED THE BOARD'S COMPOSITION BE CHANGED FROM THE MAYOR, CITY SOLICITOR AND CITY MANAGER TO THREE TO FIVE RESIDENTS AS SPELLED OUT IN PARAGRAPH (D) AS FOLLOWS:

(d)(1) Anything heretofore in this section to the contrary notwithstanding, any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town. The mayor or chief executive officer of such city or town shall appoint such members of the board of adjustment, and all such appointments shall be confirmed by a majority vote of the elected members of the legislative

body.
(2) All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. The board of adjustment so selected shall elect from among their own number a chairperson and a secretary.

(3) Any member of the board of adjustment may be removed from office by the legislative body for cause after a hearing by a majority vote of all the elected members of the legislative body of such city or town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

With no further business at this time, Councilman Spillane adjourned the Subcommittee Meeting at 11:30 a.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 23, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, July 23, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.
City Manager David Baird and City Clerk Terri Hudson

Counsel: City Solicitor Timothy Willard

Chairman Michael Spillane called the meeting to order at 10:05 a.m. and deferred to the City Solicitor for an overview his proposed changes to the charter. City Solicitor willard said the goal is to get the document in bill form this fall. He plans to take the final draft and incorporate his edits and highlight anything substantive.

Mr. Willard will present to the general assembly a strikeout/bolded version in addition to a clean copy. He will have the document in bill-form by the end of August or the first meeting in September.

When discussing the steps remaining in the process, Mr. Willard reported there is no requirement for a public hearing adding it can be adopted by resolution. He explained it is not a matter for the voters, because the general assembly will have the final say. Mr. Spillane prefers having a public hearing so it can be given to the people for their input. He said when the final draft is prepared, he can present it to everybody.

Mr. Willard then recommended that even though charters normally do not have a table of contents, he suggests a table of contents be added that lists the articles. Also, he recommends the boundary maps be referenced by deed book and page in each county's Recorder of Deeds.

Mr. Spillane recommends that the boundaries be redistricted with the center of the city at city hall, clearly divided similar to a cross type situation. He referenced Ward I that contains streets with portions in one ward and the other portion in another. He is trying to simplify and clarify the ward boundaries.

Mr. Brooks recalled that during the last redistricting, former City Attorney James Fuqua provided several options based on population according to the most recent census at that time. Mr. Willard agrees that the wards have to based on equal numbers as best as possible. The city clerk then referred to the new language in Section 9.06 addressing this matter. Mr. Willard agrees a description of the wards can be identified now and a system developed for updating them. He emphasized the need to put the deed book and page number of the map recorded. Then, in 2010, a simple charter change can be done based on the population numbers received at that time.

ARTICLE I. INCORPORATION

1.01- INCORPORATION

The inhabitants of the City of Milford within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- TERRITORIAL LIMITS

1.02- MUNICIPAL CORPORATION CONTINUED; BOUNDARIES.

THE BOUNDARIES OF THE CITY OF MILFORD ARE HEREBY ESTABLISHED AND DECLARED AS RECORDED ON THE OFFICIAL MAP OF RECORD IN THE RECORDER OF DEEDS OFFICE FOR KENT COUNTY, OFFICE FOR SUSSEX COUNTY AND STATE OF DELAWARE AS PRESENTLY EXISTING AND AS HEREINAFTER AMENDED.

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing~~

~~with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of said City, and the said plot, when made and approved by said Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- WARDS NEEDS AMENDING---ADD NEW LANDS–BOUNDARIES EXTENDED—SOME SORT OF LANGUAGE IS NEEDED HERE:

The City of Milford shall initially be divided into four Wards:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary

of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City

Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

1.04- ANNEXATION

Mr. Willard explained that a property can be contiguous (coterminous) if a road separates the properties. He agrees the organization needs to be very clear when an owner is requesting an annexation and in the case of a hostile annexation. He will change that language and clarify public hearing, zoning issues and planning commission involvement.

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~ *THE CITY MAY, FROM TIME TO TIME, EXTEND ITS BOUNDARIES THROUGH THE PROCESS OF ANNEXATION IN ACCORDANCE WITH 22 Del. Code, CHAPTER 1, SECTION 101* and the following procedures ~~shall be lawful~~:

(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property. *THE PETITION PRESENTED TO THE CITY COUNCIL SHALL INCLUDE THE TAX PARCEL NUMBER(S), A DESCRIPTION OF THE TERRITORY REQUESTED TO BE ANNEXED IN ELECTRONIC FORMAT, A SEALED SURVEY, PRESENT AND REQUESTED ZONING AND THE REASONS FOR THE REQUESTED ANNEXATION.*

(b) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.~~ Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(c) *UPON FAVORABLE RECOMMENDATION BY THE COMMITTEE, THE CITY PLANNER SHALL COMPLY WITH THE PROVISIONS OF THE STATE OF DELAWARE BY COMPLETING A PLAN OF SERVICES WHICH OUTLINES THE CAPACITY OF THE CITY TO PROVIDE THE NEEDED SERVICES TO THE RESIDENTS IN THE ANNEXED AREA.*

(d) PREPARE ORDINANCE AND SCHEDULE PUBLIC HEARING FOR PLANNING COMMISSION TO ADDRESS ZONING CHANGE. SCHEDULE PUBLIC HEARING BEFORE CITY COUNCIL TO HEAR COMMENTS REGARDING POTENTIAL ANNEXATION AND CHANGE OF ZONE.

WHAT HAPPENS IF ZONING IS NOT APPROVED? CAN ANNEXATION PROCEED?

SHOULD WE ADDRESS THE ACCEPTANCE OF THE PLANNING OF SERVICES BEFORE ANNEXATION IS OFFICIALLY ANNEXED INTO CITY?

(e) The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. *IF THE RESOLUTION SHALL FAIL TO RECEIVE THE AFFIRMATIVE VOTE OF TWO-THIRDS (2/3) OF THE ELECTED MEMBERS OF THE CITY COUNCIL, THE TERRITORY PROPOSED TO BE ANNEXED SHALL NOT AGAIN BE CONSIDERED FOR ANNEXATION FOR A PERIOD OF SIX (6) MONTHS FROM THE DATE THAT THE RESOLUTION FAILED TO RECEIVE THE REQUIRED AFFIRMATIVE VOTE.*

(f) Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(g) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property.

(h) The Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor~~ *THE PETITION PRESENTED TO THE*

CITY COUNCIL SHALL INCLUDE THE TAX PARCEL NUMBER(S), A DESCRIPTION OF THE TERRITORY REQUESTED TO BE ANNEXED IN ELECTRONIC FORMAT, A SEALED SURVEY, PRESENT AND REQUESTED ZONING AND THE REASONS FOR THE REQUESTED ANNEXATION. THE MAYOR OF THE CITY OF MILFORD SHALL APPOINT A COMMITTEE COMPOSED OF NOT LESS THAN THREE (3) OF THE ELECTED MEMBERS OF THE CITY COUNCIL AND ONE MEMBER OF THE CITY PLANNING COMMISSION to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(i) *UPON FAVORABLE RECOMMENDATION BY THE COMMITTEE, THE CITY PLANNER SHALL COMPLY WITH THE PROVISIONS OF THE STATE OF DELAWARE BY COMPLETING A PLAN OF SERVICES WHICH OUTLINES THE CAPACITY OF THE CITY TO PROVIDE THE NEEDED SERVICES TO THE RESIDENTS IN THE ANNEXED AREA.*.

(j) PREPARE ORDINANCE AND SCHEDULE PUBLIC HEARING FOR PLANNING COMMISSION TO ADDRESS ZONING CHANGE. SCHEDULE PUBLIC HEARING BEFORE CITY COUNCIL TO HEAR COMMENTS REGARDING POTENTIAL CHANGE OF ZONE.

WHAT HAPPENS IF ZONING IS NOT APPROVED? CAN ANNEXATION PROCEED?

SHOULD WE ADDRESS THE ACCEPTANCE OF THE PLANNING OF SERVICES BEFORE ANNEXATION IS OFFICIALLY ANNEXED INTO CITY?

(k) A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months

from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed *AND REQUESTED ZONING* and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

(l) Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

(m) Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically

authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until ~~seven~~ *EIGHT* o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date

of the favorable Special Election.

Mr. Willard agreed that it may be more appropriate to wait until 2010 after the census has been completed to ensure the numbers are correct. The city clerk referred

Mr. Willard will review the following recommended language for addition to this section:

Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.04 of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure; that is, (1) the resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by this Charter, the resolution annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference; and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution adopted by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter.

ARTICLE II. POWERS OF THE CITY

2.01- POWERS OF THE CITY

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows: (a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity,

water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

(3) No contract shall be made by Council for any purpose, the contract price of which is in excess of Thirty Thousand

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk. (e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *IN ACCORDANCE WITH THE PROVISION OF SECTION 11 OF THIS CHARTER.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *RESOLUTION* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 2.01 and without complying with the competitive bidding

procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article XIA of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

2.02- CONSTRUCTION

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- INTERGOVERNMENTAL RELATIONS

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

2.04- NOTICE OF ACTION

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

ARTICLE III. STRUCTURE OF GOVERNMENT

3.01- FORM OF GOVERNMENT

The form of government established by this charter shall be known as the “council-manager” form.

3.02- COMPOSITION OF GOVERNMENT

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) councilmembers.

Whenever the word “mayor” is used, it shall refer solely to the mayor. Whenever the word “council” is used in this chapter, it shall refer to the eight (8) councilmembers.

3.03- QUALIFICATIONS FOR MAYOR AND CITY COUNCIL

Mr. Willard is changing below language to read citizen of the United States (remove State of Delaware) and a bonafide resident of the City of Milford for the previous year adding there is plenty of case law on what a resident is.

(a) No person shall be eligible for election as Mayor ~~or Council~~ unless they have been a resident of the *UNITED STATES OF AMERICA, THE* State of Delaware and the CITY *OF MILFORD AND HAVING CONTINUOUSLY RESIDED THEREIN OR IN AN AREA ANNEXED TO THE CITY FOR A PERIOD OF ONE YEAR PRECEDING THE DAY OF THE ELECTION* ~~thirty (30) days preceding the day of the election; and,~~ are over the age of ~~eighteen~~ *TWENTY-ONE* years prior to the day of the election, MAY NOT HAVE BEEN CONVICTED OF A FELONY AND *AND NOMINATED THEREFORE, AS HEREINAFTER PROVIDED.* ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(b) *NO PERSON SHALL BE ELIGIBLE FOR ELECTION AS CITY COUNCIL UNLESS THEY HAVE BEEN A RESIDENT OF THE UNITED STATES OF AMERICA, THE STATE OF DELAWARE AND THE WARD IN THE CITY FOR WHICH THEY ARE SEEKING ELECTION AND HAVING CONTINUOUSLY RESIDED THEREIN OR IN AN AREA ANNEXED TO THE CITY FOR A PERIOD OF ONE YEAR PRECEDING THE DAY OF THE ELECTION, ARE OVER THE AGE OF ~~EIGHTEEN~~ TWENTY-ONE YEARS PRIOR TO THE DAY OF THE ELECTION, MAY NOT HAVE BEEN CONVICTED OF A FELONY AND NOMINATED THEREFORE, AS HEREINAFTER PROVIDED.*

(c) THE MAYOR SHALL BE ELIGIBLE TO SERVE IN SUCH ELECTED OFFICE UNLESS HE/SHE DOES NOT CONTINUE TO BE A RESIDENT OF THE CITY DURING HIS/HER RESPECTIVE TERMS OF OFFICE NOR SHALL ANY MEMBER OF COUNCIL SHALL BE ELIGIBLE TO SERVE IN SUCH ELECTED OFFICE UNLESS THEY CONTINUE TO BE RESIDENTS OF THEIR WARD DURING THEIR RESPECTIVE TERMS OF OFFICE.

DO WE WANT TO ADDRESS A SITTING COUNCIL MEMBER RUNNING FOR MAYOR--

Mr. Willard said the charter is fine as is currently written because the constitution allows you to run for two offices though you are unable to hold two offices at once. Mr. Baird explained the question is whether a city council member, who is elected on the same cycle as the mayor, is able to run for both seats or would they have to declare if they are running for city council or for mayor. The problem is council members who are elected on the opposite years of the mayoral cycle, could run for mayor each cycle. The other question is if they run for mayor and city council and they

win the mayor's seat, how would the council vacancy be handled and would it be filled as is stated in this charter depending on the time frame.

Mr. Spillane believes a candidate should be able to run for both offices at the same time.

It was agreed the rules need to be spelled out to prevent having to deal with a potential situation in the future. Mr. Willard will add another paragraph (3.03) to address the three scenarios one of which would allow a candidate to simultaneously run for council and mayor.

ARTICLE IV. POWERS OF CITY COUNCIL

4.01- COMPOSITION, ELECTION, TERM OF OFFICE

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward.

Mr. Willard feels the below sentence is redundant and should be removed:

Only ~~qualified~~ *REGISTERED* voters of the City, *MEETING THE QUALIFICATIONS FOR MAYOR AND CITY COUNCIL AS OUTLINED IN SECTION 3.03*, shall be eligible to hold the office of Councilperson or Mayor. The Mayor and Councilpersons shall each serve for a term of two years.

ANNUAL ORGANIZATION MEETING

At ~~7:30~~ SEVEN o'clock p.m., on the *SECOND* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

Mr. Willard suggests putting this section in Article V under the Duties of the Mayor. The Mayor would make the appointments which are then confirmed by council. He noted that language added to Article 5 regarding committees.

RECOMMENDED :

COMMITTEES:

STANDING COMMITTEES. AT THE ANNUAL ORGANIZATIONAL MEETING EACH YEAR, COMMITTEES WILL BE ESTABLISHED AND MEMBERS AND CHAIRPERSONS APPOINTED BY THE MAYOR. THE MAYOR SHALL BE AN EX OFFICIO MEMBER OF EACH STANDING COMMITTEE.

SPECIAL COMMITTEES. THE MAYOR MAY, FROM TIME TO TIME, APPOINT SUCH SPECIAL COMMITTEES AS MAY DEEM ADVISABLE OR AS PROVIDED FOR BY MOTION AND OBJECT THEREOF TO PERFORM SUCH DUTIES AS MAY BE ASSIGNED TO THEM.

ALL COMMITTEE APPOINTMENTS SHALL BE SUBJECT TO COUNCIL APPROVAL UNLESS AS OTHERWISE PROVIDED IN THIS CHARTER.

IN THE EVENT OF THE RESIGNATION OR REMOVAL OF ANY MEMBER OF ANY COMMITTEE, THE MAYOR SHALL APPOINT HIS OR HER SUCCESSOR, WHO SHALL LIKEWISE BE CONFIRMED BY A MAJORITY VOTE OF THE MEMBERS OF THE COUNCIL.

4.02- COMPENSATION AND EXPENSES

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.03- GENERAL POWERS AND DUTIES

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

4.04- PROHIBITIONS

Mr. Spillane referenced a state law prohibiting a state elected official from becoming hired by the state for two years and recommends the charter be changed to concur. Not being familiar with the law, Mr. Willard will follow up with the Public Integrity Law and if that is the case, the prohibition will be changed to two years.

(a) HOLDING OTHER OFFICE. Except where authorized by law, no *MAYOR* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *THE OFFICE OF MAYOR* or Council,

and no former *MAYOR OR* Councilperson shall hold any compensated appointive City office or employment until one year after the expiration of the term for which he or she was elected to the Council.

(b) APPOINTMENTS AND REMOVALS. Neither the *MAYOR OR* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *MAYOR OR* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) INTERFERENCE WITH ADMINISTRATION. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *MAYOR OR* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *MAYOR OR* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES

(a) VACANCIES. ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1 THE OFFICE OF MAYOR SHALL BECOME VACANT UPON DEATH OR RESIGNATION, REMOVAL FROM OFFICE IN ANY MANNER AUTHORIZED BY LAW, OR CEASES TO BE A LAWFULLY REGISTERED VOTER OF THE CITY AND A RESIDENT OF THE CITY.

2 THE OFFICE OF A COUNCILPERSON SHALL BECOME VACANT UPON DEATH OR RESIGNATION, REMOVAL FROM OFFICE IN ANY MANNER AUTHORIZED BY LAW, OR CEASES TO BE A LAWFULLY REGISTERED VOTER OF THE CITY AND A RESIDENT OF THE WARD IN WHICH HE/SHE RESIDED AT THE TIME OF THE ELECTION.

4.05- VACANCIES, FORFEITURE OF OFFICE; FILLING OF VACANCIES

(b) FORFEITURE OF OFFICE. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

(c) FILLING OF VACANCIES. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy

for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- JUDGE OF QUALIFICATIONS

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.07- APPOINTMENT AND DUTIES OF CITY CLERK

The Council shall appoint an officer of the City who shall have the title of City Clerk. *THE CITY CLERK SHALL GIVE NOTICE OF COUNCIL MEETINGS TO ITS MEMBERS AND THE PUBLIC, MAINTAIN A PERMANENT RECORD OF ALL COUNCIL PROCEEDINGS AND DOCUMENTS, MANAGE THE CITY'S ELECTIONS, ACT AS THE CUSTODIAN OF THE CITY SEAL, AFFIXING IT TO ALL DOCUMENTS, RECORDS, CONTRACTS AND AGREEMENTS REQUIRING A SEAL AND ATTESTING TO SAME BY SIGNATURE AND PERFORM OTHER DUTIES AS ARE ASSIGNED TO HIM OR HER BY THIS CHARTER OR BY THE COUNCIL.* ~~keep the journal of its proceedings and perform such other duties as are assigned to him or her by this Charter or by this Council~~.

4.08- INVESTIGATIONS

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ $500.00, or by imprisonment for not more than ten (10) days, or both.

4.09- INDEPENDENT AUDIT

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ *ACCEPT* each annual audit.

4.10- PROCEDURE

Mr. Willard questioned why the Freedom of Information Act was referenced with regard to meetings. He hesitates referencing Delaware Code in the charter. He prefers 'be held in accordance with Delaware Code'. This allows the charter to be flexible and not need additional changes as a result of state law being amended.

(a) MEETINGS. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *SHALL* be held *IN COMPLIANCE WITH 29 Del. C. §10004 AND MAY BE* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *PERMITTED IN 29 Del. C. §10004,* ~~which would tend to defame or prejudice the character or reputation of any person~~, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.

(b) RULES AND JOURNAL. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) VOTING. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

THERE ARE STILL VARIED OPINIONS REGARDING THE NUMBER OF VOTES NEEDED FOR AN ACTION OF COUNCIL TO BE BINDING. IT WAS AGREED THAT COUNCIL WILL NEED TO MAKE THE FINAL DECISION AND WHETHER MAJORITY RULES OR A SPECIFIC NUMBER OF VOTES IS REQUIRED IN INSTANCES NOT CITED IN THE CHARTER.

Mr. Willard explained that the way this is currently written, anything being voted on other than adjournment or compelling someone to appear would need a vote of four councilperson. There were varied opinions on how to handle a three vote majority vote and whether the matter should be postponed until the following meeting or would it be considered denied, etc. Mayor Marabello suggested that should only five members be present, the matter could be postponed until more members are present to prevent this from occurring. Mr. Willard said the only way to reconsider a matter for new discussion and new vote is when someone on the prevailing side moves to reconsider.

The four vote rule was deferred for council action.

4.11- ACTION REQUIRING AN ORDINANCE

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(1) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(2) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(3) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(4) Grant, renew or extend a franchise;

(5) Regulate the rate charged for its services by a public utility;

(6) Authorize the borrowing of money;

(7) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(8) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.12- ORDINANCES IN GENERAL

(a) FORM. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…"

Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) PROCEDURE. An ordinance may be introduced by *THE MAYOR*, any member *OF CITY COUNCIL OR THE CITY MANAGER* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *THE MAYOR*, each Council Member and to the City Manager. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) EFFECTIVE DATE. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) "PUBLISH" DEFINED. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) A BRIEF SUMMARY OF THE ORDINANCE ~~, the ordinance or a brief summary thereof~~, and (2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.13- EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *8.09(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency

ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.14- CODES OF TECHNICAL REGULATIONS

The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(a) The requirements of Section ~~2.12~~ *4.12* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

Charter Review Committee Meeting Page 21 July 23, 2009

(b) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.15(a)*.

Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.15- AUTHENTICATION AND RECORDING; CODIFICATION PRINTING

(a) AUTHENTICATION AND RECORDING. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) CODIFICATION. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in

libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) PRINTING OF ORDINANCES AND RESOLUTIONS. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations

included in the Code.

ARTICLE V. POWERS AND DUTIES OF MAYOR

5.01- GENERAL POWERS

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *THE MAYOR MAY APPOINT SUCH COMMITTEES AS HE DEEMS NECESSARY FOR THE PROPER ADMINISTRATION OF THE CITY OR CITY COUNCIL MAY, BY RESOLUTION, AUTHORIZE THE MAYOR TO APPOINT CERTAIN COMMITTEES WHICH ARE DEEMED NECESSARY TO CARRY OUT THE PROVISIONS OF THIS AUTHORITY. STANDING COMMITTEES SHALL BE REVIEWED BY CITY COUNCIL.*

When asked if council wants to list the standing committees in the charter, there was a mixed reaction. It was pointed out that if those committees needed to be amended, it would have to go back through the general assembly. In Mr. Baird's opinion, there should be some flexibility.

Mr. Willard will look at the language regarding committees adding that the Mayor should have the ability to make those appointments which, if council wishes, would then be confirmed by council.

In regard to the selection of the chairman, it was agreed it is historically a decision of the mayor. Mr. Spillane prefers that once the committees are determined, those members select their chair. Mr. Willard said the mayor could make the recommendation for chair, then council would confirm the decision or allow them to chose their own, depending on the situation.

It was determined that in the past, the mayor has made the appointments and chair assignments.

Mr. Spillane recommends council make the final decision on handling the chairmanship.

The city manager directed the solicitor to provide two options--the mayor appoint the committee and chair appointments or the mayor appoint a committee and defer the chairmanship decision to the committee.

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor.

When discussing the below added language, Mr. Willard feels it could be done either way. He feels it may be disenfranchising because they are representing the people that voted to put them in a voting position to represent them.

Mr. Spillane pointed out that the Vice Mayor would not vote and referred to the four affirmative vote requirement.

Mr. Willard said it would need to written in the charter if it was not allowed, though he is concerned about disenfranchisement.

Mr. Spillane believes the citizens will understand that when they elect their councilperson, there is a chance they could serve as vice mayor which would prevent them from voting.

Mr. Willard will follow up with the former city solicitor for his opinion.

WHILE SERVING IN THE PLACE OF THE MAYOR, THE VICE MAYOR SHALL NOT BE PERMITTED TO VOTE AS A MEMBER OF CITY COUNCIL EXCEPT IN THE CASE OF A TIE.

Mr. Willard discussed the City Manager's suggestion to reorganize some of the sections.

ARTICLE VI. CITY MANAGER

6.01- APPOINTMENT; QUALIFICATIONS, COMPENSATION

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *THE CITY COUNCIL MAY ENTER INTO AN EMPLOYMENT CONTRACT WITH THE CITY MANAGER. AN EMPLOYMENT CONTRACT WITH A CITY MANAGER SHALL BE IN WRITING AND SHALL SPECIFY THE CONDITIONS OF EMPLOYMENT.*

6.02- REMOVAL The Council shall remove the Manager from office in accordance with the following procedures *AND THOSE CONDITIONS CONTAINED IN THE CITY MANAGER'S EMPLOYMENT CONTRACT:*

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(2) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- ACTING CITY MANAGER

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- POWERS AND DUTIES OF THE CITY MANAGER

The City Manager shall be the chief administrative officer of the City. He *OR SHE* shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He *OR SHE* shall have the following powers and duties:

(1) He *OR SHE* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *OR SHE* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(2) He *OR SHE* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(3) He *OR SHE* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(4) He *OR SHE* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(5) He *OR SHE* shall prepare and submit the annual budget and capital program to the Council.

(6) He *OR SHE* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(7) He *OR SHE* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(8) He *OR SHE* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(9) He *OR SHE* shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VII. ADMINISTRATIVE DEPARTMENTS

7.01- GENERAL PROVISIONS

The city manager questioned subparagraph A noting that he is unaware of anytime that council has actually created a department or agency and noted that new departments created in the past, may not be needed in the future. He explained that is always subject to change based on the operational needs of the city. Mr. Willard agreed that council has inherent power to do it through the budget process. However, it is the city manager's authority to administer the departments. Mr. Baird also feels that subparagraphs B reiterates what is covered in Section 6.04. It was agreed to remove A and B.

~~(a) CREATION OF DEPARTMENTS. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.~~

~~(b) DIRECTION BY MANAGER. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.~~

7.02- CITY SOLICITOR

AT THE ANNUAL ORGANIZATION MEETING, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

7.03- POLICE DEPARTMENT

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *THE TERMS OF HIS EMPLOYMENT SHALL BE CONTAINED IN AN EMPLOYMENT CONTRACT.*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *AND SHALL BE REMOVED FROM OFFICE IN ACCORDANCE WITH THE PROVISIONS OF THE DELAWARE CODE TITLE 11, CHAPTER 93 POLICE CHIEF DUE PROCESS AND* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a

written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- CITY HOLDING CELLS ~~CITY JAIL~~

The Council may ~~build and~~ maintain a ~~jail~~ *HOLDING CELL* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *TRANSPORT TO A DETENTION FACILITY*, hearing and trial or arraignment.

7.05- CITY ALDERMAN

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *OR SHE* shall be sworn or affirmed to

perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *OR SHE* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *OR SHE* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He *OR SHE* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be

punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mr. Willard confirmed that Mr. Portmann has reviewed the sections dealing with finance.

7.06- FINANCE DEPARTMENT

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to

subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city.

Mr. Willard questioned why the Freedom of Information Act was referenced. Mr. Brooks explained the language in the charter currently allows a councilperson to walk in the finance department anytime and request to see the books. The solicitor's concern are those exceptions that fall under FOIA; by inserting this language, it appears we are doing more than FOIA prohibits or allows and makes all financial documents available. He prefers letting state law prevail. He agrees that council can have access to records that are not always available to the general public.

Mr. Baird disagreed pointing out that certain documents must be protected. For example, neither he nor a member of city council are permitted to demand files of investigation. The same applies to investigatory matters that fall under the code official. Either could lead to civil or criminal penalties. Mr. Willard agrees there are legitimate reasons that a council person would not have free access to all documents. He will review this section and consider alternative language.

The books and accounts of the finance department *ARE CONSIDERED PUBLIC DOCUMENTS AND ACCESS SHALL BE UNDER THE GUIDANCE OF THE DELAWARE FREEDOM OF INFORMATION ACT*. ~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

It was decided that the Planning Commission and Board of Adjustment become a separate article because they are statute created. Mr. Baird asked if they need to be referenced in the charter. Mr. Willard prefers they remain in the charter if they are only one line sections. He feels the Comprehensive Plan should be included and Title 29 referenced.

7.07- PLANNING DEPARTMENT

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(1) To advise the City Manager on any matter affecting the physical development of the city;

(2) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(3) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(4) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(5) To review and make recommendations regarding proposed actions of the council in annexations;

(6) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(7) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

Mr. Baird said to establish the charter in accordance with state statute, the charter should allow some flexibility and referenced the law that permits not less than five nor more than nine members. Committee members agreed. The section will be changed accordingly.

7.08- CITY PLANNING COMMISSION

PURSUANT TO TITLE 22 DELAWARE CODE AND CHAPTER 57 OF THIS CODE, THERE IS HEREBY ESTABLISHED A PLANNING COMMISSION FOR THE CITY OF MILFORD. THE CITY PLANNING COMMISSION SHALL CONSIST OF NINE (9) MEMBERS RECOMMENDED BY THE MAYOR AND APPOINTED BY CITY COUNCIL.

~~There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide~~

~~necessary staff assistance~~.

7.09- COMPREHENSIVE PLAN

THE CITY OF MILFORD SHALL ADOPT AND MODIFY THEIR COMPREHENSIVE PLAN IN ACCORDANCE WITH TITLE 29, DELAWARE CODE.

~~(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.~~

~~(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.~~

~~(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

7.10- IMPLEMENTATION OF THE COMPREHENSIVE PLAN

IMPLEMENTATION OF THE COMPREHENSIVE PLAN SHALL CONFORM WITH TITLE 22 OF DELAWARE CODE.

~~(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.~~

~~(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.~~

~~(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon.~~

~~Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive~~

7.11- BOARD OF ADJUSTMENT

THERE SHALL BE A BOARD OF ADJUSTMENT PURSUANT TO THE PROVISIONS OF 22 DEL. C. CHAPTER 3, MUNICIPALITIES, OF THE DELAWARE CODE. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Mr. Willard will remove 7.12 stating it is not needed.

7.12- STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. ~~Chapter 7~~ as amended.

Article VII.

Mr. Baird will create a new article entitled appointed officials. In addition, a new article would be added for the police department. Mr. Willard will move the planning commission, comprehensive plan and board of adjustment into a separate article.

Mr. Willard asked that Mr. Portmann have input in the financial section of the charter. Being unfamiliar with this process, he has no comments on Article VIII.

Article VIII. Financial Procedures

8.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

8.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

8.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the

reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

8.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

8.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *AT THE TIME THE ANNUAL BUDGET IS SUBMITTED TO CITY COUNCIL AS DEFINED IN SECTION 8.02.* ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

8.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

8.08- Public Records

Copies of the budget and the capital program as adopted *FOR THE FISCAL YEAR* shall be public records and ~~shall be made~~ *ARE* available to the public *THROUGH THE FREEDOM OF INFORMATION (FOIA) PROCESS* ~~at suitable places~~ *AND THE CITY OF MILFORD WEBSITE* ~~in the City~~.

8.09- Amendments After Adoption

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *EXERCISE SHORT TERM BORROWING AUTHORITY AS PROVIDED IN SECTION 11.07 OF THIS CHARTER.* ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency~~

~~notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *BY MAJORITY VOTE* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

8.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

8.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly

authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article IX. Nominations And Elections.

9.01- City Elections

(A) THE ANNUAL MUNICIPAL ELECTION SHALL BE HELD ON THE FOURTH SATURDAY IN THE MONTH OF APRIL BETWEEN THE HOURS OF TWELVE (12) NOON AND EIGHT (8:00) O'CLOCK IN THE EVENING AT SUCH PLACES AS SHALL BE DETERMINED BY THE COUNCIL, DUE NOTICE GIVEN AS REQUIRED IN 15 DEL. C. §7553.

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *ELECTORS* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this

information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *NATURAL PERSONS OWNING* ~~owns~~ property within the City of Milford *FOR AT LEAST THIRTY DAYS PRIOR TO THE REGISTRATION DEADLINE, BOTH OF WHOM ARE* ~~and who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP OR OTHER LEGALLY CREATED ENTITY, IS PROHIBITED FROM REGISTERING AND VOTING AS A NON-RESIDENT PROPERTY OWNER UNLESS TITLED IN AN INDIVIDUAL NAME.*

IT IS THE RESPONSIBILITY OF THOSE registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election.

(ADD) IN THE EVENT THAT A PERSON OWNS PROPERTY(S) IN THE CITY IN ADDITION TO THEIR PLACE OF RESIDENCY, HE OR SHE MAY VOTE ONLY WHERE HE OR SHE RESIDES.

(e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly.

~~, and~~ The person having the highest number of votes, for each office, shall be declared duly elected *IN ACCORDANCE WITH DELAWARE CODE*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(h) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *IN THE EVENT OF A TIE VOTE FOR ANY OFFICE, A SPECIAL ELECTION FOR SAID OFFICE(S) ONLY SHALL BE HELD WITHIN 30 DAYS AND THE REGISTRATION BOOKS SHALL REMAIN CLOSED UNTIL THE OUTCOME OF THE SPECIAL ELECTION IS DETERMINED.*

(i) Not less than ~~thirty (30)~~ *SIXTY (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *REGISTERED* ~~qualified~~ voters ~~resident~~ in the Ward *IN THE CITY OF MILFORD* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *REGISTERED* ~~qualified~~ voters ~~resident~~ in the City *OF MILFORD.*

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

Mr. Willard will follow up on this matter with Sussex County Department of Elections.

Recommended language be added:

Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event.

On issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

9.02- Absentee Ballot Procedures

ABSENTEE VOTING IN THE CITY OF MILFORD IS IN ACCORDANCE WITH DELAWARE CODE.. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~9.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

9.03- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING MACHINES FOR MAYOR AND CITY COUNCIL ELECTIONS. THE CITY OF MILFORD SHALL CONDUCT ALL ELECTIONS FOR LOCAL OFFICE USING VOTING MACHINES THAT THE DEPARTMENT OF ELECTION OF THE STATE OF DELAWARE PROVIDES.

(B) NAMES ON BALLOTS. THE DEPARTMENT OF ELECTIONS SHALL PREPARE THE VOTING MACHINES FOR THE ELECTION OF MEMBERS OF A MUNICIPAL GOVERNMENT BY LISTING THE NAMES OF ALL CERTIFIED CANDIDATES SUBMITTED BY THE MUNICIPALITY IN ALPHABETICAL ORDER BY LAST NAME WITHOUT POLITICAL PARTY OR OTHER DESIGNATION.

~~9.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~9.05-~~ *9.04*- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~9.06 - Voting Machines~~.

9.05- VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

THE COUNCIL MAY PROVIDE FOR THE USE OF MECHANICAL OR OTHER DEVICES FOR VOTING OR COUNTING THE VOTES NOT INCONSISTENT WITH LAW.

Mr. Willard will add language referencing the recording of the Ward Map with the Recorder of Deeds.

~~9.07-~~ *9.06*- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *OF THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *THE SUMMARY, INCLUDING BOTH THE MAP AND DESCRIPTIONS OF THE RECOMMENDED DISTRICTS, MUST BE PUBLISHED IN TWO NEWSPAPERS OF GENERAL CIRCULATION IN THE CITY OF MILFORD, NO LESS THAN ONE MONTH PRIOR TO ITS ADOPTION*. ~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede

previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

Article X. Taxation, Assessors And Assessment Of Taxes

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

10.02

It shall be the duty of the City Manager ~~each year~~ to *INCLUDE SUPPLEMENTAL ASSESSMENTS PREPARED BY THE ASSESSOR(S) FOR THE PURPOSES OF ADDING PROPERTY NOT INCLUDED IN THE LAST ASSESSMENT OR INCREASING OR DECREASING THE ASSESSMENT VALUE OF PROPERTY WHICH WAS INCLUDED IN THE LAST GENERAL ASSESSMENT*. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that *A SUPPLEMENTAL ASSESSMENT IS MADE,* a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *SUPPLEMENTAL* assessment, shall constitute the assessment for the year.

10.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

10.04

The real property of the City Assessor(s) shall be assessed by the Council.

10.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *ADJUSTED* by the ~~scrap~~ *SUPPLEMENTAL* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place

when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

10.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

10.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

10.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

10.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

10.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ *CITY CLERK*, commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed.

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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the

tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the

City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and

either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the

proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 10.11, other than the provisions of subsection (b) of this Section 10.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

10.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

THE TAX ASSESSOR HAD SUGGESTED SOME LANGUAGE BE ADDED TO THE CHARTER AS IS CURRENTLY INCLUDED IN STATE CODE AND IN PARTICULAR, TAXES OWNED ON A PROPERTY COULD ONLY BE BILLED THE CURRENT YEAR. REFERENCES WERE MADE TO DELAWARE CODE, ARTICLE VIII, REVENUE AND TAXATION, CHAPTER 83, VALUATION AND ASSESSMENT OF PROPERTY:

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change

any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time.

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the city solicitor.

10.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article XI. Borrowing Of Money And Issuance Of Bonds

The city manager recommends adding an appropriate bond cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. The mayor suggested placing a cap on borrowing to establish a point when a referendum is required.

Council will make final determination.

11.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to

issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

11.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(1) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(2) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(3) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefor;

(4) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefor;

(5) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

11.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(1) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(2) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(3) The manner in which it is proposed to be secured;

(4) The manner in which it is proposed that it shall be paid or funded, or both;

(5) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(6) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

11.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "FOR THE PROPOSED BORROWING", and upon the other half of said ballot shall be printed the words, "AGAINST THE PROPOSED BORROWING", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

11.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it SHALL also provide a sinking fund therefor.

Mr. Willard feels the above language may be a bond counsel matter and asked the matter be followed up by the finance director. (SEE previous reference below).

He also recommends a limit on borrowing be added.

Mr. Baird referred to '*only in a proper case*' and questioned the definition of a proper case. The mayor explained that requires so much to be in the account every month and it cannot be taken out; however, he feels the language should remain. It was considered whether the word ***shall*** should be changed to ***may.***

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefor.

11.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

11.07- Short Term Borrowing

ADD: *NOTWITHSTANDING THE FOREGOING PROVISIONS OF THIS SECTION, CITY COUNCIL MAY AUTHORIZE, BY RESOLUTION, SHORT TERM BORROWING BY THE CITY WITHOUT THE NECESSITY OF A SPECIAL ELECTION*. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

It was confirmed that anything over 2.9 million (tax billing) will still require a special election. The term on any lesser amount can be no more than five years and would have to be approved by council and only for those specific purposes

described.

8.09- Amendments After Adoption

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may (ADD) EXERCISE SHORT TERM BORROWING AUTHORITY AS PROVIDED FOR IN SECTION 11.07 OF THIS CHARTER ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

A completely new article will be created to replace Article XIA.

Article XIA. Tax Increment Financing and Special Development Districts

11.A01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

11A.02 - Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code.

Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article XII. Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XIII. Transitional Provisions

Mr. Willard will further review the following (transitional) sections.

13.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

13.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

13.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

13.04- State And Municipal Laws

In General. All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

13.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Section 2.Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

Mr. Willard will make the revisions as previously noted. His goal is to clean up a copy of the charter which he will forward to the City Clerk.

The next meeting was scheduled for August 13th at 10:30 a.m.

The Committee Meeting was adjourned by Chairman Spillane at 11:41 a.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

#3 07/23/09

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 3, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, September 3, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.

City Manager David Baird and Administrative Assistant Christine Crouch

Counsel: City Solicitor Timothy Willard

Chairman Michael Spillane called the meeting to order at 9:10 a.m. and turned the meeting over to City Solicitor Willard to review a newly amended document with some proposed changes. He noted that the items in italics were the changes agreed to by the committee during the work over the past several months.

It was agreed that a couple of more meetings may be needed; the only major change left is to add a Table of Contents and reorganize Article IV as was discussed previously.

~~Strike~~ - Struck
***Italics* - New Committee**
Underline - Tim

Table of Contents (to be added).

ARTICLE I. INCORPORATION

1.01- Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book __ Page __), ~~Office~~ and for Sussex County (Book __ Page __) and State of Delaware as presently existing and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five~~

~~Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said~~ the City, and the ~~said~~ *survey and* plot, when made and approved by ~~said~~ *the* Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- *Wards*

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk:*

Mayor Marabello stated that the boundary description of the city was removed and questioned if the ward descriptions can be simplified in the process. City Solicitor Willard believes it is important and needs to be included in the charter to prevent any potential discrepancies.

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit

and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~

(a) The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures *shall apply*: ~~shall be lawful~~:

(1) ~~If a~~ All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, ~~shall~~ may request the City Council to annex that certain territory in which they own property. *The petition presented to the City Council shall include the tax parcel number(s) a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.*

(2) If the Planning Director deems the application complete, t~~T~~he Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. *The application shall also be referred to the planning commission for public hear and recommendation of the zoning district application for the property proposed for annexation.* ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.~~ Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford *and the Planning Commission shall submit its recommendation on the zoning designation*. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission* ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area.*~~ *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) Following the public hearing, t~~T~~he City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3)

of all the elected members of the City Council. *Prior to the resolution to annex is considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.*

(5) If the resolution shall receive a favorable vote for annexation, ~~Once the favorable vote for annexation shall have been case,~~ the City Council ~~of the City of Milford~~ shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property.

(1) The Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor~~ *The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.*

(2) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford *and shall refer the application to the Planning Commission for a public Hearing and recommendation of the proposed zoning designation.* Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. *and the Planning Commission shall submit its recommendation on the zoning designation* The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*~~*, the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area.*~~ *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) After the public hearing, ~~A resolution shall then be passed by~~ the City Council may propose~~ing to~~ *a Resolution* to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory.

a. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

b. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

c. The resolution shall contain a description of the territory proposed to be annexed *and requested zoning* and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be

printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

d. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

e. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

f. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

g. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

h. The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until ~~seven~~ *Eight* o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

i. Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory

considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

T~~.~~the resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement ~~and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by this Charter,~~ the resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.~~; and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party.~~

~~A~~n annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution or election adopted by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter.

In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

ARTICLE II. Powers of the City

2.01- Enumerated Powers ~~Powers of the City~~

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

Mayor Marabello asked why the word tenement was used and whether it could be replaced with real estate. City Solicitor Willard said the idea is it may be something lesser; the purpose of the paragraph is that the city has the power to acquire any interest in land whether it is a lease interest or life estate. He prefers the broader language because it protects the city.

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

Councilman Spillane said that after reviewing this matter in other Delaware charters, he feels $30,000 is much higher in comparison as all other towns are lower. The city manager explained that is an amendment he proposed that was adopted within the last two years.

Mr. Spillane is requesting that matter be brought before city council again for reconsideration.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is ~~in excess~~ *less than* ~~of~~ Thirty Thousand ($30,000)

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of* ~~*Section 11*~~ Article XI *of this Charter*. ~~a sum or sums not exceeding in the aggregate of two times the previous year=s tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *resolution* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 2.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner

of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

2.02- Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

2.04- Notice of Action

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

ARTICLE III. Structure of Government

3.01- Form of Government

The form of government established by this charter shall be known as the “council-manager” form.

3.02- Composition of Government

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word “mayor” is used, it shall refer solely to the mayor. Whenever the word “council” is used in this chapter, it shall refer to the eight (8) council members.

3.03- Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor ~~or Council~~ unless they ~~have been~~ are a ~~resident~~ *citizen* of the United States of America~~, the *UNITED STATES OF AMERICA, THE* *a resident* State~~ of ~~*Delaware and*~~ the City of

Milford and having continuously resided therein ~~or in an area annexed to the City~~ for a period of one year preceding the day of the election ~~thirty (30) days preceding the day of the election; and,~~ are over the age of ~~eighteen~~ *Twenty-One* years prior to the day of the election, *may not have been convicted of a felony and is nominated therefore, as hereinafter provided*. ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(b) *No person shall be eligible for election as City Council unless they have been a bona fide resident of ~~the United States of America, the State of Delaware and~~ the Ward in the City of Milford for which they are seeking election and having continuously resided therein ~~or in an area annexed to the City~~ for a period of one year preceding the day of the election, are over the age of Twenty-One years prior to the day of the election, ~~may~~ have not ~~have~~ been convicted of a felony and is nominated therefore, as hereinafter provided.*

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective term~~s~~ of office nor shall any member of Council shall be eligible to serve in such elected office unless they continue to be resident~~s~~ of their ward during their respective terms of office.

Referencing the below added language regarding a councilperson running for the office of mayor, Mayor Marabello asked what would happen to the councilperson's seat that wins the mayoral election. Mr. Willard explained that council seat would then considered to be vacant and a special election held. Mr. Brooks asked what happens if the councilpersons' term expires at the same time the sitting mayor's term expires. Mr. Willard said that will need to be clarified by adding another sentence.

(d) If a council~~man~~member files and runs for mayor, ~~whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor=to be determined by City Council.~~ and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

ARTICLE IV. ~~Powers of the City Council~~ Council Government

4.01- Composition, Election, term of Office

The mayor asked if the two-year terms should be extended; Mr. Brooks recalled a public hearing at the fire house several years ago when council was considering going to three year terms. He said the residents filled the fire hall and the overall consensus was to leave the two year terms as the charter currently reads.

No further action would be taken.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. ~~Only qualified *registered* voters of the City, *meeting the qualifications for Mayor and City Council as outlined in Section 3.03,* shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

Annual Organizational Meeting. At ~~7:30~~ *Seven* o'clock p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote, and elect a Vice-Mayor, who shall be a member of the Council.

Open for Discussion:

COMMITTEES:

Mr. Spillane questioned the proposed language allowing the mayor to appoint the chairpersons. He feels it is an advantage for the committee members to appoint their own chairperson. When asked, Mr. Brooks confirmed that in the past, the mayor made the appointments, including the chairs.

Mr. Willard said he will change the language as follows:

Standing Committees, at the annual organizational meeting each year, Committees will be established and members and Chairpersons appointed by the Mayor ADD though the Mayor may allow the standing committee to select their own chairpersons. The Mayor shall be an ex officio member of each standing Committee.

Mr. Baird stated that the mayor is elected to be the appoint person in whatever the city's agenda is. He feels the mayor should have the ability to put the people he feels are best qualified to see that agenda is addressed. The mayor then assigns the most competent person to that position. The composition of the committee is then subject to confirmation by council.

Mr. Willard said if the committee prefers council approve the mayor's appointments, it needs to be added. Mayor Marabello feels that becomes very cumbersome after awhile.

The city manager feels that the appointment of the committees is more operational and should be at the discretion of the mayor. However, the planning commission and board of adjustment are not standing committees. They should be appointments by the mayor subject to council confirmation.

Mayor Marabello agrees it should be left as is currently proposed.

Special Committees, the Mayor may, from time to time, appoint such Special Committees as may deem advisable or as provided for by motion and object thereof to perform such duties as may be assigned to them.

All Committee appointments shall be subject to Council approval unless as otherwise provided in this Charter.

In the event of the resignation or removal of any member of any Committee, the Mayor shall appoint his or her successor, who shall likewise be confirmed by a majority vote of the members of Council.

4.02- Compensation and Expenses

After a discussion regarding salaries and whether they should be addressed periodically, Mr. Brooks reiterated his feeling that it should remain as is and no increase considered. Mr. Spillane noted that council members are able to turn in personal expenses for computer supplies, mileage reimbursement, etc. and asked whether cell phone bills can be turned in. Mr. Baird said he considers that an expense and it would be reimbursable. He feels that can be addressed through a separate policy.

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.03- General Powers and Duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

4.04- Prohibitions

The committee discussed language being added to address elected officials leaving office earlier than the end of their term. Initially, the intent was to prohibit exiting council persons from holding city office or employment beginning two years after they left office regardless of the circumstances. However, it was agreed to leave it as it is currently written and the prohibition would still apply for two years after the regular expiration date regardless of how early they leave office.

(a) *Holding other office* except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former Councilperson shall hold any compensated appointive City office or employment until ~~one~~ *two (2)* year after the

expiration of the term for which he or she was elected to the *Office of Mayor* or Council *ADD even if the councilperson or mayor vacates their office prior to their term expiring.*

(b) *Appointments and removals*. Neither the *Mayor or* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor or* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor or* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies

(a*) Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1. *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City.*

2. *The Office of a councilperson shall become vacant upon death ~~or~~ resignation or, removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b*) Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

Referencing (C), Mayor Marabello asked if one year for an appointment is too long and asked for consideration of six months. Mr. Baird disagreed noting the process for a special election is extremely burdensome and the quickest route is an appointment. Mr. Willard added that any fair campaign would require sixty days. It was agreed to leave the section as is currently written.

(c) *Filing of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy

for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

PLACE Article VI City Manager

And 7.02, 03, 05, 08, 11 and 12 HERE?

4.07- Appointment and Duties of City Clerk

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings *and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature* and perform other duties as are assigned to him or her by this Charter or by the Council.

4.08- Investigations

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ ***$500.00***, or by imprisonment for not more than ten (10) days, or both.

4.09- Independent Audit

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year.

It was confirmed the accounting firm agreement can be renewed for another three years. Mr. Baird pointed out the auditor is not working for the city or the finance department, but is working independently or to dispute any discrepancies. The mayor noted that it takes longer than a year for an auditing firm to become familiar with the city's process.

Mr. Willard pointed out this also falls under professional services which allows complete discretion without being inundated with proposals or bids.

If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

4.10- Procedure

(a*) Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings ~~*shall*~~ *may* be held *in compliance with* ~~*29 Del. C. Section 10004*~~ *State law and may be* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted* ~~*in 29 Del. C. Section 10004,*~~ *by State Law* ~~which would tend to defame or prejudice the character or reputation of any person~~, ~~provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.~~

(b) *Rules and Journal*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) *Voting.* Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to

time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council.

The mayor confirmed the committee agreed that four affirmative votes were needed as stated below:

No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05(c)* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.11- Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.12- *Ordinances in General*

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by *the Mayor* any member *of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor,* each Council Member and to the City Manager. *An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date.* As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) *Effective Date*. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) *"Publish" Defined*. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) *A brief summary of the Ordinance* ~~, the ordinance or a brief summary thereof~~, and

(2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.13- *Emergency Ordinances*

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *8.09(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the

affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.14- Codes of Technical Regulation

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ *4.12* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.15(a)*.

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.15- *Authentication and Recording, Codification Printing*

(a) *Authentication and Recording*. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in

libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of Ordinances and Resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations

included in the Code.

ARTICLE V. Powers and Duties of Mayor

5.01- General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper Administration of the City or City Council may, by resolution, authorize the Mayor to appoint certain Committees which are deemed necessary to carry out the provisions of this authority. Standing Committees shall be reviewed by City Council.*

5.02 Vice Mayor

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor shall not be permitted to vote as a member of City Council except in the case of a tie.*

After a long discussion, it was agreed that when the Vice Mayor is acting as the presiding officer in the absence of the Mayor and there is a 3-3 tie vote, the Vice Mayor will be permitted to vote in order to obtain the fourth affirmative vote.

ARTICLE VI. City Manager

6.01- Appointment; Qualifications, Compensation

The Council 6.01- shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.*

6.02- Removal

The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract:*

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(c) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(d) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(e) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(f) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(g) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(h) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VII. Administrative Departments

The City Managed asked that departments under his direction–i.e., planning and finance, be removed from the charter. Mr. Willard suggests eliminating Article VII and placing the city solicitor, police department and city manager in Article IV or pare down Article IV and put the City Clerk in Article VII.

It was agreed that Article VI will be changed to City Administration and those officials appointed by council including the city manager, city clerk, solicitor and police chief be added. Article VII will then be combined with Article VI.

Mr. Baird confirmed that the changes being made are only those proposals agreed by the committee. Council will have the final decision.

Mr. Willard will reorganize Article IV, V and VI.

Mr. Baird reiterated that he does not feel the planning department should be included in the charter. Mr. Willard recommended that the planning commission be added to Article V because they are an appointed body. Mr. Brooks added that the Board of Adjustment should also be considered and questioned the Homeowners' Association Committee which is a committee of private residents. Mr. Baird disagrees that should not be included in the charter.

7.01- General Provisions

(a) *Creation of Departments*. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.

(b) *Direction by Manager*. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.

7.02- City Solicitor

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

7.03- Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the

City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of* ~~*the Delaware Code Title 11, Chapter 93 Police Chief Due Process*~~ *State law and* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- City Holding Cells ~~CITY JAIL~~

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

7.05- City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction

shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

7.06- Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. ~~The books and accounts of the finance department *are considered public documents and access shall be under the guidance of the Delaware Freedom of Information Act.* shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

7.07- Planning Department

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

7.08- City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford, the City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

~~There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance~~.

7.09- Comprehensive Plan

The City of Milford shall adopt and modify their Comprehensive Plan in accordance with Title 22, Delaware Code.

~~(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services.~~

~~(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment.~~

~~(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

~~*7.10- Implementation of the Comprehensive Plan*~~

~~***Implementation of the Comprehensive Plan shall conform with Title 22 of the Delaware Code.***~~

~~(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.~~

~~(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.~~

~~(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive~~

7.10 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and

procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

~~***7.12-STATE LAW***~~

~~The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.~~

Article VII. FOR DISCUSSION

City Manager Baird feels the title of Article VII should be changed (Administrative Departments 7.01 - 7.12 and includes General Provisions, City Solicitor, Police Department, City Jail, City Solicitor, Finance, Planning Department, City Planning Commission, Comprehensive Plan, Implementation of Comprehensive Plan and State Law). He recommends that one section cover all appointed officials—city manager, chief of police, city clerk, planning commission, board of adjustment, etc.

Recommendation: Make a new article entitled appointed officials and add all appointees. A separate subsection would be added for the Police Department.

It was agreed to take current Article VI (City Manager) and put in Article IV. Remove Sections 02, 03, 04, 05, 08, 11, 12 from Article VII and place under Article IV. Article VII will then deal exclusively with the departments the City Manager handles.

Mr. Baird feels that would clarify who falls under the jurisdiction of city council. Mr. Brooks stated and the committee agreed, the language needs to be made clearer regarding the departments that fall under the city manager and that the employees in the police department answer solely to the police chief.

Mr. Baird stated that by the next charter review meeting, he will have a proposal for the charter structure though nothing will change as far as management of departments and the employees under the city manager and the police chief.

Article VIII. Financial Procedures

8.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

8.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

8.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

8.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

8.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *at the time the annual budget is submitted to City Council as defined in Section 8.02*. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

8.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

8.08- Public Records

Copies of the budget and the capital program as adopted *for the fiscal year* shall be public records and ~~shall be made~~ *are* available to the public *through the Freedom of Information (FOIA) Process and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

8.09- Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 11.07 of this Charter*. ~~may by such emergency ordinance authorize the~~

~~issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *by majority vote* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

8.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

8.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as

possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article IX. Nominations And Elections.

9.01- City Elections

(a) *The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council* and in accordance with State law.*,* ~~*due notice given as required in 15 Del. C. Section 7553.*~~

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford prior *for at least thirty days to the registration deadline, both of whom are* an~~d who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless titled in an individual name.*

(d) It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election.
In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.

(e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(h) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

(i) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the Ward *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the City *of Milford*.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

9.*0*2- *Emergency election postponement; declaration.*

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

9.03- Absentee Ballot Procedures

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~9.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

9.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING (a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

~~9.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~9.05-~~ *9.05*- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~9.06 - Voting Machines~~.

9.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~9.07-~~ *9.07*- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two Newspapers of general circulation in the City of Milford, no less than one month prior to its adoption.* ~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

Article X. Taxation, Assessors And Assessment Of Taxes

10.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

10.02

It shall be the duty of the City Manager ~~each year~~ to *include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment.*. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that *A SUPPLEMENTAL ASSESSMENT IS MADE,* a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *supplemental* assessment, shall constitute the assessment for the year.

10.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

10.04

The real property of the City Assessor(s) shall be assessed by the Council.

10.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *adjusted* by the ~~scrap~~ *supplemental* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

10.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

10.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

10.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

10.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

10.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

10.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the

~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the

tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the
City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the

owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and

acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 10.11, other than the provisions of subsection (b) of this Section 10.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

10.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

TO DISCUSS

Mr. Baird reported the Tax Assessor had suggested some language be added to the Charter as is currently included in State Code. In particular, it would state that taxes owed on a property could only be billed for the current year. References were made to Delaware Code, Article VIII, revenue and taxation, Chapter 83, Valuation and Assessment of Property.

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time.

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the City Solicitor.

10.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article XI. Borrowing Of Money And Issuance Of Bonds

TO DISCUSS

The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required.

Council will make final determination.

11.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

11.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(b) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(c) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(d) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

11.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

11.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing"* and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing"*, and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

11.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in

part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it *shall* also provide a sinking fund therefore.

TO DISCUSS

Mr. Baird referred to "only in a proper case" and questioned the definition of a proper case. The Mayor said that requires so much to be in the account every month and it cannot be taken out; however, he feels the language should be left. It was considered whether the word shall should be changed to may through Mr. Baird will follow up with the Finance Director.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

11.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

11.07- Short Term Borrowing

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

TO DISCUSS

The City Manager feels that the word "anticipative" is too restrictive and this allows Council to make a decision without a Special Election. Removing "anticipative" gives the City more flexibility if necessary. Anything over $2.9 million (tax billing) will still require a Special Election.

8.09- Amendments After Adoption

Article XII. Tax Increment Financing and Special Development Districts

12.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

12.02 – *Non Recourse*

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article XIII. Separability

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XIV. Transitional Provisions

14.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be

abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

14.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

14.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

14.04- State And Municipal Laws

In General. All City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

To discuss

According to this language, it appears the Charter supersedes State Law in the case of a conflict. There were varied opinions through the Charter is approved by the General Assembly and actually becomes State Law. A legal interpretation will be obtained from the City Solicitor.

14.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XV. Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

City Solicitor Willard explained that final action by council on the charter change will be done by resolution. Though it is not required, a public hearing will be scheduled so that public comment can be taken. He will then present the changes to the general assembly.

Mayor Marabello recalled Mr. Willard's recommendation that a very detailed summary with the changes be provided as well.

It was agreed the last part of the charter will be reviewed at the next meeting with the intent to complete the draft.

The next meeting will be Monday, September 14, 2009 at 4:00 p.m.

Chairman Spillane adjourned the Charter Review meeting at 10:23 a.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 14, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, September 14, 2009.

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.

City Manager David Baird and Administrative Assistant Christine Crouch

Counsel: City Solicitor Timothy Willard

Chairman Spillane called the Charter Review Committee to order to review the latest amendments to the Charter as was proposed by the committee at the September 3, 2009. Solicitor Willard advised the main change at the previous meeting was to restructure the Articles as discussed.

Strike - Struck
***Italics* - New Committee**
Underline - Tim

Mr. Willard advised the following Table of Contents was added to give an overview to the reader of the organization. Page numbers will be added once the document is finalized.

He noted there are three less Articles with the majority of those sections eliminated and those sections reorganized under a new article.

Table of Contents

ARTICLE I. INCORPORATION

ARTICLE II. Powers of the City

ARTICLE III. ~~Structure of Government~~ Council Government

~~*ARTICLE IV. Powers of the City Council*~~

~~*ARTICLE V. Powers and Duties of Mayor*~~

ARTICLE IV. Structure of Government

~~ARTICLE VI. City Manger~~

~~ARTICLE V Administrative Departments~~

Article V~~I~~. Financial Procedures

Article ~~IX~~ VI. Nominations And Elections.

Article VII~~I~~. Taxation, Assessors And Assessment Of Taxes

Article VIII ~~IX~~. Borrowing Of Money And Issuance Of Bonds

Article IX ~~X~~. Tax Increment Financing and Special Development Districts

Article X~~I~~. Severance

Article XI~~I~~. Transitional Provisions

Article XII. .Repealer

ARTICLE I. INCORPORATION

1.01- Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book Page), ~~Office~~ and for Sussex County (Book Page) and State of Delaware as presently existing and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route~~

~~404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said~~ the City, and the ~~said~~ *survey and* plot, when made and approved by ~~said~~ *the* Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- *Wards*

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk*:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to

the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street. The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~

(a) The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures *shall apply*: ~~shall be lawful~~:

(1) ~~If a~~ All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, ~~shall~~ may request the City Council to annex that certain territory in which they own property. *The petition presented to the City Council shall include the tax parcel number(s) a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.*

*(2) If the Planning Director deems the application complete, t*The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. *The application shall also be referred to the planning commission for public hear and recommendation of the zoning district application for*

the property proposed for annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.~~ Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford *and the Planning Commission shall submit its recommendation on the zoning designation*. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) Following the public hearing, t~~T~~he City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. *Prior to the resolution to annex is considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.*

(5) If the resolution shall receive a favorable vote for annexation, ~~Once the favorable vote for annexation shall have been case~~, the City Council ~~of the City of Milford~~ shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time

shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property.

(1) The Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor~~ *The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.*

(2) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford *and shall refer the application to the Planning Commission for a public Hearing and recommendation of the proposed zoning designation.* Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. *and the Planning Commission shall submit its recommendation on the zoning designation* The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of*~~

~~*services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) After the public hearing, ~~A resolution shall then be passed by~~ the City Council may propose~~ing to~~ *a Resolution* to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory.

a. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

b. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

c. The resolution shall contain a description of the territory proposed to be annexed *and requested zoning* and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

d. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the

territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

e. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

f. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

g. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

h. The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until ~~seven~~ *Eight* o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

i. Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

T~~t~~he resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement ~~and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by this Charter,~~ the resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.; ~~and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party~~.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution or election adopted by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter.

In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

ARTICLE II. Powers of the City

2.01- Enumerated Powers ~~Powers of the City~~

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation

for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is in excess *less than* of Thirty Thousand ~~($30,000)~~

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of* ~~*Section 11*~~ Article XI *of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year=s tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant~~

~~to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *resolution* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 2.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

2.02- Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

2.03- Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

2.04- Notice of Action

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

2.05- Investigations

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ ***$500.00***, or by imprisonment for not more than ten (10) days, or both.

2.06 - Independent Audit

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

2.07 – Mayor - *General Powers*

Mr. Spillane again questioned whether the tie breaker required by the mayor, would only apply to a 4-4 vote (nothing less). He referenced the four vote requirement needed for an item to be approved:

Section 4.10 (c)

VOTING. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 2.05, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

Mr. Baird referenced the definition of council and mayor noting the mayor is not a member of council; therefore, the vote cannot be a 3-3 vote.

It was then agreed the same interpretation would also apply to the Vice Mayor when they become the presiding officer in a meeting.

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties

imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper Administration of the City or City Council may, by resolution, authorize the Mayor to appoint certain Committees which are deemed necessary to carry out the provisions of this authority. Standing Committees shall be reviewed by City Council.*

ARTICLE III ~~IV. Powers of the City Council~~ *Council Government*

3.01- *Composition of Government* (Moved from other section.)

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word "mayor" is used, it shall refer soley to the mayor. Whenever the word "council" is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. ~~Only qualified *registered* voters of the City, *meeting the qualifications for Mayor and City Council as outlined in Section 3.03*, shall be eligible to hold the office of Councilperson or Mayor~~ The Mayor and Councilpersons shall each serve for a term of two years.

Annual Organizational Meeting. At ~~7:30~~ *Seven* o'clock p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority ~~vote, and elect a Vice-Mayor, who shall be a member of the Council.~~

Vice Mayor - The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor shall not be permitted to vote as a member of City Council except in the case of a tie.*

It was suggested to remove the end of this sentence *(except in the case of a tie*) because a 4-4 tie vote would be impossible when the vice mayor becomes the presiding officer. Mr. Baird then asked why the vice mayor loses their vote when they become the presiding office; Mr. Brooks explained they then have all the powers and duties of the mayor which includes not being able to vote as he was instructed during his eighteen year tenure as vice mayor.

Mr. Willard suggested full council address this and make a determination.

~~REMOVE--Open for Discussion:~~

~~COMMITTEES:~~

~~*Standing Committees, at the annual organizational meeting each year, Committees will be established and members and Chairpersons appointed by the Mayor. The Mayor shall be an ex officer member of each standing Committee.*~~

~~*Special Committees, the Mayor may, from time to time, appoint such Special Committees as may deem advisable or as provided for by motion and object thereof to perform such duties as may be assigned to them.*~~

~~*All Committee appointments shall be subject to Council approval unless as otherwise provided in this Charter.*~~

~~*In the event of the resignation or removal of any member of any Committee, the Mayor shall appoint his or her successor, who shall likewise be confirmed by a majority vote of the members of Council.*~~

3.02- Compensation and Expenses

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

3.03- General Powers and Duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

3.04- Prohibitions

(a) *Holding other office* except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former

Councilperson shall hold any compensated appointive City office or employment until ~~one~~ *two (2)* year *Mayor or* after the expiration of the term for which he or she was elected to the Council.

(b) *Appointments and removals*. Neither the *Mayor or* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor or* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor or* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

3.05- Vacancies, Forfeiture of Office; Filling of Vacancies

(a*) Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1. *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City..*

2. *The Office of a councilperson shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b*) Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

Mayor Marabello questioned the unexpired term of one year and whether that applies to the date of election or the date of swearing and how this would impact a sitting councilperson running and being elected to the office of mayor. Mr. Willard suggested that after 'greater than one (1) year', the following language be added 'or the vacancy occurs due to a councilperson being sworn in as mayor'–SEE * below.

Mr. Baird disagreed asking committee members to consider what is involved in a special election. He explained that adequate time would be needed for persons to file and campaign. By that time, the special election would most likely occur in July or later. The solicitor noted the charter requires the election be held not sooner than twenty days nor later than thirty days. Mr. Baird is unsure that is realistic.

Mr. Willard said that if the councilperson vacated his seat upon being elected to mayor, there would not be a special election because it would be less than a year and an appointment could be made by council.

It was then decided that the following language be added 'shall by majority vote appoint a qualified person to fill the vacancy within 45 days of the vacancy if the vacancy occurs before six months of the election'. Mr. Baird preferred the language read 'shall by majority vote appoint a qualified person to fill the vacancy between six and twelve months of the term expiration and may appoint a qualified person if within six months of the term expiration of the vacating councilperson.....'

Item will continue to be discussed.

(c) *Filing of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year *, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

3.06- Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor ~~or Council~~ unless they ~~have been~~ are a ~~resident~~ *citizen* of the United States of America, ~~the *UNITED STATES OF AMERICA, THE*~~ *a resident* ~~State~~ of ~~*Delaware and*~~ the City of *Milford and having continuously resided therein* ~~*or in an area annexed to the City*~~ *for a period of one year preceding the day of the election* ~~thirty (30) days preceding the day of the election; and,~~ are over the age of ~~eighteen~~ *Twenty-One* years prior to the day of the election, *may not have been convicted of a felony and is nominated therefore, as hereinafter provided*. ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(b) *No person shall be eligible for election as City Council unless they have been a bona fide resident* ~~*of the United States of America, the State of Delaware and*~~ *the Ward in the City of Milford for which they are seeking election and having continuously resided therein* ~~*or in an area annexed to the City*~~ *for a period of one year preceding the day of the*

election, are over the age of Twenty-One years prior to the day of the election, ~~may~~ have not ~~have~~ been convicted of a felony and is nominated therefore, as hereinafter provided.

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective terms of office nor shall any member of Council shall be eligible to serve in such elected office unless they continue to be residents of their ward during their respective terms of office.

(d) If a council~~man~~member files and runs for mayor, ~~whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council~~. and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

3.07- Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

3.08 - Procedure

(a) *Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person~~,

(b) *Rules and Journal*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) *Voting*. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05(c)* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

3.09 - Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

3.10 - *Ordinances in General*

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by *the Mayor* any member *of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor*, each Council Member and to the City Manager. *An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date.* As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) *Effective Date*. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) *"Publish" Defined.* As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) *A brief summary of the Ordinance* ~~, the ordinance or a brief summary thereof~~, and

(2) the places where complete copies of it have been filed and the times when they are available for public inspection.

3.11 *- Emergency Ordinances*

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *8.09(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that

an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

3.12- Codes of Technical Regulation

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ *4.12* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.15(a)*.

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

3.13 *- Authentication and Recording, Codification Printing*

(a) *Authentication and Recording*. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially

as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of Ordinances and Resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE ~~III~~. IV Structure of Government

4.01 - Form of Government

City Solicitor Willard reiterated that a number of sections were removed with regard to various departments. Mr. Baird questioned the title of the article and asked if this was in the proper location. The solicitor asked if it should be titled Administration or Appointments and Administration. Mr. Baird feels that the article "Structure of Government" should appear earlier. The solicitor felt that the first Article should align with the city's organization—Council and Mayor. The lead section 'Form of Government' is questionable because he does not understand what that means. Mr. Baird feels it is important but can be further defined. Mr. Willard said that deals with the city managers relationship with city council; Mr. Baird agreed.

The form of government established by this charter shall be known as the "council-manager" form.

4.02 - City Manager - *Appointment; Qualifications, Compensation*

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.*

4.02- City Manager - *Removal*

The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract:*

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

4.03- Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

4.04- Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(D) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(E) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(F) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(G) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(H) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(I) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

ADD (J) He or she shall coordinate all efforts with the Chief of Police relating to the health, safety and welfare of the city.

~~***3.02- Composition of Government***~~

~~The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word "mayor" is used, it shall refer solely to the mayor. Whenever the word "council" is used in this chapter, it shall refer to the eight (8) council members.~~

~~***3.03- Qualification for Mayor and City Council***~~

~~*(a)* No person shall be eligible for election as Mayor or Council unless they have been a resident of the United States of America, the *UNITED STATES OF AMERICA, THE* State of *Delaware and* the City of *Milford and having continuously resided therein or in an area annexed to the City for a period of one year preceding the day of the election* thirty (30) days preceding the day of the election; and, are over the age of eighteen *Twenty-One* years prior to the day of the election, *may not have been convicted of a felony and nominated therefore, as hereinafter provided*. Neither the Mayor~~

~~or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office~~.

~~(b) No person shall be eligible for election as City Council unless they have been a resident of the United States of America, the State of Delaware and the Ward in the City for which they are seeking election and having continuously resided therein or in an area annexed to the City for a period of one year preceding the day of the election, are over the age of Twenty-One years prior to the day of the election, may not have been convicted of a felony and nominated therefore, as hereinafter provided.~~

~~(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective terms of office nor shall any member of Council shall be eligible to serve in such elected office unless they continue to be residents of their ward during their respective terms of office.~~

~~If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council.~~

Mr. Baird referred to his power and duties as city manager and asked the distinction between an employee and an appointive administrative officer:

He or she shall appoint and when he or she deems necessary, for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except or as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He or she shall may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

He questioned the appointment of the city clerk; Mr. Willard said in his opinion, council has authority over the clerk. Mr. Baird confirmed that he is unable to appoint or dismiss her/him when council makes the appointment. He feels the city manager should make that appointment. Mr. Brooks questioned the fairness of the clerk working for eight or nine people. He noted that council has authority over the police chief and city manager. Mr. Willard agreed that has worked well in Milford noting problems in other towns in relation to the city manager and police chief. He explained the city clerk is different than a normal city employee and is considered an official in the city who handles more unique matters. Mr. Baird feels a person in charge of an election should not be reporting to elected officials. The solicitor noted the clerk only handles the administrative side and Title 15 dictates the duties of the board of elections who is really in charge of the city's election.

Mr. Spillane believes council should continue to appoint the city clerk. He feels it is appropriate for her to work under them because the work she does directly affects them. In addition, she should be available to council for assistance because of the records and other documents she maintains.

Mr. Baird says it is difficult from a management perspective to structure the work flow and environment when council limits his span of control.

Mr. Willard asked if the city manager wants some additional language added; Mr. Baird feels the language could remain allowing the clerk to be appointed by council though they would be subject to the direction of the city manager acting on behalf of the council.

Mr. Spillane said if Mr. Baird wants this changed, it will need to be discussed with the entire council. Mr. Baird said he is going back to basic philosophy that an effective board has only one employee.

Mayor Marabello then asked if there is anything stating the police department has to coordinate with the city manager, Mr. Willard stated no, he believes Milford is very fortunate because there has been many scuffles between a city manager and police chief in other towns. He said he would not change it because it has worked all of these years.

Mr. Baird feels there are also drawbacks. He noted the budgetary issues go through the city manager's office and if the police department wants to be completely autonomous, then they should deal directly with city council for budgetary purposes and labor negotiations. He asked how the police department is integrated in the overall operations of the city.

Mr. Willard advised the charter requires the police to prepare their own budget and capital program. It is then submitted to the city manager. It is then placed into the overall city budget. He explained that all it says is they have to submit it to the city manager.

Mr. Baird referenced the city's emergency operations plan adopted the last couple of years. He said there is a lot of coordination needed between the police department, other city departments and outside agencies and asked how that comes into play. He said he doesn't have an interest in running the police department which is why there is a chief of police. He runs the department with his staff but wants to know how this gets integrated as part of an overall concept.

Mr. Spillane said that the chief has come before council on budgetary matters but also works with the city manager and the finance committee chairman. He feels the positions need to remain separate and under council. Mr. Baird again questioned the coordinating efforts and what goes on between the city departments. He said right now, the police department is out there on their own.

Mr. Spillane said the police department and city departments have always come together as a team. In such cases, Mr. Baird would have to work with the chief and the chief has to work with the city manager to form a team to get things done. Mr. Brooks agrees the city manager runs the city and the police chief runs the police department. Mr. Baird agrees that Chief Hudson is the chief of police and he has a job to do as police chief which falls under his realm. But he is looking at this from a coordinating effort city wide. He feels there are city wide initiatives that need to be put out there.

Mr. Willard confirmed that Mr. Baird wanted some language added after 'the chief shall administer the police department, prepare and submit a budget to city manager' that would state 'coordinate all efforts through the city manager relating to the health, safety and welfare of the city.' The solicitor emphasized it will not require the chief to answer to the city manager, but will only give him something to look toward. Mr. Brooks stated that the city manager does not want to run the police department; Mr. Baird indicated he had no interest in running the department.

Mr. Brooks recalled that when he was first elected, there was a city manager who was over the police chief and when Mr. Carmean was hired, he was removed from that position because it did not work and one of the reasons the city was unable to keep a police chief.
Mr. Willard referenced a similar situation in a nearby town that cost that town more than $150,000. Mr. Baird said in that situation, the city manager wanted to run the police department which he does not want to.

Mr. Baird feels he is looking at this from continuity of service and wants to provide an overall direction for the city. He said that in every community he has been involved with, the police chief has always reported to the manager even though

he was appointed by the council. He says city council will ultimately have the say on whether or not someone is chief of police or who they expect to run the police department. But he thinks this would be better from the coordination of city wide efforts and how the police are integrated into the city. Right now, he sees the police department not being integrated into the city structure. There is a division there and that division breaks some communication, backlogs and things of that nature though he thinks it has gotten better.

Mr. Brooks feels that if Mr. Baird feels there is a problem, he should talk the matter over with Chief Hudson. Mr. Baird said they have talked about it and the chief prefers it stay as it currently is. He again asked how the police department is integrated into city wide operations. He said that there are some situations with code enforcement where there may be a potential for criminal activity. He asked who is responsible for the overall implementation. The chief of police does not have any authority over the code enforcement nor does the city manager right now have any authority over the police department. He thinks there is a need for coordinating efforts.

Mr. Brooks said the code enforcement and police department have always worked well together and there has never been a problem. Mr. Baird said he is looking at if from a standpoint of overall organizational efficiency and reiterated that the best boards have one employee that reports to them. He feels that any action city council takes should be coming through only one person.

Mr. Baird asked the city solicitor to read the language he is proposing to be added. Mr. Willard said that in section 'd', under powers and duties, he will add the chief of police shall coordinate efforts with the city manager relating to the health and safety and welfare of the city. He feels it is soft language but is put in such way it is somewhat on the police chief. In this manner, should the city manager have a problem and is unable to get cooperation from the chief, he could go to the council and say that he will coordinate these efforts. The language will be added in brackets.

The mayor asked if in an emergency, such as a flooding situation, what kind of communication or planning does the city manager have with the police. Mr. Baird said there is a city wide emergency operations plan. However, it has not really been tested from a real emergency standpoint. However, the other day when we had the potential for flooding in the city, he received notice from the weather service and he notified the appropriate public works officials and let them know what was going on. He also notified the police department and gave them the same information. However, what they do with it is entirely up to them. He said the question is, if they choose not to proceed with it, how is that good or conversely, if the police department proceeds with something and the rest of the city chooses not to, how is that good.

Mr. Brooks recalled that back in 1994, when we had the ice storm, the headquarters was at the police department and he did not see the city manager. But he saw the police chief and many police officers, in addition to some city crews, who were out cutting trees, removing brush and dealing with downed electric lines. He said everything went extremely well.

Mr. Brooks added that during emergencies, the police department is the one that calls the electric or street crews. Mr. Baird said that in such cases, he is later briefed by those personnel because he knows they are able to handle those situations. Mr. Brooks feels the way it currently exists has always worked well. Mr. Spillane agrees it should be left as it currently is. Mr. Baird then asked the city manager that the proposed language be added under the city manager as well.

Mr. Baird said he and Chief Hudson work well together and he feels it is an improving relationship. But he thinks it would be better to make it clear the role of each position.

Mr. Spillane said that right now, the power is split between the two positions and no one has total control. He does not like total control under one person and prefers the two positions work as a team. He has worked in places where one person had total control and worked in places where the control was shared. He always felt it was better when the control was shared to prevent one individual from having too much power.

Mr. Willard indicated he will add the two sentences to those sections.

4.05 City Clerk - *Appointment and Duties*

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings *and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature* and perform other duties as are assigned to him or her by this Charter or by the Council.

4.06 - City Solicitor

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

4.07 - Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of State law and* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern,

but shall have no vote.

ADD (4) Coordinate all efforts with the city manager relating to the health, safety and welfare of the city

4.08 - City Holding Cells ~~CITY JAIL~~

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

4.09 - City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mr. Willard asked if council wants the finance department (4.10) to remain in the charter. He said this is different from the other sections, many of which are authorized by statute or if the charter should only address the traditional staff members appointed by council. He feels the heads of the finance department and planning department are appointed by the city manager so he is unsure if it is necessary. On the other hand, the tax assessor is also included in the charter.

It was decided those sections will remain for further discussion by council. Mr. Spillane prefers they be left in adding that council should have the right to eliminate what is not needed; Mr. Baird does not see the need noting it is spelled out in the city manager responsibilities that appropriate departments are established to address the needs of the city. The city manager is unsure why only two departments are included. Mr. Spillane feels those departments are spelled out because of their importance in the city.

Mr. Baird feels it is his job as the city manager to ensure the proper departments are set up depending on the needs of the city which change constantly. He does not feel the charter should address specific departments because they fall under his authority.

The mayor asked if it can be put somewhere else besides the charter. Mr. Willard does not feel it is appropriate for an ordinance. If Mr. Baird prefers, it can be covered through job descriptions. Council could require the city manager to establish and produce individual job descriptions should there be any questions. Council would then accept and officially adopt the job descriptions as part of the personnel ordinance, for example.

Mr. Baird said he is required to report financial matters to the city which he would obtain such information from the finance department. If council is not getting that information, then he would expect council to address that problem with him. However, in his opinion, establishing a department by charter is not the correct way to handle it.

It was agreed to present this matter to council for a final determination.

4.10 - Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor

or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. ~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

4.11 *- Planning Department*

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

4.11- City Planning Commission

Mr. Spillane suggests that instead of automatically appointing the same three people at the end of their three year term, new applicants should be considered and the sitting commissioners should re-apply. Mr. Brooks pointed out the number of newly appointed commissioners who resign before the end of their three-year term. In addition, there is a need for training and an advantage to having experienced commissioners in place.

Mr. Baird confirmed that the mayor would make the recommendations for appointment, then council would confirm them. It was agreed the language would remain as is currently written.

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford, the City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

4.12 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Mr. Willard will reference the areas that have been deleted and moved to another area.

~~4.13 - Investigations~~

~~The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than $100.00 $500.00, or by imprisonment for not more than ten (10) days, or both.~~

~~4.09- Independent Audit~~

~~The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council may shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and approve accept each annual audit.~~

~~4.10- Procedure~~

~~(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings shall be held in compliance with 29 Del. C. Section 10004 and may be on the call of the Mayor or of four or more members, whenever practicable, upon no less than twelve (12) hours' notice to each~~

~~member. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter permitted in 29 Del. C. Section 10004, which would tend to defame or prejudice the character or reputation of any person, provided that a general subject matter for consideration is expressed in the motion calling for such session and that final action thereon shall not be taken by the Council until the matter is placed on the agenda.~~

~~(b) Rules and Journal. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.~~

~~(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section 4.05(c) 2.05, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.~~

~~4.11- Action Requiring an Ordinance~~

~~The Council is hereby vested with the authority to enact ordinances or resolutions relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.~~

~~In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:~~

~~(a) Adopt or amend an administrative code; or establish, alter or abolish any City department, office or agency;~~

~~(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;~~

~~(c) Levy taxes, except as otherwise provided in Article V X with respect to the property tax levied by adoption of the budget;~~

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.12- Ordinances in General

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by the Mayor any member of City Council or the City Manager at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to the Mayor, each Council Member and to the City Manager. An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) "Publish" Defined. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) A brief summary of the Ordinance , the ordinance or a brief summary thereof, and

(2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.13- Emergency Ordinances

~~To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection 5.09(b) 8.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) 5.09(b) shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.~~

~~4.14- Codes of Technical Regulation~~

~~(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:~~

~~(b) The requirements of Section 2.12 4.12 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and~~

~~(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection 2.15(a) 4.15(a).~~

~~(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.~~

~~4.15- Authentication and Recording, Codification Printing~~

~~(a) Authentication and Recording. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.~~

~~(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.~~

~~(c) Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.~~

~~ARTICLE V. Powers and Duties of Mayor~~

~~5.01- General Powers~~

~~The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City.~~

Mr. Baird suggested the following language change:

The mayor may appoint such committees as he deems necessary for the proper administration of city council. He asked that 'City' be removed noting the city manager has been charged with the administration of the city.

Mr. Brooks feels the old way of having the mayor make the appointments and chairpersons worked well. The solicitor will re-word the section with simpler language.

~~*The Mayor may appoint such committees as he deems necessary for the proper Administration of the City or City Council may, by resolution, authorize the Mayor to appoint certain Committees which are deemed necessary to carry out the provisions of this authority. Standing Committees shall be reviewed by City Council.*~~

~~*5.02 Vice Mayor*~~

~~The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor shall not be permitted to vote as a member of City Council except in the case of a tie*.~~

~~**ARTICLE VI. City Manger**~~

~~*6.01- Appointment; Qualifications, Compensation*~~

~~The Council 6.01- shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.*~~

~~***6.02-** Removal*~~

~~The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract*.~~

~~(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.~~

~~(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.~~

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

6.03- Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

6.04- Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(c) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(d) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(e) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(f) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(g) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(h) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

ARTICLE VII. Administrative Departments

Mr. Willard reported that section 7.01 was removed because it appeared to be tedious. Mr. Spillane asked that change be highlighted and presented to council for their opinion and discussion. The solicitor noted that most of the sections were moved to Article IV.

7.01- General Provisions

(a) *Creation of Departments*. The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued, or unless this Charter specifically so provides, assigned to any other.

(b) *Direction by Manager*. All departments, offices and agencies under the direction and supervision of the Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of Council, the Manager may serve as the head of one of more such departments, offices or agencies or may appoint one person as the head of two or more of them.

7.02- City Solicitor

At the Annual organization meeting, the City Council shall select and appoint a City Solicitor for an indefinite term who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

7.03- Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

~~(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ; and The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.~~

~~(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.~~

~~(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of the Delaware Code Title 11, Chapter 93 Police Chief Due Process and* the following procedures:~~

~~(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.~~

~~(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.~~

~~(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public~~

~~hearing if he has requested one.~~

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

7.04- City Holding Cells CITY JAIL

The Council may build and maintain a jail *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

7.05- City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

7.06- Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers

and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. The books and accounts of the finance department *are considered public documents and access shall be under the guidance of the Delaware Freedom of Information Act*. shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe.

7.07- Planning Department

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

7.08- City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford, the City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

There shall be a City Planning Commission consisting of nine (9) members appointed by the Council. Appointed Planning Commission members shall serve two types of terms; five members will serve a three (3) year term and four members will serve a two (2) year term. Members of the Commission shall hold no other City office. The Commission may make

~~recommendations to the City Manager and the City Council on all matters affecting the physical development of the City, shall be consulted on the comprehensive plan and the implementation thereof as provided in Section 7.09 and 7.10, and shall exercise all other responsibilities as may be provided by law, including but not limited to the following:~~

~~(1) To advise the City Manager on any matter affecting the physical development of the City.~~

~~(2) To formulate and recommend to the City Manager a comprehensive plan and modifications thereof.~~

~~(3) To review and make recommendations regarding proposed Council action implementing the comprehensive plan.~~

~~(4) To advise the City building inspector in the exercise of its responsibilities and in connection therewith to provide necessary staff assistance.~~

~~*7.09- Comprehensive Plan*~~

Mr. Willard also removed the language dealing with the comprehensive plan because it is required by state statute.

~~*The City of Milford shall adopt and modify their Comprehensive Plan in accordance with Title 22, Delaware Code.*~~

~~(a) CONTENT. The Council shall adopt and modify the Comprehensive Plan setting forth in graphic and textual form policies to govern the future physical development of the City every five (5) years. Such plan may cover the entire City and all of its functions and services may consist of a combination of plans governing specific functions and services or specific geographic areas which together cover the entire City and all of its functions and services~~.

~~(b) ADOPTION. Upon receipt from the City Manager of a proposed comprehensive plan or proposed modification of the existing plan, the Council shall refer such proposal to the City Planning Commission, which shall within a time specified by the Council report its recommendations thereon. After receipt of the recommendations of the Planning Commission, the Council shall hold a public hearing on the proposed comprehensive plan or modification thereof and shall thereafter adopt it by resolution with or without amendment~~.

~~(c) EFFECT. The comprehensive plan shall serve as a guide to all future Council action concerning land use and development regulations, urban renewal programs and expenditures for capital improvements.~~

~~*7.10- Implementation of the Comprehensive Plan*~~

~~***Implementation of the Comprehensive Plan shall conform with Title 22 of the Delaware Code.***~~

~~(a) LAND USE AND DEVELOPMENT REGULATIONS. The Council shall by ordinance adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations~~.

(b) URBAN RENEWAL. The Council may by ordinance provide for redevelopment, rehabilitation, conservation and renewal programs for: (1) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (2) the achievement of the most appropriate use of land.

(c) COUNCIL ACTION. Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures of capital improvements, where such ordinance refers to a matter covered by the comprehensive plan, the Council shall refer the proposal to the City Planning Commission, which shall within a time specified by the Council and prior to the public hearing on the proposed ordinance report its recommendations thereon. Upon adopting any such ordinance, the Council shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event that the ordinance does not accord with the comprehensive PLAN, THE PLAN SHALL BE DEEMED TO BE AMENDED IN ACCORDANCE WITH SUCH FINDINGS AND REPORT.

7.10 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

7.12-STATE LAW

The action taken by the City shall at all times be consistent with 22. Del. C. Chapter 7 as amended.

Article VII.

City Manager Baird feels that the title of Article VII should be changed (Administrative Departments 7.01 - 7.12 and includes General Provisions, City Solicitor, Police Department, City Jail, City Solicitor, Finance, Planning Department, City Planning Commission, Comprehensive Plan, Implementation of Comprehensive Plan and State Law). He recommends that one section cover appointed officials—city manager, chief of police, city clerk, planning commission, board of adjustment, etc.

Recommendation: Make a new article titled appointed officials and place all appointees in the section. Another subsection would be added for the Police Department.

~~*It was agreed to take current Article VI (City Manager) and put in Article IV. Remove Sections 02, 03, 04, 05, 08, 11, 12 from Article VII and place under Article IV. Article VII will deal exclusively with the departments the City Manager handles.*~~

~~**Mr. Baird feels that would clarify who falls under the jurisdiction of city council. The consensus of the committee was the charter needs to be clear those departments that fall under the city manager and that the employees in the police department answer solely to the police chief.**~~

~~**Mr. Baird suggested that by the next charter review meeting, he will have a proposal for the charter structure though nothing will change as far as management of departments and employees of the city manager and the police chief.**~~

Article V. Financial Procedures

5.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

5.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

5.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

5.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including

debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

5.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *at the time the annual budget is submitted to City Council as defined in Section 8.02*. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

5.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

5.08- Public Records

Copies of the budget and the capital program as adopted *for the fiscal year* shall be public records and ~~shall be made~~ *are* available to the public *through the Freedom of Information (FOIA) Process and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

5.09- Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 11.07 of this Charter*. ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay,

indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *by majority vote* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

5.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

5.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of

payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

It was agreed that Article VI appears to be out of order and should be renumbered as an earlier article. The solicitor will change it to article II and renumber subsequent articles**.**

Article VI. Nominations and Elections.

6.01- City Elections

(a) *The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law. ~~,due notice given as required in 15 Del. C. Section 7553~~.*

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford prior *for at least thirty days to the registration deadline, both of whom are* and ~~who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless titled in an individual name.*

(d) It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election.

In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.

(e) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(f) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(g) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(h) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

(i) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the Ward *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than thirty (30) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the City *of Milford*.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

6.*02*- *Emergency election postponement; declaration.*

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

6.03- Absentee Ballot Procedures

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~6.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

6.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

~~6.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~6.05=~~ *6.05*- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~6.06 - Voting Machines~~.

6.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~6.07=~~ *6.07*- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and

its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two Newspapers of general circulation in the City of Milford, no less than one month prior to its adoption.* ~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

Article VII. Taxation, Assessors And Assessment Of Taxes

Mr. Spillane asked about tax exemptions and if they are done on an annual basis or if applicable properties remain exempt indefinitely. He also asked at what point council is notified to remove the exemption. Mr. Baird pointed out that only council can grant a tax exemption unless it is already exempt under state law. Mr. Spillane confirmed that if a tax exemption is given for one year, the following year council has the authority to change it. Mr. Baird agrees that council should not grant a blanket exemption, but instead recommends it be done for a fixed period of time.

7.01

Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02

It shall be the duty of the City Manager ~~each year~~ to *include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment.*. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that *A SUPPLEMENTAL ASSESSMENT IS MADE,* a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *supplemental* assessment, shall constitute the assessment for the year.

7.03

The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04

The real property of the City Assessor(s) shall be assessed by the Council.

7.05

The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *adjusted* by the ~~scrap~~ *supplemental* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.06

At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

7.07

The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

7.08

The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.09

The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.10

The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

7.11

(a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the

~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the

tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be

verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the
City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise

may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 7.11, other than the provisions of subsection (b) of this Section 7.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

10.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

When asked the purpose of the following recommendation, Mr. Baird explained it basically mirrors the state code which mirrors the county laws in regard to property assessments. Mr. Willard will create a new section entitled 'Notice of Increase in Assessment' or 'New Assessment' though he asked that the city manager assist by explaining what it means.

The Tax Assessor had suggested some language be added to the Charter as is currently included in State Code and in particular, taxes owned on a property could only be billed the current year. References were made to Delaware Code.

TO BE ADDED (and renumbered accordingly):

Article VIII, revenue and taxation, Chapter 83, Valuation and Assessment of Property.

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change

any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the City Solicitor.

7.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing Of Money And Issuance Of Bonds

The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will make final determination.

There was a question about whether a bond cap currently exists; Mr. Baird believes there may be a limit on the amount of taxes that could be collected but nothing is written on the amount of borrowing. His interpretation is that no referendum

is needed on short term borrowing if repayment occurs within a specific time as long as the total amount of debt does not exceed the annual tax revenues. Long term financing or anything over that amount would require a referendum.

Mr. Willard will leave these notes for a later discussion.

8.01

The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02

This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(b) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(c) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(d) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03

The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04

It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate

of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing"* and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing"*, and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05

The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable. The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it *shall* also provide a sinking fund therefore.

TO DISCUSS

Mr. Baird referred to "only in a proper case" and questioned the definition of a proper case. The Mayor said that requires so much to be in the account every month and it cannot be taken out; however, he feels the language should be left. It was considered whether the word <u>shall</u> should be changed to <u>may</u> through Mr. Baird will follow up with the Finance Director.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

8.07- Short Term Borrowing

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

TO DISCUSS

The City Manager feels that the word "anticipative" is too restrictive and this allows Council to make a decision without a Special Election. Removing "anticipative" gives the City more flexibility if necessary. Anything over $2.9 million (tax billing) will still require a Special Election.

Article IX. Tax Increment Financing and Special Development Districts

9.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 **–** *Non Recourse*

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article X. Severance

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions

11.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

According to this language, it appears the Charter supersedes State Law in the case of a conflict. There were varied opinions through the Charter is approved by the General Assembly and actually becomes State Law. A legal interpretation will be obtained from the City Solicitor.

Mr. Willard explained that though state law often supersedes state law, there are instances when it does not. The argument is a town charter must be approved by two-thirds of the general assembly. If a state law is approved by a simple majority, some argue the charter should take precedence. The other argument is that if a statute is adopted that affects all municipalities equally, they do not need a two-thirds vote.

He will provide a clearer answer adding he is unsure if the paragraph is accurate.

11.04- State And Municipal Laws

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

11.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

Mr. Baird asked that a clean copy be provided at this point. Mr. Spillane emphasized the need for council to see the changes that have been made. Mr. Willard agreed the need for strikeouts and italics to reflect the new and deleted language. He will save what has been agreed to in addition to creating a clean document.

The solicitor will provide a copy with the changes in case any legislator wants to see the specific changes. However, the bill itself, will be a clean copy.

When asked how this will be presented to city council, Mr. Spillane prefers scheduling a special meeting to address the charter changes with nothing else on the agenda.

The next Charter Review Meeting was scheduled for Wednesday, September 30, 2009 at 4:00 p.m. Mr. Spillane is hoping the draft will be ready to present to council following that meeting.

With no further business, the Charter Review Committee Meeting was adjourned by Chairman Spillane at 6:42 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 1, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Thursday, October 1, 2009 with the following persons in attendance:

Presiding: Chairman Michael Spillane

Committee Members: Mayor Daniel Marabello and Councilman Owen Brooks, Jr.

Staff: City Clerk Terri Hudson

Counsel: City Solicitor Timothy Willard

Chairman Michael Spillane called the meeting to order at 4:13 p.m. He followed with a brief review prior to the arrival of the city solicitor.

The City Solicitor arrived at 4:14 p.m.

Mr. Willard explained that once the review is complete, he will compare the charter to similar cities. He then reviewed the new articles that were added as well as those that have been renamed.

~~**Strike**~~ **- Struck**
Italics **- New Committee**
Underline - Tim

100109

MILFORD CHARTER

Table of Contents **Page**

Article I. **Incorporation, Territory and Annexation**

Article II. ***Nominations And Elections.***

Article III. ***Powers of the City – Council and Mayor***

Article IV. ***Council Government***

Article V. ***Administration and Appointees***

Article VI. **Financial Procedures**

Article VII. **Taxation, Assessors ad Assessment Of Taxes**

Article VIII. **Borrowing Of Money and Issuance Of Bonds**

Article IX. **Tax Increment Financing and Special Development Districts**

Article X. **Severance**

Article XI. **Transitional Provisions**

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01- Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book __ Page __), ~~Office~~ and for Sussex County (Book __ Page __) and State of Delaware as presently existing and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing~~

~~with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said~~ the City, and the ~~said~~ *survey and* plot, when made and approved by ~~said~~ *the* Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- *Wards*

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk*:

Mayor Marabello asked if the description of each ward should remain noting there have been many changes over the years; Mr. Willard said it will remain. When asked where the legal description could be found when the boundaries/wards change or if it should be included in the charter, Mr. Willard explained that annexations are always recorded in the Recorder of Deeds Office.

Mr. Willard stated that is one of the reasons he added language to section 1.02 that the boundaries of the city will be recorded on an official map of record in the Recorder of Deeds Office in the appropriate county. In addition, an official map will be kept by the city clerk.

Ms. Hudson noted that the current legal descriptions are the ones added at the time of the codification done in 1999. Mr. Willard said we do need an official description of each ward. However, he suggests some guidelines be added on how to add newly annexed land to a ward.

He will make a note that the ward descriptions be updated and another paragraph added before the annexation agreement section regarding ward placement. Constitutionally, each ward must as equal as possible. If one ward is a great deal larger than another and a newly annexed area can go in either, it should be added to the ward with the least number of residents.

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly

direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

Mayor Marabello then asked the following sentence be made a separate paragraph so that it stands out (as shown.)

The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~

(a) The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures *shall apply*: ~~shall be lawful~~:

(1) ~~If a~~ All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, ~~shall~~ may request the City Council to annex that certain territory in which they own property. *The petition presented to the City Council shall include the tax parcel number(s) a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.*

Mr. Spillane referred to the annexation section noting the importance of the pros and cons of annexations and its inclusion in the annexation committee report. He recommends it be emphasized because it has been left out in previous reports. Mr. Willard agrees noting it is a requirement in both the charter and state statute. He said the first requirement is the land be contiguous to the current city boundary. It is then sent to the committee who must address a number of other issues including the advantages and disadvantages of the annexation.

*(2) If the Planning Director deems the application complete, t*The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. *The application shall also be referred to the planning commission for public hear and recommendation of the zoning district application for the property proposed for annexation.* ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.~~ Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford *and the Planning Commission shall submit its recommendation on the zoning designation*. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) Following the public hearing, t~~T~~he City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. *Prior to the resolution to annex is considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.*

(5) If the resolution shall receive a favorable vote for annexation, ~~Once the favorable vote for annexation shall have been case~~, the City Council ~~of the City of Milford~~ shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for

annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property.

The mayor pointed out that paragraphs (1) and (2) have repetitive language. Mr. Willard will make the correction.

(1) The Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor~~ *The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.*

(2) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford *and shall refer the application to the Planning Commission for a public Hearing and recommendation of the proposed zoning designation.* Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. *and the Planning Commission shall submit its recommendation on the zoning designation* The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application*.

(4) After the public hearing, ~~A resolution shall then be passed~~ by the City Council may propos~~eing to~~ *a Resolution* to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory.

a. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

b. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

c. The resolution shall contain a description of the territory proposed to be annexed *and requested zoning* and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

d. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the

territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

e. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

f. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

g. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

h. The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until ~~seven~~ *Eight* o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

i. Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in

territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

T~~t~~he resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement ~~and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by this Charter~~, the resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.~~; and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party.~~

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution or election adopted by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter.

In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

Article II. Nominations and Elections.

2.01- City Elections

(a) *The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law.*, ~~*due notice given as required in 15 Del. C. Section 7553.*~~

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which~~

~~shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford prior *for at least thirty days to the registration deadline, both of whom are* an~~d who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless titled in an individual name.*

(e) It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election. *In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election,

which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(h) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(i) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the Ward *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ CHANGE TO ***sixty (60)*** days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the City *of Milford*.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

2.02- Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

2.03- Absentee Ballot Procedures

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law.. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~6.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING (a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

~~6.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~6.05-~~ *2.05*- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~6.06 - Voting Machines~~.

2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~6.07~~ *2.07*- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

There was a question whether redistricting should be done if the population in one ward is significantly higher than the others prior to the end of the ten year period. Mr. Willard advised the U.S. Supreme Court/Constitution has ruled that is not required.

There was a discussion about all council being at-large members. Mr. Willard advised the City of Lewes has all at-large members, though many cities have district or ward representation in addition to one of two at-large members. The problem with all at-large members is the possibility of heavy concentration of one area which results in unfair representation.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two Newspapers of general circulation in the City of Milford, no less than one month prior to its adoption.* ~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The

new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – Council and Mayor

3.01- Enumerated Powers ~~Powers of the City~~

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

Mr. Spillane asked that the $30,000 be readdressed by council because when comparing other charters, he has found most cities have a much lower number. He will bring back additional information for later review.

Mr. Willard believes $30,000 is reasonable when considering inflation.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is ~~in excess~~ *less than* ~~of~~ Thirty Thousand ($30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of* ~~*Section 11*~~ Article XI *of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year=s tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *resolution* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.02- Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03- Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

3.04- Notice of Action

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

3.05- Investigations

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ ***$500.00***, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

The solicitor believes the agenda should fall under the powers of the mayor similar to the Speaker of the House in the General Assembly or the President Pro Tempore. Though he/she could not exclude agenda items requested by council, this would allow him to set the agenda.

A long discussion followed about the manner in which an item should be added to the agenda. Mr. Brooks pointed out that the items on the agenda are posted in advance to inform the public what is being considered at the meeting.

Mr. Willard said the mayor needs some authority as the gatekeeper to prevent an overabundance of items being added. The purpose would be for the mayor to manage the agenda. He feels this would prevent council members from calling the clerk to have something added.

Mr. Spillane recommends that 'addition or removal of items' become the first item on each agenda which would allow last minute items, that are critical and need to be addressed, to be added. On the other hand, council would have the option to prevent something from being added. Following, council would approve the agenda.

Mr. Willard said that after the discussion, he is unsure if allowing the mayor to manage the agenda would do more harm than good though he will follow up with the city manager. He advised that any information he sends (via e-mails) to the city manager is always copied to the mayor and a decision is made between the two whether or not the item should be added to the agenda.

When questioned about Roberts Rules, the city clerk then read the following excerpts:

How an item is added to an agenda-

It is a duty of the secretary: "To prepare, prior to each meeting, an order of business for the use of the presiding officer, showing in their exact order, under the correct headings, all matters known in advance that are due to come up and—if applicable—the times for which they are set."

"For a proposed agenda to become the official agenda for a meeting, it must be adopted by the assembly at the outset of the meeting. At the time that an agenda is presented for adoption, it is in order for any member to move to amend the proposed agenda by adding any item which the member desires to add, or by proposing any other change. It is wrong to assume, as many do, that the president "sets the agenda." It is common for the president to prepare a proposed agenda, but that becomes binding only if it is adopted by the full assembly, perhaps after amendments as just described".

Mr. Willard agrees explaining that at a meeting, council members can act on the agenda items though there are notice requirements, therefore, substitutions are difficult. If the majority of council agree that an item added by the mayor should not have been added, they have the authority to correct the situation at that time.

Mr. Spillane suggests that be done at the beginning of each council meeting. Mr. Willard agreed but emphasized that under Delaware law, it must be noticed. Mr. Spillane agreed and recommended a cutoff of seven days. However, council would approve the agenda at which time any urgent matter could be brought before them even though they would still have the ability to act on it through a motion and vote.

Mr. Willard said that because communications is an item always on the agenda, additional items could always be discussed at that point. He suggests adding the item 'next agenda' at the bottom of the agenda and would provide an opportunity for council persons to request an item be considered. In that manner, everyone would be informed of any proposed items. He believes that would be a quick and efficient way to handle it. The mayor agrees but does not want the same items being rehashed, particularly if it is something currently being worked on.

It was decided by Mr. Willard to add a note under the Mayor's powers "Agenda" with a question mark to be later determined.

3.07 – Mayor - General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed

upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.*

The committee again addressed the matter of whether or not the Vice Mayor will be able to vote when acting as the Mayor in his/her absence. Mr. Spillane asked if the tie should be clarified as nothing less than a 4-4. Mr. Willard said no action is official without an affirmative vote of four. However, a quorum of council is five members.

Mr. Willard believes there should be some flexibility and does not recommend restricting council from taking action unless all members are in attendance. He asked if the mayor is presently able to break a 3-3 tie. Again, there were varied opinions on the matter. Mr. Willard feels if there is any ambiguity, it should be spelled out.

It was decided that council will make the final decision on the matter.

The mayor is concerned the charter will never be adopted if the committee continues to defer decisions by taking these issues to council for their determination. He noted the purpose of the committee is to filter such matters and provide a final recommendation to council.

Mr. Willard stated he will mark it in brackets for a later decision to be made by council.

Mayor Marabello pointed out that the election of the Vice Mayor at the annual organization meeting was omitted in error; in addition, the election requiring a majority vote of council was also left out. The solicitor will make those changes.

3.08 - Vice Mayor

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor* ***[shall/shall not]*** *be permitted to vote as a member of City Council* ***[except in the case of a tie]***.

3.09 - General Powers and Duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Article IV. Council Government – Composition, Qualifications, Vacancies and Procedure

4.01- Composition of Government

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word "mayor" is used, it shall refer soley to the mayor. Whenever the word "council" is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. ~~Only qualified *registered* voters of the City, *meeting the qualifications for Mayor and City Council as outlined in Section 3.03*, shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

4.02 ***Annual Organizational Meeting.***

At ~~7:30~~ *Seven* o'clock p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote of the entire Council.~~and elect a Vice-Mayor, who shall be a member of the Council~~.

4.03 - Compensation and Expenses

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.04- Prohibitions

(a) *Holding other office* except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former Councilperson shall hold any compensated appointive City office or employment until ~~one~~ *two (2)* year *Mayor or* after the expiration of the term for which he or she was elected to the Council.

(b) *Appointments and removals*. Neither the *Mayor or* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates

are empowered to appoint, but the *Mayor or* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor or* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies

(a*) Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1. *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation ~~or~~ removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City*..

2. *The Office of a councilperson shall become vacant upon death ~~or~~ resignation ~~or~~, removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b*) Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

Mr. Willard recalled vacancies being discussed at the last meeting. He explained that if a councilperson leaves with less than six months less, but more than three months, council has the responsibility to appoint someone to fill that seat. He noted there is no provision if the vacancy occurs within three months of the election adding the normal requirement is for the candidate to file within sixty days of the election. He further explained that if it is greater than six months, a special election should be held within twenty and thirty days following the date of the vacancy.

Mayor Marabello is concerned that if the seat is vacant for the three months prior to the election, that particular ward will not have their full representation during that period of time. Mr. Willard said that in that case, council could be given the option to appoint a replacement though it would not be mandatory.

The solicitor also pointed out that if council appoints someone, it could be an unfair advantage to that person's opponent in the upcoming election. Mr. Brooks pointed out it could also have the reverse effect.

Mr. Willard agreed to change the language to 'may appoint' to allow the option.

(c) *Filling of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is ~~one (1) year~~ *less than six (6) months but more than three (3) months*, the Council ~~may~~ *shall within 45 days of the vacancy occurring*, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected

at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than ~~one (1) year~~ *six (6) months*, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor ~~or Council~~ unless they ~~have been~~ are a ~~resident~~ *citizen* of the United States of America, ~~the *UNITED STATES OF AMERICA, THE*~~ *a resident* ~~State~~ of ~~*Delaware and*~~ the City of *Milford and having continuously resided therein* ~~*or in an area annexed to the City*~~ *for a period of one year preceding the day of the election* ~~thirty (30) days preceding the day of the election; and,~~ are over the age of ~~eighteen~~ *Twenty-One* years prior to the day of the election, *may not have been convicted of a felony and nominated therefore, as hereinafter provided.* ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(b*) No person shall be eligible for election as City Council unless they have been a bona fide resident* ~~*of the United States of America, the State of Delaware and*~~ *the Ward in the City of Milford for which they are seeking election and having continuously resided therein* ~~*or in an area annexed to the City*~~ *for a period of one year preceding the day of the election, are over the age of Twenty-One years prior to the day of the election,* ~~*may*~~ *have not* ~~*have*~~ *been convicted of a felony and is nominated therefore, as hereinafter provided.*

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective terms of office nor shall any member of Council shall be eligible to serve in such elected office unless they continue to be residents of their ward during their respective terms of office.

(d) If a council~~*man*~~*member files and runs for mayor,* ~~*whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council*~~*. and is elected before his or her Council term has expired,*

the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

4.07- Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.08 - Procedure

(a) *Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person~~,

(b) *Rules and Journal*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) *Voting*. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05(c)* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions (which includes actions taken upon motion) relating to any subject within the powers and functions of the City, or relating to the government of the City,

its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - *Ordinances in General*

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by *the Mayor* any member *of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor*, each Council Member and to the City Manager. *An ordinance shall be placed on the agenda for introduction*

and for adoption by title, the introduction and the adoption may not be on the same meeting date. As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) *Effective Date*. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) *"Publish" Defined*. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) *A brief summary of the Ordinance* ~~, the ordinance or a brief summary thereof~~, and

(2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.11 - Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *8.09(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ *4.12* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.15(a)*.

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing

(a) *Authentication and Recording*. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of Ordinances and Resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE V. Administration and Appointees

5.01 - Form of Government

The form of government established by this charter shall be known as the "council-manager" form.

5.02 - City Manager - *Appointment; Qualifications, Compensation*

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.*

The following section numbers will be corrected and renumbered accordingly.

5.03 - City Manager - Removal

The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract:*

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

5.05 - Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(c) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(d) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(e) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(f) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(g) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(h) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

~~[(i) He or she shall coordinate with the Chief of Police to protect the health, safety and welfare of the City.]~~

Mr. Willard said the only thing added what was suggested by the city manager at the last meeting paragraph (j):

Mr. Spillane feels that it appears to be taking powers away from the police chief and believes the city manager and police chief should be able to work issues out as has always been done in the past. He prefers it be left as is currently written. Mr. Brooks agrees the police chief handles police matters and the city manager handles the city side.

It was agreed to remove paragraph (j).

Mayor Marabello asked who the official registrar of the city is; the city clerk advised it is the city manager. The mayor asked if there is a conflict because the city clerk manages the city elections.

Mr. Willard explained it is not a conflict and asked who handles registrations. Ms. Hudson advised the city manager appoints city employees as assistant registrars who actually handle the registrations. However, the city clerk is the custodian of the permanent records which includes all election documents.

The solicitor will review though he believes the current language works.

5.06 - City Clerk - Appointment and Duties

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings *and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature* and perform other duties as are assigned to him or her by this Charter or by the Council.

5.07 - City Solicitor

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

5.08 - Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said

limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of State law and* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern,

but shall have no vote.

5.09 - City Holding Cells ~~*CITY JAIL*~~

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

5.10 - City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to

the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

5.11 - Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. ~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

5.12 - Planning Department

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

5.13 - City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford, the City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures

Mr. Willard advised he is unfamiliar with financial procedures and will have to defer many of these items to the finance director.

6.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

6.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

6.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

6.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require.

In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

6.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *at the time the annual budget is submitted to City Council as defined in Section 8.02*. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

6.08- Public Records

Copies of the budget and the capital program as adopted *for the fiscal year* shall be public records and ~~shall be made~~ *are* available to the public *through the Freedom of Information (FOIA) Process and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

6.09- Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 11.07 of this Charter*. ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay,

indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *by majority vote* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made

illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

The solicitor advised that most of the language dealing with financial matters is dictated by state statue. He will discuss the levy and collection of taxes with his partner, Jim Fuqua who is more familiar with the process.

Article VII. Taxation, Assessors And Assessment Of Taxes

7.01- Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02 - It shall be the duty of the City Manager ~~each year~~ to *include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment.*. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that *A SUPPLEMENTAL ASSESSMENT IS MADE*, a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *supplemental* assessment, shall constitute the assessment for the year.

7.03 - The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04 - The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *adjusted* by the ~~scrap~~ *supplemental* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.06 - At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal

to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

7.07 - The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

7.08 - The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.09 - The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.10 - The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.10 - The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

7.11 - (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in

banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the

tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon,

together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by

the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 7.11, other than the provisions of subsection (b) of this Section 7.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

7.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

Previous note: In reference to the Tax Assessor suggestions that some language be added (taxes owned on a property could only be billed the current year. References were made to Delaware Code, Article VIII, Revenue and Taxation, Chapter 83, Valuation and Assessment of Property).

Mr. Willard has talked to the city manager though nothing was finalized. In he meantime, he will follow up with the city manager and Tax Assessor John Darsney.

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time.

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an

increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the City Solicitor.

7.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing Of Money And Issuance Of Bonds

(Previous note: The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and the language remain as is currently stated. The Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will make final determination.)

Mr. Spillane asked Mr. Willard to clearly define those areas of the charter that have not been resolved. He does not want them overlooked in error during the review by council. Mr. Willard said that some of these issues may be removed once it is discussed with the city manager. Mr. Spillane requested that before anything is removed, those items be sent to the committee members for final review.

8.01 - The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of

currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(b) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(c) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(d) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03 - The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 - It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing"* and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing"*, and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes

being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05 - The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it *shall* also provide a sinking fund therefore.

(*Previous: Mr. Baird referred to "only in a proper case" and questioned the definition of a proper case. The Mayor said that requires so much to be in the account every month and it cannot be taken out; however, he feels the language should be left. It was considered whether the word <u>shall</u> should be changed to <u>may</u> through Mr. Baird will follow up with the Finance Director).*

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings

shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

8.07- Short Term Borrowing

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

(Previous:The City Manager feels that the word "anticipative" is too restrictive and this allows Council to make a decision without a Special Election. Removing "anticipative" gives the City more flexibility if necessary. Anything over $2.9 million (tax billing) will still require a Special Election.

Article IX. Tax Increment Financing and Special Development Districts

9.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 – *Non Recourse*

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article X. Severance

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions

11.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

11.04- State And Municipal Laws

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when

this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

(Previous: According to this language, it appears the Charter supersedes State Law in the case of a conflict. There were varied opinions through the Charter is approved by the General Assembly and actually becomes State Law. A legal interpretation will be obtained from the City Solicitor).

11.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. .Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be

deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

Chairman Spillane asked how close the committee feels we are to presenting the document to city council. He thinks it should be discussed in depth before a public hearing is scheduled. Mr. Willard prefers meeting one more time and removing as many of the unresolved issues as possible. In the meantime, he will meet with the city manager. Mr. Spillane asked that he be included in that meeting. Mr. Spillane asked that those items be reported at the next meeting.
It was agreed the document would be provided to council for review and a special meeting scheduled to solely address the charter. A clean copy, along with a copy of the strikeouts and additions, would be provided to council. Additionally, a summary of the changes will be created by Mr. Willard.

The committee meeting was scheduled for Tuesday, October 13, 2009 at 4:00 p.m.

With no further business, Mr. Spillane adjourned the Charter Review Committee at 5:48 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
October 13, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, October 13, 2009 with the following persons in attendance:

Presiding:	Chairman Michael Spillane
Committee:	Mayor Daniel Marabello and Councilman Owen Brooks, Jr.
	City Manager David Baird and City Clerk Terri Hudson
Council:	Jason Adkins
Counsel:	City Solicitor Timothy Willard

Chairman Michael Spillane called the meeting to order at 4:06 p.m. City Solicitor Willard advised that he still needs to compare the amendments to other municipal charters. Today, he is addressing the items put in brackets since the last meeting. The next step will be to schedule a meeting with city council at which time the entire draft will be reviewed. He will provide a very concise synopsis explaining the changes. In addition, a clean copy will be provided to council and a mark-up copy showing every change made from the old charter.

~~Strike~~ - Struck
***Italics* - New**
Committee
Underline -
Tim
101309

Table of Contents **Page**

Article I. **Incorporation, Territory and Annexation**

Article II. ***Nominations And Elections.***

Article III. ***Powers of the City – Council and Mayor***

Article IV. ***Council Government***

Article V. ***Administration and Appointees***

Article VI. **Financial Procedures**

Article VII. **Taxation, Assessors ad Assessment Of Taxes**

Article VIII. **Borrowing Of Money and Issuance Of Bonds**

Article IX. **Tax Increment Financing and Special Development Districts**

Article X. **Severance**

Article XI. **Transitional Provisions**

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01- Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book __ Page __), ~~Office~~ and for Sussex County (Book __ Page __) and State of Delaware as presently existing and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 1988; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence~~

~~continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid~~.

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said~~ the City, and the ~~said~~ *survey and* plot, when made and approved by ~~said~~ *the* Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

1.03- *Wards*

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk:*

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North

Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines

of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~

(a) The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures *shall apply*: ~~shall be lawful~~:

(1) ~~If a~~ All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, ~~shall~~ may request the City Council to annex that certain territory in which they own property. *The petition presented to the City Council shall include the tax parcel number(s) a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation*.

*(2) If the Planning Director deems the application complete, t*The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. *The application shall also be referred to the Planning Commission for public hearing and recommendation of the zoning district application for the property proposed for annexation.* ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation.~~ Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford *and the Planning Commission shall submit its recommendation on the zoning designation*. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) Following the public hearing, t~~T~~he City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. *Prior to the resolution to annex is considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed. If the Resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.*

(5) If the resolution shall receive a favorable vote for annexation, ~~Once the favorable vote for annexation shall have been case~~, the City Council ~~of the City of Milford~~ shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

(b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property.

(1) The Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. ~~The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the~~

~~Mayor~~ *The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan and the reasons for the requested annexation.*

(2) The Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford *and shall refer the application to the Planning Commission for a public Hearing and recommendation of the proposed zoning designation.* Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. *and the Planning Commission shall submit its recommendation on the zoning designation* The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) ~~*Upon favorable*~~ *Within 60 days of the recommendation by the Committee and the Planning Commission*, ~~*the city planner shall comply with the provisions of the State of Delaware by completing a plan of services which the needed services to the residents in the annexed area*~~. *City Council shall hold a public hearing to consider the annexation and zoning application.*

(4) After the public hearing, ~~A resolution shall then be passed~~ by the City Council may propos~~eing to~~ *a Resolution* to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory.

a. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council.

b. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for

annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

c. The resolution shall contain a description of the territory proposed to be annexed *and requested zoning* and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed.

d. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

e. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

f. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

g. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation

[ ] Against the proposed annexation

h. The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until ~~seven~~ *eight* o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

i. Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory

proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

T~~t~~he resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement ~~and shall state that copies of the Agreement are available upon request at the City Hall; (2) if the results of the election are favorable to the proposed annexation as provided by this Charter~~, the resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by

specific reference.~~; and the parties shall be bound to honor the provisions of such agreement unless released therefrom by the other party.~~

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to the resolution or election adopted by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

Mr. Willard recalled the question about how an annexed parcel is placed into a specific ward. He advised that two things must happen--the property must be zoned and a requirement will be added that a ward be designated. He noted that constitutionally, the new property boundary must be contiguous and adjoining the ward boundary it is being placed.

City Manager Baird referenced Section 1.04 which states the city must be divided into four wards and an official map be kept by the city clerk.

(d) Property shall be designated to a CONTIGUOUS Ward when annexed into the City pursuant to Section 1.03

(d) It was agreed (d) would be changed to:

Property shall be designated to a contiguous Ward when annexed into the City.

Mr. Baird feels that additional language 'in accordance with Section 1.03' be added to ensure it is placed into one of the established wards as noted above.

Article II. Nominations and Elections.

2.01- City Elections

(a) *The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law., ~~due notice given as required in 15 Del. C. Section 7553.~~*

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election~~.

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. At the last regular meeting preceding the annual election, the City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford prior *for at least thirty days to the registration deadline, both of whom are* an~~d who is~~ over the age of eighteen (18) years, shall be entitled to vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless titled in an individual name.*

(e) It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within thirty (30) days prior to the election which ward they will vote in on the day of the election. *In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of at least ten (10) days following said election.

(h) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

(i) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the Ward *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ sixty (60) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the City *of Milford*.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

2.02- Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

2.03- Absentee Ballot Procedures

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~6.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have~~

~~withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS

(A) VOTING

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

~~6.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~6.05=~~ *2.05*- Ballots For Ordinances And Charter Amendments

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~6.06 - Voting Machines~~.

2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS.

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~6.07=~~ *2.07*- Council Districts; Adjustment Of Districts

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two newspapers of general circulation in the City of Milford, no less than one month prior to its adoption* .~~if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may but is not required to establish five Wards instead of four, with two Councilmen to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – Council and Mayor

3.01- Enumerated Powers ~~***Powers of the City***~~

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is ~~in excess~~ *less than* ~~of~~ Thirty Thousand ($30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of* ~~*Section 11*~~ Article XI *of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly~~

~~authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *resolution* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.02- Construction

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03- Intergovernmental Relations

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

3.04- Notice of Action

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or

on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

3.05- Investigations

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ ***$500.00***, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

3.07 – Mayor - General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.* *{The Mayor shall manage the agenda. Council members may reuqest in writing to the Mayor that an item be placed on a future agenda under the Correspondence item. A majority of Council may determine whether or not the item should be placed on a future agenda.}*

Mr. Willard recalled this coming up in several conversations and though this is his recommendation, it can be left as is currently written. However, there is no language anywhere that addresses the agenda. He explained the traditional approach is the executive of the city has that right. He feels that everyone adding items to an agenda has the potential to get totally out of hand.

Mr. Baird agrees that if the majority of council wants something on the agenda, there needs to be a specific manner for which it can be done. He emphasized that council would have the final say of what goes on the agenda; Mr. Brooks asked when that would be done. Mr. Willard suggests that a correspondence item be added to each agenda. It provides a catch all and as the number of items increase, it can go to the mayor and be put in the correspondence record. He feels that everything is unable to be placed on the agenda. Mr. Spillane pointed out that the agenda of the Town of Milton allows additions and deletions to their agenda at the beginning of the meeting. The agenda is then approved by the majority of council.

Mr. Willard believes that by allowing this, it expedites the process and council has the decision of whether or not it is placed on the next agenda. In that manner, everyone has a fair chance of adding items to the agenda.

Mr. Brooks pointed out that the citizens need to know what is on the agenda beforehand in order to know whether or not to attend the meeting. Mr. Baird and Mr. Willard both agreed there would be no action other than adding it to the agenda which is not the public's prerogative. Mr. Brooks feels many of those items would be discussed for a long period of time only to come back for another long discussion at the following meeting. Mr. Willard explained that council could argue items for a long period of time but at some point, it is councils' job to do the business of the city which is to vote on the matter.

Mr. Adkins feels that by allowing this, it could become cumbersome. He has noticed a number of items are simply added to the agenda. He asked if this would only be allowed if there was a discrepancy or if someone could not get something on the agenda. Mr. Willard said it would not be mandatory because the mayor would have the ability to manage it.

Mr. Baird stated that in this manner, if a council person wanted something on the agenda, they would submit the request. The mayor would then make the decision whether or not it should be added. This would allow the council person to bring it to the body so that it could be discussed.

Mr. Willard explained the mayor would require that council person to do a memo so that it could be added beneath correspondence.

When asked at what point the correspondence would need to be submitted, Mr. Willard's recommendation is the memo follow the seven day requirement. Anything coming in after that would be added to the next packet. However, it does not remove the mayor as the gatekeeper but allows council that control. He emphasized the need for a correspondence item to be added to each agenda.

When questioned about the possibility of not following FOIA when a matter is not shown on the agenda, Mr. Willard feels FOIA is clear that council is unable to take action though it does not prevent having a correspondence section to address any memos or letters.

Mr. Willard will leave that item in brackets for further consideration.

3.08 - Vice Mayor

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor* ***[shall/shall not]*** *be permitted to vote as a member of City Council* ***[except in the case of a tie].***

3.09 - General Powers and Duties

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Articl IV. Council Government – Composition, Qualifications, Vacancies and Procedure

4.01- Composition of Government

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word "mayor" is used, it shall refer soley to the mayor. Whenever the word "council" is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward. ~~Only qualified~~ *registered* ~~voters of the City, *meeting the qualifications for Mayor and City Council as outlined in Section 3.03,* shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

4.02 Annual Organizational Meeting.

At ~~7:30~~ *Seven* o'clock p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. At said meeting, the Council shall organize by a majority vote of the entire Council. ~~and elect a Vice-Mayor, who shall be a member of the Council~~.

4.03 - Compensation and Expenses

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months.

Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.04- Prohibitions

(a) *Holding other office* except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former Councilperson shall hold any compensated appointive City office or employment until ~~one~~ *two (2)* year *Mayor or* after the expiration of the term for which he or she was elected to the Council.

(b) *Appointments and removals*. Neither the *Mayor or* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor or* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor or* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies

(a*) Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

1. *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation ~~or~~ removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City..*

2. *The Office of a councilperson shall become vacant upon death ~~or~~ resignation ~~or~~, removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b*) Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

The following item was again discussed in depth by committee members. Mr. Willard was under the impression another scenario needed to be added. It was determined that 'less than three months' should be clarified. Mr. Baird feels

that the seat should not be filled by appointment or election three months in advance of the election. Mayor Marabello asked for consideration that someone be appointed. In that manner, the wards would still have equal representation.

Mr. Adkins prefers not to see anyone appointed at three months. He feels that chances are, that person, or another person has already filed for the vacancy. He feels it would be unfair for that other person interested in running for that open seat. Mr. Brooks agreed that more than likely, that person has probably already filed.

Mr. Willard pointed out that the proposed language is silent to the 'less than three months' option and believes it should be expressed one way or another. It was agreed that if three months or less was left in a term, the seat would remain open.

Language will be added 'if a vacancy occurs on council and the remainder of the unexpired term is less than three months, the vacancy may only be filled in the upcoming general election'. The solicitor also suggested another sentence also be added addressing a vacancy occurring after the expiration of the sixty day filing deadline.

(c) *Filling of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is ~~one (1) year~~ *less than six (6) months but more than three (3) months*, the Council ~~may~~ *shall within 45 days of the vacancy occurring*, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than ~~one (1) year~~ *six (6) months*, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

4.06- Qualification for Mayor and City Council

(a) No person shall be eligible for election as Mayor ~~or Council~~ unless they ~~have been~~ are a ~~resident~~ *citizen* of the United States of America, ~~the UNITED STATES OF AMERICA, THE~~ *a resident* ~~State~~ of ~~Delaware and~~ the City of *Milford and having continuously resided therein* ~~or in an area annexed to the City~~ *for a period of one year preceding the day of the election* ~~thirty (30) days preceding the day of the election; and,~~ are over the age of ~~eighteen~~ *Twenty-One* years prior to the day of the election, *may not have been convicted of a felony and nominated therefore, as hereinafter provided*. ~~Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

Mr. Adkins questioned the residency change in the candidacy requirement from thirty days to one year. He prefers a requirement that the person be a resident of Milford for one year, but allow them to be a resident of the ward for

thirty days. Mr. Spillane pointed out that a nonresident with properties in multiple wards must declare which ward they will vote in at least thirty days prior to the election.

It was agreed that a person owning multiple properties could arbitrarily move to different wards depending on the person(s) running or even if there is a race in another ward. It was agreed to leave the language as is recommended.

In addition, 'resident of the United States of America' will be added back in.

(b) *No person shall be eligible for election as City Council unless they have been a bona fide resident of the United States of America, ~~the State of Delaware and~} and the Ward in the City of Milford for which they are seeking election and having continuously resided therein ~~or in an area annexed to the City~~ for a period of one year preceding the day of the election, are over the age of Twenty-One years prior to the day of the election, ~~may~~ have not ~~have~~ been convicted of a felony and is nominated therefore, as hereinafter provided.*

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective terms of office nor shall any member of Council shall be eligible to serve in such elected office unless they continue to be residents of their ward during their respective terms of office.

Mayor Marabello questioned whether a sitting councilperson should be allowed to run for mayor. Mr. Baird recalled the previous conversation that if they ran and were elected to the office of mayor, they would be required to vacate their council seat. A special election would then be required to fill the council seat.

The city manager pointed out that in such a case, anyone elected on an off year would get a free run at mayor. Those council members elected in the same cycle as the mayor, would always have to choose which of the two offices to apply for.

Mr. Willard said he will bracket it for further discussion at council and believes it may be unconstitutional to forbid it.

(d) If a council~~man~~member files and runs for mayor, ~~whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council~~. and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

4.07- Judge of Qualifications

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public

hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

4.08 - Procedure

(a) *Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person~~,

(b) *Rules and Journal*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) *Voting*. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05(c)* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance

The Council is hereby vested with the authority to enact ordinances or resolutions (which includes actions taken upon motion) relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - *Ordinances in General*

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by *the Mayor* any member *of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor*, each Council Member and to the City Manager. *An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date.* As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) *Effective Date*. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) *"Publish" Defined*. As used in this Section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) *A brief summary of the Ordinance* ~~, the ordinance or a brief summary thereof~~, and

(2) the places where complete copies of it have been filed and the times when they are available for public inspection.

4.11 - Emergency Ordinances

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *8.09(b)*. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance except one made pursuant to Subsection 8.09 (b) ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ *4.12* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.15(a)*.

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing

(a) *Authentication and Recording*. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of Ordinances and Resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

ARTICLE V. Administration and Appointees

5.01 - Form of Government

The form of government established by this charter shall be known as the “council-manager” form.

5.02 - City Manager - *Appointment; Qualifications, Compensation*

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The*

City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

5.03 - City Manager - Removal

The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract:*

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

5.05 - Powers and Duties of the City Manager

The City Manager shall be the chief administrative officer of the City. He or she shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He or she shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided

by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.

(c) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(d) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(e) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(f) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(g) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(h) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

~~[(i) He or she shall coordinate with the Chief of Police to protect the health, safety and welfare of the City.]~~

The mayor again brought up the possible conflict with the ordinance that states the city manager is the registrar; the charter states the city clerk manages the elections. Mr. Baird pointed out that does not mean the city clerk is assigned the duty of registrar. Ms. Hudson agreed noting the registrar has the ability to appoint assistant registrars.

Mr. Willard does not believe it is a problem.

5.06 - City Clerk - Appointment and Duties

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all council proceedings *and documents, manage the city's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature* and perform other duties as are assigned to him or her by this Charter or by the Council.

5.07 - City Solicitor

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

5.08 - Police Department

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall from time to time make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of State law and* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the

Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

5.09 - City Holding Cells ~~*CITY JAIL*~~

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

5.10 - City Alderman

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to

perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

5.11 - Finance Department

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either mayor

or city council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the city manager and council shall direct and which will keep the council, city manager and the public informed of the financial condition of the city. ~~shall be open at all times to inspection by the members of the council and the public under such regulations as the council may prescribe~~.

5.12 - Planning Department

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities, and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

5.13 - City Planning Commission

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford, the City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall by ordinance establish a Board of Adjustment and shall provide standards and

procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures

6.01- Fiscal Year

The Fiscal year of the City shall be set by the City Council.

6.02- Submission of Budget Date

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

6.03- Budget Message

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

6.04- Operating Budget

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

6.05- Capital Program

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *at the time the annual budget is submitted to City Council as defined in Section 8.02*. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action On Operating Budget

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

8.07- Council Action On Capital Program

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

6.08- Public Records

Copies of the budget and the capital program as adopted *for the fiscal year* shall be public records and ~~shall be made~~ *are* available to the public *through the Freedom of Information (FOIA) Process and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

6.09- Amendments After Adoption

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 11.07 of this Charter*. ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made~~.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

(d) Transfer Of Appropriations. At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *by majority vote* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no

appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse Of Appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration Of Budget

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He may revise such allotments during the year if he deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article VII. Taxation, Assessors And Assessment Of Taxes

7.01- Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

7.02 - It shall be the duty of the City Manager ~~each year~~ to *include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment.*. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment~~. In the year that *A SUPPLEMENTAL ASSESSMENT IS MADE,* a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *supplemental* assessment, shall constitute the assessment for the year.

7.03 - The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04 - The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *adjusted* by the ~~scrap~~ *supplemental* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.06 - At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

7.07 - The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City.

7.08 - The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits

of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.09 - The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.10 - The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.10 - The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two

(2) percent the assessed value of real property with improvements located in the City.

7.11 - (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case

of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

Mr. Willard explained this is an old law that outlines the tax lien procedure. It was agreed the monition method is a simpler and more modern way to handle this.

The solicitor asked if sections (e) through (p) are needed. He will follow up with his partner and former Milford Solicitor Jim Fuqua who has been more involved in cases of delinquent property taxes. Mr. Willard is aware state law allows municipalities the option of monition sales for municipal tax liens. He advised that presently, any liens on utility or tax bills disappear after three years. The only way to collect would be if the property was sold; then the fee could be collected at settlement.

The solicitor will provide additional information at a later date.

{Delete (e) - (p) State Law covers monition sales which is preferred method}.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with

the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of

the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by

reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 7.11, other than the provisions of subsection (b) of this Section 7.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

7.12- Real Estate Transfer Tax

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

Mr. Willard will follow up with Tax Assessor John Darsney on his recommended changes noted below:

(Previous note: The Tax Assessor had suggested some language be added to the Charter as is currently included in State Code and in particular, taxes owned on a property could only be billed the current year. References were made to Delaware Code, Article VIII, revenue and taxation, Chapter 83, Valuation and Assessment of Property.)

Notice of increase in assessment or new assessment.

Whenever a board of assessment or Department of Finance or Department of Land Use shall propose to alter or change any assessment by increasing the same, or make a new assessment other than a general or annual assessment, it shall, before such alteration, change or new assessment is made, give 10 days' notice in writing to the owner of the property affected thereby, and if such owner cannot be found within the county by reasonable inquiry, then to the person in possession of the property, or to the person in whose custody the same may be, or if it be land, and no one shall be in the apparent occupancy thereof, then such notice shall be posted on the land.

Each board of assessment of Department of Finance shall revise all valuations and assessments of assessable property in their counties, and lower or increase the assessments and valuations.

Each board of assessment or Department of Finance or Department of Land Use may correct errors in assessment lists at any time.

Revisions and corrections shall be subject to the notice requirements of this chapter when they result in an increased valuation.

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due

shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner.

Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the City Solicitor.

7.13- Assessment, Payment, And Collection Of Taxes For New Construction

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing Of Money And Issuance Of Bonds

(Previous Note: The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will make final determination.)

8.01 - The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(b) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(c) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(d) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03 - The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 - It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public

session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing"* and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing"*, and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of

the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05 - The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it *shall* also provide a sinking fund therefore.

Mr. Baird referred to "only in a proper case" and questioned the definition of a proper case. The Mayor said that requires so much to be in the account every month and it cannot be taken out; however, he feels the language should be left. It was considered whether the word <u>shall</u> should be changed to <u>may</u> through Mr. Baird will follow up with the Finance Director.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

8.07- Short Term Borrowing

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

The City Manager feels that the word "anticipative" is too restrictive and this allows Council to make a decision without a Special Election. Removing "anticipative" gives the City more flexibility if necessary. Anything over $2.9 million (tax billing) will still require a Special Election.

Article IX. Tax Increment Financing and Special Development Districts

9.01 - Tax Increment Financing and Special Development Districts

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 – *Non Recourse*

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property."

Article X. Severance

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions

11.01- Officers And Employees

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

11.04- State And Municipal Laws

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

According to this language, it appears the Charter supersedes State Law in the case of a conflict. There were varied opinions through the Charter is approved by the General Assembly and actually becomes State Law. A legal interpretation will be obtained from the City Solicitor.

11.05- Survival Of Powers And Validations Sections

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately

preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. .Repealer

This Act shall operate to amend, revise and consolidate "An Act to Reincorporate the City of Milford", being Chapter 156, Volume 61, Laws of Delaware, and the several amendments and supplements thereto. The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in anyway invalidate the remaining provisions of this Act.

When asked if Councilman Adkins had any questions or comments, he asked if there is a policy in place to address a council person who may get out of control and disrupt a meeting. Mr. Brooks replied the mayor controls the meeting and his gavel takes care of it. Mr. Adkins asked what happens if that does not stop it; Mr. Brooks said in that case, the police chief would call someone to remove the person. He also has the ability to direct the police chief to remove that person.

Mr. Willard agreed it is the mayor's responsibility to control the meeting. The city clerk added that Roberts Rules also addresses disruptive behavior by members and requires the presiding officer to call that member to order.

Mr. Adkins also informed the committee that at a recent SCAT meeting, he was talking to the Middletown Mayor who changed the borrowing requirements in their charter. He noted that though Milford had to go to referendum for the recent water projects, it is his opinion it was a no brainer because the city was able to make more money by leaving money in reserve accounts and borrowing at a lower interest rate. In such a case, it would speed up the process when a referendum is not required. He asked the committee to consider bumping up the maximum allowed to borrow before requiring a referendum.

Mr. Spillane believes that the people should decide whether or not the city should borrow the money. Though he agrees it takes more time, it does give them the opportunity to voice their opinion.

Mr. Adkins feels there should be a cap and the citizen still has a choice when they elect their council representative. He feels that in such cases, there is more benefit to the city by being able to move quickly. The current borrowing rate is less than 2.5% and we are receiving a much higher return on the money in the bank. In his opinion, the $3 million is too restricting. He feels that a referendum will be a hard sale right now unless the citizens were able to be educated properly.

When asked if there is a cap in place, the mayor believes it is two and a half times the previous year's assessed valuation.

Mr. Brooks feels there is another way to look at it. The money that was saved came from increased utility rates. Now we are considering borrowing more money and how that loan would be paid back. He said the issue is whether or not the water and sewer rates will again be raised. Mr. Spillane agreed with Mr. Brooks' concern adding that is the reason the citizens should have a vote in the matter.

Mr. Baird empasized that Mr. Adkins' point is the current borrowing scenario is the interest rates are low. The city is authorized to borrow up to $5 million. He explained that we assume there will be a debt service of $300,000 and we could borrow another $2.5 million at a lower interest rate to keep the debt service at $300,000 a year. In that case, the city manager said it would not impact rates.

Mr. Baird referred to Article VIII which states from a previous meeting:

(Previous Note: The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will

make final determination.)

The city manager advised that currently, we are permitted short term borrowing up to five years up to the annual tax bill. Therefore, the city is able to borrow up to $2.9 million that must be paid within a five year period (section 8.07). Anything more than that, or long term borrowing, is required to go to referendum.

Mr. Adkins agrees that if the rates need to be increased or there is any other major issue, it should go to referendum. However, he would like the flexibility to borrow the same money at the same costs at the higher rate.

Mr. Willard asked the committee to consider raising the short term and raising the amount of the annual tax billings and adding a bond cap.

Mr. Brooks left at this time.

Mr. Baird explained that currently, we are allowed $2.9 million which is the annual tax level. We can borrow short term for up to five years without a referendum. That can be done by an action of city council. Anything else requires a referendum.

Mr. Willard will follow up on some other charters to review their bond and referendum requirements.

When asked for any other comments, Mayor Marabello said the charter states that nonresident property owners are permitted to vote once. However, the code does not say that which creates a conflict.

The mayor asked the purpose of allowing nonresident property owners to vote. Mr. Willard said he is only aware of beach communities that allow it other than Milford. The city clerk believes there is a state law that prohibits removing the voting right of nonresidents if they are currently permitted. Mr. Baird pointed out that a number of people who live outside the city own city properties in each ward. Though they are required to declare the ward they will be voting in, they are able to hop from one ward to another depending on the candidates or issues in those wards. However, residents living in the city are restricted and do not have that ability.

It was confirmed that persons owning a property in their individual name are eligible to vote.

The mayor then read from Chapter 68-Elections which conflicts with the charter which permits property owners living outside the city to vote:

§ 68-2. Qualifications-A resident of the City of Milford, to qualify to register, shall be a citizen of the United States, shall have been a resident of the city for a period of 30 days prior to the date of election and shall be 18 years of age or older prior to the date of election.

Mr. Willard asked if nonresident property owners should be limited. The mayor agrees some limitations should be added to make it fair to both sides. He would not want the majority of voters to be people living outside of town. Mr. Adkins agrees that if a property has four owners living out of town, there is the potential of four votes.

The solicitor suggested that a property with multiple owners be restricted to one vote. When that tax parcel is purchased, one person would be registered to vote. If a person owns multiple parcels, they would only be entitled to one vote. The mayor said that would provide equal representation.

City Manager Baird left at this time.

After reading it, the solicitor states he does not like the way it is currently written and will propose new language. He recommends a protocol for nonresidents and what is required to vote.

Mr. Adkins suggests they also be required to register a specific property and not be permitted to switch wards. Mr. Spillane feels that is another issue that should be brought back before council for their input.

It was agreed the completely amended charter should be provided to council well in advance of the special meeting planned. In that manner, they will be prepared to discuss those items still unresolved.

The solicitor will coordinate with the city manager and city clerk to ensure he has covered all of those issues. He will need approximately one month to amend and update the document. In addition, the city clerk will complete the minutes so they can be distributed to council as well.

A special meeting will then be scheduled sometime in mid November to solely address the charter.

With no further business, Mr. Spillane adjourned the Charter Review Committee at 5:31 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Transcriber

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 1, 2009

A meeting of the Charter Review Committee was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, December 1, 2009 with the following persons in attendance:

Presiding:	Chairman Michael Spillane
Committee Members:	Mayor Daniel Marabello and Councilman Owen Brooks, Jr.
	City Manager David Baird and City Clerk Terri Hudson
Counsel:	City Solicitor Timothy Willard

Chairman Michael Spillane called the meeting to order at 4:15 p.m. and informed those present the city manager was running a few minutes late.

City Solicitor Willard then referenced the proposed bill that does not include the mark ups. On the mark up copy, he asked committee members to ensure there are no brackets items that need to be included nor any that were mistakenly omitted. Finally, a list of the subsequent changes/synopsis will need to be prepared which will reference the major changes.

He plans to have Senator Gary Simpson sponsor the bill.

Mr. Spillane then referenced the following section to confirm that a resident could vote at eighteen years of age, but needed to be twenty-one to run for mayor or council. Mr. Willard agreed that is correct. Ms. Hudson added the amended language is consistent with Delaware Code, Title 15, Chapter 75 that deals with municipal elections.

~~**Strike**~~ **- Struck**

Italics **- New Committee**
Underline - Tim

120109

1.04- Annexation

g. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

A discussion relating to the eligibility of a non-resident property owner followed. It was again confirmed that the property must be titled in an individual name and not a partnership, corporation, etc.

Mayor Marabello also asked if non-resident voters can be removed as eligible voters. His concern is eventually non-residents will become the majority in Milford elections.

Mr. Spillane then asked if a property owner with ten homes is able to vote ten times in an annexation referendum noting the language is not clear in the charter. Mr. Willard feels it is rare to have a hostile annexation that requires a special election. The charter currently permits any resident in the proposed area over 18 years of age to vote. If the person is a resident and a property owner, that person is only entitled to one vote.

In addition, one individual, who holds the Power of Attorney, may vote in the special election on behalf of a partnership or corporation; Mr. Willard asked if the committee wants to eliminate legal entities the right to vote to coincide with the general election.

Some concern was then expressed about every resident being eligible to vote in an annexation election. An example, the potential of a rental with ten tenants could win such an election. In such a case, a person or persons owning properties would have fewer rights than those ten tenants. It was suggested the language for eligibility in annexation situations be changed to property owners only, which would include those properties held in trusts, partnerships or corporations.

When asked the difference in voters between a general election and special election for annexation, Mr. Willard explained the distinction is the annexation decision chooses the jurisdiction where the asset will go regardless of whether it is privately owned or a corporation or partnership. In a general election, the choice of a council person can affect a person's life because it is more of a representative situation. It was agreed the solicitor will change the language to property owners only in annexation referendums. He will also include language that states any property in the area proposed to be annexed will receive one vote regardless of how many properties that person owns. To prevent using short-term transfers to circumvent an annexation vote, Mr. Willard referenced the federal law that prevents a person from transferring assets within a specified period of time, in order to be eligible for state health care in a nursing home. Similar to that situation, he recommends a time requirement be added and any newly transferred properties, be prohibited from voting. It was agreed that a three-year period would be required.

ARTICLE III. Powers of the City – Council and Mayor

Mr. Willard then presented the enumerated powers of Dover, Newark, Millsboro and Lewes. He asked the committee to review them prior to the next meeting noting those included in Milford's charter are somewhat sparse. He feels it will be beneficial to add to that section to prevent future questions.

3.01- Enumerated Powers ~~Powers of the City~~

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is ~~in excess~~ *less than* ~~of~~ Thirty Thousand ($30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of ~~Section 11~~* Article XI *of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid~~

~~from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time by *resolution* ~~ordinance~~ decree.

(g) Notwithstanding any of the provisions of this Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.07 – Mayor - General Powers

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.* *{The Mayor shall manage the agenda. Council members may request in writing to the Mayor that an item be placed on a future agenda under the correspondence item. A majority of Council may determine whether or not the item should be placed on a future agenda.}*

Mr. Willard said he has always advocated a correspondence section to allow letters that do not require any action be added. However, council will still need to determine whether or not the agenda should be addressed in the charter.

3.08 - Vice Mayor

At the annual organizational meeting, the Council shall also elect by a majority vote of the entire council, a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor* ***[shall/shall not]*** *be permitted to vote as a member of City Council* ***[except in the case of a tie].***

Discussion on whether or not the vice mayor would have a vote when acting in the position of mayor continued. Though it was not allowed the eighteen years Mr. Brooks served as vice mayor, Mr. Willard agrees with Mayor Marabello who stated that a councilperson was elected by their ward constituents to vote on every issue. In his opinion, that is more important than presiding over a meeting. The mayor believes that prohibiting the vice mayor from voting disenfranchises the ward the council member (now acting as vice mayor) was elected to represent. It was noted that if the vice mayor is permitted to vote, it could result in a 4-4 tie though a number of other scenarios were also considered.

It was agreed the final decision would be made by city council.

(d) If a council~~man~~member files and runs for mayor, ~~whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council~~. and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

Mr. Spillane pointed out that in this case, those council members running in the off year the mayor is elected, have a free run for mayor without losing their seat.

Mr. Willard suggested removing the section and allow any council member to run for mayor; the committee agreed. However, if that council member is elected to mayor, that council seat would then become vacant.

A discussion followed about whether a person is able to run for two offices simultaneously and whether a person could file for more than one office. Mr. Willard said he does not believe a person can run for two offices at once versus holding an office while running for another office.

City Manager Baird arrived at this time.

The city clerk then read other municipal charters relating to this matter:

Dover-If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall be filled at the same annual election in which they have filed to run for the office of mayor.

Smyrna-Elected officials running for the office of mayor. No person who holds any elected office in the town may file as a candidate for the office of mayor unless and until that person first resigns from his/her elected position; provided however, that this subsection shall not require any elected official whose term of office expires at the next town election to resign his/her seat as a council-member in order to run for the office of mayor in that next town election.

The solicitor will follow up with some additional information and will continue to bracket this section.

7.11 - (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) However, should the City Manager so elect, he is empowered to sell the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax by the following procedure: The City Manager shall present in the name of the City of Milford to the Superior Court of the State of Delaware in and for Sussex County or Kent County a petition in which shall be stated; (1) the name of the taxable; (2) the year for which the tax was levied; (3) the rate of the tax; (4) the total amount due; (5) the date from which interest and the penalty for non-payment shall commence and the rate of such interest and penalty; (6) a reasonable precise description of the lands and tenements proposed to be sold; (7) a statement that a bill of said tax has been mailed to the taxable at this last known post office address with return receipt requested by registered mail; (8) that it has been found impracticable to attempt to collect the said tax by any other remedy hereinbefore provided. The petition shall be signed by the City Manager and shall be verified before a Notary Public.

(f) At least ten (10) days prior to the filing of any such petition as described above, the City Manager shall deposit in the mail in a sealed and stamped envelope and addressed to the taxable at this last known address requiring a registered receipt returnable, an itemized statement of the tax due, together with all interest, penalties and costs then due thereon, together with a notice to the delinquent taxpayer that he shall proceed to sell the lands and tenements of the taxpayer for the payment of the tax. The City Manager shall exhibit the return registered receipt to the Court by filing the same with the petition; provided that if the taxpayer cannot be found, it shall be sufficient for the City Manager to file with said petition the evidence that such statement has been mailed in accordance with this paragraph and has been returned.

(g) Upon the filing of the petition, the Prothonotary shall record the same in a properly indexed record of the Superior Court in and for Kent or Sussex County and shall endorse upon the said record of said petition the following: "This petition filed the day of , A.D., . The City Manager of the City of Milford is hereby authorized to proceed to sell the lands and tenements herein mentioned or a sufficient part thereof as may be necessary for the payment of the amount due." The endorsement shall be signed by the Prothonotary.

(h) Any sales of lands and tenements of a delinquent taxpayer shall be advertised in five (5) public places in the City of Milford, one of said public places shall be the Municipal Building, and by printing the notice of said sale at least one (1) time in a newspaper having a general circulation in the City. The notice shall contain the day, hour, place of sale

and a short description of the premises sufficient to identify the same. The handbills shall be posted at least ten (10) days before the date fixed for the sale and the newspaper advertisement shall be published at least one (1) week before the day of the sale.

(i) Each sale of lands and tenements shall be returned to the Superior Court of the State of Delaware in and for Kent or Sussex County at the next motion day thereof following the sale, and the Court shall inquire into the circumstances and either approve or set aside the sale. If the sale be approved, the City Manager making the sale shall make a deed to the purchaser which shall convey the right, title and interest of the delinquent taxpayer or of his alienee; if the sale be set aside, the Superior Court may order another sale and so on until the tax be collected. The petition, return and deed shall be presumptive evidence of the regularity of the proceeding.

(j) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(k) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(l) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(m) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(n) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(o) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(p) The provisions of this Section 7.11, other than the provisions of subsection (b) of this Section 7.11, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article XIA of this Charter, provided that all references in this Section 10.11 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district. (76 Del. Laws, c. 199, 3/25/08)

{Amend above section; State Law covering monition sales is preferred method}.

The solicitor pointed out the original section 7.11 spelled out how the city sold property. That procedure has been removed. However, he asked the city manager to double check with the finance director and/or tax assessor to ensure the language can be removed and to advise of any potential problems.

Article VIII. Borrowing Of Money And Issuance Of Bonds

(Previous Note: The City Manager recommends adding an appropriate Bond Cap in order to more easily move forward with large projects; Mr. Spillane prefers the people make that choice and recommends the language remain as is currently stated. Mayor suggested placing a cap on borrowing to establish a point when a referendum is required. Council will make final determination.)

The solicitor confirmed the below language being added is appropriate though the percentage may vary. Mr. Baird said the percentage will depend on the community's assessment. Mr. Willard agrees that a percentage should be added.

8.01 - The City of Milford may borrow money, and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness *[up to $____, ___% of assessed value of real property]* ledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

2.01- City Elections

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council ~~at the last regular meeting preceding the annual election~~. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

Mr. Baird questioned the language in above section requiring the Election Board to be appointed by council at the last meeting before the annual election. Ms. Hudson agreed and suggests that once the election board is appointed, it should be an ongoing committee with no need for a reappointment unless a vacancy or other problem occurs.

Mr. Baird asked about the possibility of earlier involvement (such as voter registration); Mr. Willard answered they do not normally get involved until the day of election. Ms. Hudson agreed unless there is a problem or appeal they need to address in advance of the election.

Mr. Willard will remove "at the last regular meeting preceding the annual election" and end the sentence after council (see above).

With no further comments, Mr. Willard said he will highlight the brackets in yellow so they are easier to locate. The few changes needed as a result of today's meeting will be noted and page numbers added. He may add the enumerations though he does not want to do any substantive changes without the committee's review.

He will e-mail the new document and requested all committee members be sent a copy. He added that as the document is read, please e-mail him with any needed changes or errors. The goal is to have the synopsis included as well.

When trying to schedule a special meeting for council to review the matter, Mr. Baird asked the final draft be provided in advance to allow council enough time for a complete review before any discussion begins. It was agreed to present the document under committee reports at the December 14th meeting with no discussion planned.

With no further business, Mr. Spillane adjourned the Charter Review Committee at 5:20 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 25, 2010

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, January 25, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 6:31 p.m. He thanked the committee for the work they have done over the past fifteen months. He explained the changes are noted and many of the important amendments highlighted to allow an easier and more efficient process for council.

The mayor recommends that no vote be taken this evening even though the major changes will be reviewed. Anything that has not changed, as well as minor changes, will not need to be reviewed. He noted the number of articles have been reduced to eleven.

He then deferred the matter to City Solicitor Willard. He advised the committee met several times before he became involved later in the process. Accurate tracking of the changes have been made and throughout this process, minutes from each meeting were provided to council. Those minutes included comments and recommendations of the committee members. What is being presented is a clean revision (without tracks) and a document showing the changes. Besides the additions and deletions shown, a number of sections were moved to other areas.

Mr. Willard explained the clean copy will ultimately become the bill presented to the state legislators. After a couple of workshops and a public hearing where the community will be asked to comment, the final product will be prepared along with a formal resolution clarifying the changes. He is hoping to present the bill to the general assembly when they return after March. The resolution should be completed by the beginning of June to allow enough time to go through each house.

Mr. Willard noted the current charter has fourteen articles and the proposed charter has nine articles because of the consolidation and reorganization. He briefly reviewed the amended articles in comparison to the current document (as shown in the marked up copy).

He then referenced the new table of contents that has been added.

~~Strike~~ - Struck
***Italics* - New Committee**
Underline - Tim

Table of Contents ***Page***

Article I. ***Incorporation, Territory and Annexation***

Article II. ***Nominations And Elections.***

Article III. ***Powers of the City – Council and Mayor***

Article IV. ***Council Government***

Article V. ***Administration and Appointees***

Article VI. ***Financial Procedures***

Article VII. ***Taxation, Assessors ad Assessment Of Taxes***

Article VIII. ***Borrowing Of Money and Issuance Of Bonds***

Article IX. ***Tax Increment Financing and Special Development Districts***

Article X. ***Severance***

Article XI. ***Transitional Provisions***

Article XII. ***Repealer***

Article I. ***Incorporation, Territory and Annexation***

1.01- Incorporation

The inhabitants of the City of Milford ("the City") within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

The solicitor pointed out the territorial limits has been changed by citing a map to be recorded in the Recorder of Deeds as was done by another town recently. He feels it is easier to record and the metes and bounds will not be included. Otherwise, every time an annexation is done, the charter will need to be amended. In this manner, the process is much simpler by having a new map recorded.

The official map would be kept by the city clerk at city hall.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book Page), ~~Office~~ and for Sussex County (Book Page) in the State of Delaware (official recorded copies to be kept by the City Clerk) as presently exists and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and~~

~~Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run; thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 198; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.~~

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ *Section 1.04 of this Charter*. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said~~ the City, and the ~~said~~ *survey and* plot, when made and approved by ~~said~~ *the* Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

Mr. Willard then referenced the next section and asked if council wanted to keep the legal descriptions of each ward in the charter or refer to a map as is being done with the boundaries of the city. Ward maps would also need to be official and recorded.

Mr. Spillane believes it is better to handle in this manner because of the uneven nature of the ward boundaries though he is hoping that can be changed to easier identify the wards.

City Manager Baird said the drawback of adding the metes and bounds is each time you annex a property into the city,

the charter has to be amended. If it is done by referencing a map, it will not be necessary to go back to the general assembly.

The solicitor still recommends a map be done regardless of how it is referenced.

Mr. Spillane confirmed that to be in a ward, the property must be contiguous. It was questioned whether or not Meadows at Shawnee should have been placed in the first ward versus the third ward at the time of its annexation. The mayor disagreed stating the line extends down Rehoboth Boulevard eastward, then west to Southeast Second Street and McColley Street. Anything on the east side of Rehoboth Boulevard and south of Southeast Second Street is in the third ward according to the description in the charter.

The city manager pointed out there is a good chance our ward boundaries will change following the completion of the 2010 Census. The solicitor stated the U.S. Constitution dictates that voting districts have equal representation and that they be equally proportioned to a certain margin in addition to being contiguous to reduce the potential for any gerrymandering.

It was agreed an official map of each ward would be prepared that showed all city streets; the map(s) would be changed as the boundaries are updated.

1.03- *Wards*

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk*:

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly

boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth**.**

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished~~.

The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures shall apply:

~~(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council~~.

City Solicitor Willard referenced section (a) that addresses a traditional annexation where all property owners are in favor of the annexation

The language and process remains the same, with some reference to Title 22 and the required plan of services.

(a) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation. (4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, City Council may then pass a resolution annexing such territory to the City of Milford. Such

resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. If the Resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.

(6) If the resolution receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

~~b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation~~

~~of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date~~

set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

1[ ] For the proposed annexation
[ ] Against the proposed annexation

The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council.

In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford

~~shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election~~.

The solicitor explained section (b) has also been reorganized and addresses situations where five or more owners, but less than all, wish to become annexed. Previously, it was referred to as a hostile annexation though it is somewhat uncommon today. This process is more unique because it requires a referendum, vote and additional procedures.

(b) If five (5) or more property owners, but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than ninety (90) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.

(4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, the City Council may propose a resolution to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. If the resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

Mayor Marabello referenced the below section where both the residents and property owners of the proposed territory have a vote questioning the reasoning behind the residents' vote. He does not believe the residents of the territory should have a vote; Mr. Adkins agreed.

Mr. Workman feels that a property owner who does not want to be annexed should be eliminated from the process. He requested the solicitor consider some alternative language to prevent that from occurring.

The solicitor also recalled the discussion. He will revisit the section and provide additional information at a future meeting.

(5) Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory

previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

(6) Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

(7) At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

(8) Every citizen eighteen (18) years or older, who is a resident of the territory proposed to be annexed but who is not a property owner, shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. Property owners in the area proposed to be annexed shall have only one (1) vote regardless of the number of parcels owned. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

(9)The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[ ] For the proposed annexation
[ ] Against the proposed annexation

(10) The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until eight o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(11) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

The solicitor also noted the new section for annexation agreements which will be recorded with the resolution.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in

territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to adoption of the final resolution by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

A section was added requiring a ward be designated at the time the property is annexed.

(d) Property shall be designated to a contiguous Ward when annexed into the City pursuant to Article I.

Article II. Nominations and Elections. (Previous Article IX)

Mr. Willard then referenced the amendments to the election section. The charter was updated to coincide with Title 15 of Delaware Code for municipal elections. Though much of the previous language was specific, it was agreed to reference state law to prevent having to change the charter every time state law changes.

2.01- City Elections (Previous 9.01)

(a) *The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law., ~~due notice given as required in 15 Del. C. Section 7553.~~*

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.~~

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. ~~At the last regular meeting preceding the annual election, t~~The City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford ~~prior *for*~~ *at least thirty days prior to the registration deadline, and who are* ~~and who is~~ over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.*

Mr. Spillane suggests the deadline to declare the ward in which they will vote for nonresident voters owning properties in multiple wards coincide with the candidate filing deadline of sixty days. It was clarified that residents are only able to vote in the ward they reside, regardless of the location of any other properties they may own.

It was confirmed the general voter registration deadline will remain at thirty days; Mr. Willard said an exception will be added for non-resident property owners to declare the ward they will be voting in (see below):

(e) It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare ~~within~~ *at least* [~~thirty (30)~~ /sixty (60)}] days prior to the election which ward they will vote in on the day of the election. *In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of *time as required by State law*. ~~at least ten (10) days following said election~~.

(h) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

Mr. Willard pointed out the change to determine a tie; a special election will now be scheduled versus election by lot.

(i) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

Mr. Adkins questioned the change in the deadline to file for office (from thirty to sixty days). The city clerk explained that presently thirty days before the election, voter registration closes, the candidates filing deadlines, the absentee ballots process begins and ballots must be available, non-residents must declare the ward in which they are voting and the candidate information must be provided to the commissioner of elections the following day. Having a sixty-day deadline for candidates to file and keeping the voter registration deadline at thirty days is a little less cumbersome. The solicitor feels that sixty days is reasonable noting that in state elections, as well as a number of other towns, there is a much longer period of time.

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the Ward *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ sixty (60) days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) *registered* ~~qualified~~ voters ~~resident~~ in the City *of Milford*.

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter~~.

2.02- Emergency election postponement; declaration.

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

The solicitor noted that because the absentee ballot is now required to follow state law; the charter was changed accordingly.

2.03- Absentee Ballot Procedures (Previous 9.02)

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. ~~The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum~~.

~~6.03- Council Ballots.~~

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS (Previous 9.06)

(A) VOTING

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

Candidates are no longer allowed two persons as watchers and challengers (per state law). The section was removed because it is spelled out in Title 75 and only one challenger is permitted at a time though they can be substituted throughout the day.

~~6.04- Watchers And Challengers~~

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots~~.

~~6.05=~~ *2.05*- Ballots For Ordinances And Charter Amendments (Previous 9.05)

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~6.06 - Voting Machines~~.

2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS (Previous 9.06)

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~6.07=~~ *2.07*- Council Districts; Adjustment Of Districts (Previous 9.07)

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census* ~~*of every tenth year from the adoption of this Charter*~~, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~, determined from the registration for the last statewide general election, but~~ *AND* districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the *City* Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two newspapers of general circulation in the City of Milford, no less than one month prior to its adoption*

~~.if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts~~.

(e) The Commission may, but is not required to establish five Wards instead of four, with two ~~Councilmen~~ *Councilpersons* to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – Council and Mayor (Previous Article II & Article IV)

3.01- Enumerated Powers ~~***Powers of the City***~~ *(Previous 2.01)*

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

(b) The Council is vested with authority on behalf of the City to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

The solicitor advised the following section was only reworded. The increase from $10,000 to $30,000 was adopted during the charter change in 2008.

Mr. Spillane is uncomfortable with the $30,000 threshold. He gave as an example five different sidewalks needing repair and two possible ways of handling it. One manner would be to make all five sidewalks one project and bid it. The way the charter is currently written would not require bidding if each individual sidewalk was below $30,000 though potentially the entire project would total upwards of $150,000. In that case, council would never be made aware of those costs and the job may simply be handed to one contractor without any other contractors being given a chance.

Mr. Spillane then confirmed the city manager has his own discretionary fund where such a bill could be paid from.

Mr. Workman prefers council being informed of such purchases. He agrees with Mr. Spillane that there is more control with a lower number.

Mr. Adkins asked for the city manager's opinion noting nothing prohibits a project from being bid; Mr. Baird said the $30,000 is adequate today noting the amendment was made almost two years ago. In regard to Mr. Spillane's comments, the city manager would prefer language prohibiting that practice instead of reducing the amount. He pointed out the costs of putting together a bid package or RFP. He agrees with Mr. Adkin's comment there is nothing prohibiting the city from bidding items below $30,000 and in many cases, buy through comparison pricing or by soliciting quotes.

Mr. Spillane recalls a similar situation with sidewalks repairs back in 2008. His other concern is that formal advertising alerts more vendors which he feels is a much fairer process. He does not want the same type of work to be given to the same contractor continuously.

When asked for a comparison with other municipalities, Mr. Baird said it is all across the board. He noted that some towns follow the state procurement and guidelines.

Mayor Marabello agrees we need to consider the aggregate and in the case of sidewalks, many sidewalks could be repaired easily over $100,000 with each sidewalk individually below the $30,000. The sum of those projects should be combined to obtain a true total.

Mr. Workman suggested adding aggregate cost to the language.

Mr. Willard suggested defining the word 'contract' in paragraph three. Mr. Baird will develop some additional language. He noted that in addition to the cost of the city in preparing bids, there is a cost to the contractor when putting those bids together. That cost is factored in and many times, public bidding is not as good as negotiating with a contractor.

Mr. Spillane prefers bidding the work to be fair and equitable though he understands there is a cost. Ms. Wilson agrees adding it is a good way to keep council informed of projects and up to date on who is doing the work.

When asked if everyone was comfortable with the $30,000 threshold, Mr. Adkins said the $30,000 is acceptable and provides the flexibility needed today.

Mayor Marabello recommends that language be added to protect any potential abuses. The mayor then confirmed the consensus of council is the $30,000 remain though some additional language will be presented to council.

(3) ~~No contract shall be made by Council for any purpose, the~~ *A* contract ~~price of~~ which is ~~in excess~~ *less than* ~~of~~ Thirty Thousand ($30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

Mr. Willard explained many of these changes were made by the committee and involved borrowing and bonds. The committee felt this section should reference the article that addresses borrowing and bonds.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of Article VIII of this Charter*. ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time ~~by ordinance~~ *resolve or* decree.

(g) Notwithstanding any of the provisions of this Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.02- Construction (Previous 2.02)

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03- Intergovernmental Relations (Previous 2.03)

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

3.04- Notice of Action (Previous 2.04)

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

Mr. Spillane questioned the composition of council and because they are defined as a group of eight in section 4.01, he asked if an individual council member had the right to check into something they felt was occurring before bringing it before council..

It was agreed this refers to council collectively.

Mr. Willard explained that council is given these powers as a deliberative body and though everyone does not agree, the decision is made by voting which means to act as a group. He compared this to a senate investigation and councils' power (as a whole) being similar to a prosecutor in a court.

It was reiterated that council members are unable to discuss such issues with city employees or police officers and need to follow the procedure outlined in the charter which requires them to go through the city manager or police chief first.

3.05- Investigations (Previous 4.08)

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~$100.00~~ ***$500.00***, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit (Previous 4.09)

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a

period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and ~~approve~~ accept each annual audit.

3.07 – Mayor - General Powers (Previous 5.01)

Mr. Willard noted the sentences in brackets that have not been resolved involving the meeting agenda. Mr. Workman agrees the mayor may oversee the agenda though council has the right to add items to the agenda as well as approve it. He feels that if an elected official feels there is an issue in their ward that needs to be discussed, they should have the right to request it be put on the agenda. He recommends the agenda be e-mailed to council and approved or disapproved the Monday or Tuesday prior to the meeting.

Mr. Spillane agrees and feels that if the mayor does not want something on the agenda, even though council has requested it in writing, it has the potential to be stalled and never addressed. He also believes if there is a matter of public concern, he should have the right to add it to the agenda.

Mr. Adkins agrees and disagrees. He believes the mayor should be the deciding factor because he/she is elected by the entire city versus a council person who is elected to represent only one ward. However, he also likes the option for the majority of council to approve an item being placed on the agenda.

Mr. Willard explained this is an on-going issue. From a management standpoint, the mayor, city manager and city clerk prepare the agenda. The city clerk receiving phone calls from various council members requesting items can be done but from a management/gatekeeper perspective, he suggested making the requests by e-mail or correspondence. The mayor would have the option of adding it as a separate line item, but if he feels it is something council should decide, it would be added to the correspondence section. Council would then consider it and if in agreement, it would be added to the following agenda. Mr. Spillane's concern the document would be overlooked could be handled by having it added to the correspondence section.

Mr. Workman understands why the mayor would oversee the agenda, however, he agrees council should have final approval.

The mayor feels this can be handled through correspondence. Mr. Willard agreed noting there are some items, such as those requiring a public hearing and discretionary items requested by the city manager, that should be automatically added.

Mr. Morrow agrees that everyone on council should have the right to request something be added to the agenda. However, it should be initially presented through some sort of documentation and a procedure in place to prevent it from being ignored.

Ms. Wilson agrees with submitting the item through the correspondence section. In that manner, council can track it from the time it was suggested. She also believes that some items may need some research or supporting documentation before it is presented to council to prevent a lot of unnecessary questions. In those cases, the matter may not be able to be added immediately. However, she agrees council should have the right to make such a request.

Mr. Willard pointed out there will be exceptions when items can automatically be added to the agenda. However, it will prevent requests from being ignored and instead allow council to make the determination.

The city manager feels there are no rules of operation for city council and how business is conducted. The charter talks about procedure but also states that council shall determine its own rules and order of business, etc. Unless other rules are adopted, council must follow Roberts Rules of Order and Parliamentary Procedure. He feels that some formal rules should be developed and one item would be how to have something put on the agenda. There may also be other areas that could be addressed and he suggests a committee be assigned to work on those rules.

Mr. Baird said he would be cautious about becoming too specific about certain things in the charter because potentially half of city council can change every year. He does not recommend tying the hands of future councils by adding too many specifics and would rather this be done by adopting formal rules and procedures.

Mr. Brooks added that often there are times when a councilperson feels something should be placed on the agenda. In many instances, a council person has taken a matter to the city manager and the majority of times, it is able to be resolved by him or by city staff. He pointed out that if a council person brings something on the floor, both sides of the issue need to be presented.

It was decided to keep the matter in brackets for a later decision to be made.

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.* *{The Mayor shall manage the agenda. Council members may request in writing to the Mayor that an item be placed on a future agenda under the Correspondence item. A majority of Council may determine whether or not the item should be placed on a future agenda.}*

The solicitor said this was moved from another section. However, it contains another unresolved item about whether the vice mayor will have the right to vote while serving in the place of the mayor while presiding over the meeting and if so, should it only be in the case of a tie.

Mr. Brooks said he brought this before council because when he served as vice mayor for eighteen years, he was told by the city solicitor, mayor and two city managers that he was to act just as the mayor is required which did not allow a vote unless there is a tie.

Mr. Workman feels it is two different positions. Though the vice mayor is originally elected as councilperson, once they replace the mayor as the presiding officer, they become the mayor.

Mr. Adkins pointed out that if the vice mayor votes, it could result in a tie. Mr. Baird explained that in that case, the motion would fail.

Mr. Starling pointed out that if the vice mayor was prohibited from voting, there would be a maximum of seven council members so in most cases it would not end in a tie unless someone abstained or another council member was absent.

Mr. Morrow agrees the vice mayor is acting as the mayor once they become the presiding officer and should follow the restrictions and benefits of being the mayor.

Ms. Wilson said that when acting as vice mayor, she was advised to vote as an elected councilperson. However, she agrees that overall, the vice mayor in those instances should follow what the mayor is permitted or restricted from doing.

It was suggested that should the mayor be absent for an extended period of time, perhaps some wording could be added to allow the vice mayor to act as councilperson with the right to vote. Short term, it would be handled in a different manner.

Mayor Marabello feels that a long term absence would be very rare. If something is a contentious or critical issue, the vote can always be deferred. In his opinion, it is a temporary position and they are only presiding over the meeting. Therefore, he does not feels the vice mayor should lose the right to represent their ward for one or two meetings.

The solicitor's instincts are the vice mayor has the mayor's authority though the language of the existing charter does not take away what has been given by the voters which he feels is significant.

Mr. Johnson asked what is allowed in other towns in this situation. He believes that when a person is elected as a council person, those constituents expect that person to vote, whether or not they are elected to the vice mayor position.

Mr. Starling believes that by allowing the vice mayor to vote sets up a scenario for a tie vote.

The mayor suggested the item be kept bracketed to be addressed at a future meeting.

3.08 - Vice Mayor (Previous 4.01 & 5.01)

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. *While serving in the place of the Mayor, the Vice Mayor **[shall/shall not]** be permitted to vote as a member of City Council **[except in the case of a tie].***

3.09 - General Powers and Duties (Previous 4.03)

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Article IV. Council Government – Composition, Qualifications, Vacancies and Procedure

(Previous Article III & Article IV)

4.01- Composition of Government (Previous 3.02)

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word "mayor" is used, it shall refer soley to the mayor. Whenever the word "council" is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two

in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward.

The below sentence was removed because it is addressed in another section.

~~Only qualified *registered* voters of the City, *meeting the qualifications for Mayor and City Council as outlined in Section 3.03*, shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

The meeting time was changed to 7 o'clock and moved to the second Monday to adhere to the requirements in the state municipal election law. The city clerk concurred the 7-day rule required for the election appeal process.

There was a question about the workshop/public hearing meeting that is held on its regular night following the election. In some cases, a sitting councilperson has been defeated. It was confirmed that state law does not allow the newly elected councilperson to take office until seven days or more after the election.

There was a discussion about whether the meeting should be postponed until the following month or to change it to the third Monday before the election.

The city solicitor believes that constitutionally, the council members are no longer able to take action once another person was elected to replace them. He said that was cited in recent case law involving previous Register of Wills David Wilson who was elected in the middle of his term to the office of State Representative.

Mr. Willard will follow up with the city clerk after determining the legalities of whether outgoing council members can legally take action.

4.02 ***Annual Organizational Meeting*** (Previous 4.01)

At ~~7:30~~ *seven* o'clock *(7:00)* p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. ~~At said meeting, the Council shall organize by a majority vote of the entire Council and elect a Vice-Mayor, who shall be a member of the Council~~.

4.03 - Compensation and Expenses (Previous 4.02)

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.04- Prohibitions (Unchanged)

(a) ~~Holding other office~~ Except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former *Mayor or* Councilperson shall hold any compensated appointive City office or employment until ~~one~~ *two (2)* years *or more* after the expiration of the term *of office* for which he or she was elected ~~to the Council~~.

(b) *Appointments and removals*. Neither the *Mayor,* Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor or* Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor or* Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor or* Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies (Unchanged)

(a*) Vacancies.* ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office~~.

(1) *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City*..

(2) *The Office of a Councilperson shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b*) Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

~~(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for~~

~~the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.~~

Mr. Willard advised a great deal of thought went into the filling of vacancies and recommends the following procedure as has been rewritten.

Mr. Adkins questioned a vacancy occurring between three and six months which reads 'shall' and asked if that means the appointment must be made. He suggested some discretion questioning a vacancy that may be three months and one day in relation to the sixty day filing deadline. He recommends replacing 'shall' with 'may' to allow more flexibility depending on the time remaining in relation to meetings and filing deadlines.

Mr. Willard asked that by adding 'may', what would be the alternative to leaving it vacant though you do not have to because you are saying 'may'.

It was agreed to change the language to 'may' (three to six months).

(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is less than three (3) months, the vacancy shall be filled in the next general election. If a vacancy occurs in the Council and the remainder of the unexpired term is less than six (6) months but more than three (3) months, the Council ~~shall~~ may within 45 days of the vacancy occurring, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

Mr. Workman recommends the age for candidates for office remain at eighteen years noting that if you are old enough to vote, you should be able to run for office.

The city manager explained the change to twenty-one coincides with the state municipal law though the law allows for discretion.

Mr. Adkins agreed with Mr. Workman noting that at eighteen years of age you have to register for the draft, can serve in the military and are able to own property. He feels this is the most basic level of government to become involved in and should be a right that eighteen years old have.

Council agreed it would remain at eighteen years of age and it would be changed accordingly.

4.06- Qualification for Mayor and City Council (Previous 3.03)

~~No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City for thirty (30) days preceding the day of the election, and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office~~.

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the United States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective term(s) of office nor shall any member of Council be eligible to serve in such elected office unless they continue to be a resident of their Ward during their respective terms of office.

It was confirmed that presently, nothing in the charter prohibits a council member from running for two seats. The solicitor said that some research was done and there are varying policies including some that prohibit it.

Mr. Starling, Mr. Adkins, Mr. Workman and Mr. Brooks agreed that someone should not be able to run for two seats and if a councilperson files to run for mayor, they should surrender their council seat.

Ms. Wilson believes that if someone runs for mayor and loses, they should be able to retain their council seat if their term is unexpired.

Mr. Willard pointed out that would apply to a councilperson who is midterm; he questioned if a councilperson whose term coincides with the mayor, should be permitted to run for both offices.

Mr. Spillane said it would be unfair to prohibit a council member whose term of office is the same as the mayors from running for mayor and require them to give up their seat.

Some other towns policies were then discussed:

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall he filled at the same annual election in which they have filed to run for the office of mayor.

No person who holds any elected office in the town may file as a candidate for the office of mayor unless and until that person first resigns from his/her elected position; provided however, that this subsection shall not require any elected official whose term of office expires at the next town election to resign his/her seat as a council-member in order to run for the office of mayor in that next town election.

Any councilperson whose term of office coincides with the mayor and who files to run for mayor will relinquish his/her seat on the day the mayor is sworn into office regardless of whether or not they are elected to the office of mayor. Councilpersons whose terms do not expire at the same time as the mayor will retain their seat should they not be elected mayor. Council members serve staggered two-year terms but the mayor serves a three-year term.

The mayor agrees with Ms. Wilson that if you are running between your term, you are not costing the city any money and it should not be a problem. However, someone who runs for two different offices and wins the mayoral seat should not incur additional costs to the city by causing another election.

It was the overall consensus of council that a person should not run for two different offices though Mr. Spillane disagreed. However, it was also agreed it would continue to be discussed at a future meeting.

(d) If a council~~man~~member files and runs for mayor, ~~whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor–to be determined by City Council~~.and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.

4.07- Judge of Qualifications (Previous 4.06)

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

Mr. Willard advised that most of the changes in the election section were made to comply with state law.

4.08 - Procedure (Previous 4.10)

(a) *Meetings*. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more members~~, whenever practicable, upon no less than twelve (12) hours' notice to each member~~. All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person~~,

(b) *Rules and Journal*. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) *Voting*. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section *4.05(c)* ~~2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance (Previous 4.11)

The Council is hereby vested with the authority to enact ordinances or resolutions (resolution includes actions taken upon motion whether by roll call or voice vote and whether or not the resolution has been prepared in writing) relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article ~~V~~ X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

(i) Change of zone or conditional use of land.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - *Ordinances in General* (Previous 4.12)

(a) *Form.* Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be "The City of Milford hereby ordains…" Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) *Procedure*. An ordinance may be introduced by *the Mayor*, any member *of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor*, each Council Member and to the City Manager. *An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date.* As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) *Effective Date*. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) *"Publish" Defined*. As used in this section, the term "publish" means to print in one or more newspapers of general circulation in the City:

(1) *A brief summary of the Ordinance* ~~, the ordinance or a brief summary thereof~~, and

(2) the places where complete copies of it have been filed and the times when they are available for public

inspection.

4.11 - Emergency Ordinances (Previous 4.13)

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ *6.09(b).* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09 (b), ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation (Previous 4.14)

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ *4.10* for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ *4.13(a).*

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing (Previous 4.15)

(a) *Authentication and Recording*. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) *Codification*. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) *Printing of Ordinances and Resolutions*. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

The next review will begin with Article V- Administration and Appointees. Mr. Spillane asked for a date when council could again review the charter.

Mayor Marabello suggested continuing the review at the next workshop in February.

Executive Session - Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation.

Ms. Wilson moved to go into Executive Session reference 29 Del. C. §10004(b)(4) to discuss pending and/or potential litigation, seconded by Mr. Starling. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:49 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:06 p.m.

Executive Session Item

No action taken.

ADJOURN

Mr. Workman moved to adjourn the Council Meeting, seconded by Mr. Johnson. Motion carried.

Mayor Marabello adjourned the Monthly Council Meeting at 9:06 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010

The City Council of Milford met in Workshop Session on Monday, February 22, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello convened the Workshop Session of City Council at 7:21 p.m.

City Solicitor Willard referred the changes made to Articles I thru IV which included the minutes of the conversations and decisions of the January 25th meeting, the marked up copy of the charter dated 02-04-10 and the clean copy with those changes implemented.

The solicitor began the review with Article V. He reiterated that those items underlined were moved from another section pointing out that all administrative matters and appointees were now combined in Article V.

Review of City of Milford Charter

ARTICLE V. ***Administration and Appointees*** (Previous Article III & VI)

5.01 - Form of Government (Previous 3.01)

The form of government established by this charter shall be known as the "Council-Manager" form.

It was confirmed that annual evaluations are included in the employment contract and should not be addressed in the charter. Mr. Willard noted that new language was included to reference the employment contract in both the appointment and removal sections.

5.02 - City Manager - *Appointment; Qualifications, Compensation* (Previous 6.01)

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. *The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.*

5.03 - City Manager - Removal (Previous 6.02)

The Council shall remove the Manager from office in accordance with the following procedures *and those conditions contained in the City Manager's employment contract:*

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days.

A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager (Previous 6.03)

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

5.05 - Powers and Duties of the City Manager (Previous 6.04)

The City Manager shall be the chief administrative officer of the City. He *or she* shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He *or she* shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not

vote.

(d) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(e) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(f) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(g) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(h) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(i) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

Language was added to the duties of the city clerk that already exist in other areas and are now clarified in one section.

5.06 - City Clerk - Appointment and Duties (Previous 4.07)

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all Council proceedings *and documents, manage the City's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature* and perform other duties as are assigned to him or her by this Charter or by the Council.

This section was changed to allow the solicitor's appointment at the annual organization meeting. As a result, this will become a regular item on the organization meeting agenda. The balance remains the same.

5.07 - City Solicitor (Previous 7.02)

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

The Chief Police section was changed by referencing their employment contract. Language was also added to reflect the Policeman Bill of Rights.

5.08 - Police Department (Previous 7.03)

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. *The terms of his employment shall be contained in an employment contract*

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~; and~~ The Council shall, from time to time, make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of ~~City~~ Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council *and shall be removed from office in accordance with the provisions of State law and* the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy

of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

City jail was changed to city 'holding cell' to reflect what currently exists today.

5.09 - City Holding Cells ~~*CITY JAIL*~~ (Previous 7.04)

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to *transport to a detention facility*, hearing and trial or arraignment.

It was decided to allow the City Alderman to remain in case the position was ever reinstated.

5.10 - City Alderman (Previous 7.05)

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He *or she* shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if

for any cause he *or she* may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He *or she* shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He *or she* shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars ($500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mr. Willard said it appears the last sentence was not in the original charter, but was being considered and later removed. Mr. Baird agreed there was some contradiction in language regarding the roles of council and the administration which is the reason for its removal.

5.11 - Finance Department (Previous 7.06)

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such

duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the Council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and Council shall direct and which will keep the Council, City Manager and the public informed of the financial condition of the city. ~~The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe~~.

Mr. Willard advised the following sections were changed pursuant to state law and changes to the city code. To be consistent, any reference to state statute will state 'in accordance with Delaware Code'.

5.12 - Planning Department (Previous 7.07)

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the Council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the Council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

5.13 - City Planning Commission (Previous 7.08)

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment (Previous 7.11)

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures (Previous Article VIII)

6.01- Fiscal Year (Previous 8.01)

The Fiscal year of the City shall be set by the City Council.

6.02- Submission of Budget Date (Previous 8.02)

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

6.03- Budget Message (Previous 8.03)

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

6.04- Operating Budget (Previous 8.04)

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and

estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

The time line for submitting the capital program to council was changed to coincide with the submission of the annual budget. The section number in paragraph (a) was corrected from 8.02 to 6.02.

6.05- Capital Program (Previous 8.05)

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program *at the time the annual budget is submitted to City Council as defined in Section 6.02.* ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action On Operating Budget (Previous 8.06)

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

6.07- Council Action On Capital Program (Previous 8.07)

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

Section 6.08 was changed to be consistent with FOIA.

6.08- Public Records (Previous 8.08)

Copies of the budget and the capital program as adopted *for the fiscal year* are public records and shall be made available to the public *through the Freedom of Information Act and the* ~~at suitable places~~ *City of Milford website* ~~in the City~~.

6.09- Amendments After Adoption (Previous 8.09)

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

The solicitor noted that emergency appropriations were changed to allow council to use short term borrowing as provided in the charter. The section number in paragraph (b) was corrected from 11.07 to 8.07 (numbers were changed as result of reorganizing charter).

The language removed was previously discussed.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may *exercise short term borrowing authority as provided in Section 8.07 of this Charter*. ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency~~

~~notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.~~

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

Mr. Willard explained that paragraph (d) allows council to approve by majority vote the transfer of any unexpended money from one department to another which only simplifies the language. It was confirmed the intent remains the same. When asked if this should state majority of all of council, the solicitor explained that generally the rule is if there is a quorum present, the action is approved by majority vote. This excludes the charter section that requires four affirmative votes or where it states by majority vote.

The language will remain as proposed.

(d) Transfer Of Appropriations. At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ *by majority vote* transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse Of Appropriations (Previous 8.10)

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration Of Budget (Previous 8.11)

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He *or she* may revise such allotments during the year if *they* deem it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his*/her* designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he *or she* shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article VII. Taxation, Assessors and Assessment Of Taxes (Previous Article X)

7.01- (Previous 10.01) Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

Below section was rewritten and though the intent remains the same, the intent was clarified and language updated by removing ‘scrap assessment’ and replacing it with ‘supplemental assessment’.

City Manager Baird added that some of the language in the assessment area was modified to parallel with the state requirements in relation to the assessment of real property.

7.02- (Previous 10.02) It shall be the duty of the City Manager ~~each year~~ to *include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment.* ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment.~~ In the

year that *A SUPPLEMENTAL ASSESSMENT IS MADE*, a ~~scrap assessment is made~~, the General Assessment then in force as ~~supplemented or~~ modified by the ~~scrap~~ *supplemental* assessment, shall constitute the assessment for the year.

7.03- (Previous 10.03) The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04- (Previous 10.04) The *real* property of the City Assessor(s) shall be assessed by the Council.

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

7.06- (Previous 10.05) The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ *adjusted* by the ~~scrap~~ *supplemental* assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.07- (Previous 10.06) At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

Mr. Baird pointed out the second sentence is a carryover from the state code. Mr. Willard further explained that 'taxable' is a person who has been assessed.

7.08 - (Previous 10.07) The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City. *If any taxable fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.*

7.09- (Previous 10.08) The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to

pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.10- (Previous 10.09) The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.11- (Previous 10.10) The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.12- (Previous 10.11) (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the ~~Secretary~~ *City Clerk* commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by Council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. 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 before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax 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.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(3) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . . .

For filing and recording return of sale . . . . . .

To the City Manager for preparing certificate . . . . . .

For making sale of land . . . . . .

For preparing and filing return . . . . . .

For posting sale bills . . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(4) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(f) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(g) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(h) The provisions of this Section ~~*10.11*~~ *7.12*, other than the provisions of subsection (b) of this Section ~~*10.11*~~ *7.12*, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article ~~XIA~~ *IX* of this Charter, provided that all references in this Section ~~*10.11*~~ *7.12* to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

7.13- Real Estate Transfer Tax (Previous 10.12)

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

7.14- Assessment, Payment, And Collection Of Taxes For New Construction (Previous 10.13)

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing Of Money And Issuance Of Bonds (Previous Article XI)

Mr. Willard referred to the city manager's recommendation as shown in the below brackets, as well as Mr. Spillane's recommendation. Matter was referred to city council.

Mr. Willard explained that typically this involves a percent of the assessed value. Mr. Baird further explained that currently there is no borrowing seal for this city. This will establish a sealing that the city would be able to borrow.

When a concern was expressed by Mr. Spillane over the voters being removed from referendum process for a bond issue, Mr. Baird explained that currently, the charter requires that any long term borrowing issue, whether it is $10,000 or $10 million, require a public referendum and the voters need to approve it. Prior to that, city council must officially agree it be taken to the voters. However, there is no limit on the borrowing.

Mr. Adkins agrees a maximum limit needs to be added. Because the city is borrowing against the property of the city, he does not want to see the city borrow 50% of the total value, as an example. Mr. Willard agreed that he was surprised Milford did not have a sealant as the majority of other towns do.

When asked if there is an average percentage, the city manager said no, because there is no uniformity in assessments. Some communities have their own assessments as Milford does while others adopt the county assessments. In Sussex County, the assessments are 50% of the 1974 value and the overall assessment is low. In that case, the bond cap is set at a much higher amount. In Milford, our assessments are much more current and the cap would be on the lower side. In his opinion, there is no right or wrong answer but the dollar amount obtained by putting the calculation in.

Mayor Marabello advised the last assessment was approximately $756 million and 2% would be approximately $15 million. He added that presently the city has $26 million that has been borrowed or committed, which is slightly less than 4% of the assessed valuation.

Mr. Workman agrees the city should not have the ability to borrow too much and that a cap would be appropriate.

The mayor feels that to prevent having to change that number, the easiest manner would be to add a percentage of assessed evaluations.

Mr. Baird discussed this matter with the Town of Middletown whose cap is 15% though it ranges and in the case of lower assessments, may be 40 or 60%. It also varies depending on what the money will be spent on. He said that those with utilities often have a higher borrowing limit.

Mr. Baird's recommends 15% as the starting point; the mayor advised that 15% is $113 million. Mr. Spillane feels that may be too high and confirmed that regardless of the amount, the voters would make the final decision. He is willing to go 10% and the mayor advised that is still $75 million. Mr. Adkins is uncomfortable making a recommendation and prefers a recommendation by the city manager or finance staff.

Mr. Baird reiterated his suggestion of at least 15% noting the public works committee had just met to discuss a number of ongoing or pending projects. They include $3.5 million for street projects, $8.5 million for water, sewer and electric which are already factored into the $26 million.

He added the other issue is as this is paid down, additional borrowing capacity is gained back. As assessments increase, the debt limit will also grow. When a percentage is plugged in, it will become a floating number.

Mr. Starling and Mr. Morrow both agree that 15% is appropriate. Mr. Brooks said that if 15% is added, the matter must still go to referendum. Mr. Baird agreed noting the way the charter is currently written. He explained that is with any long term borrowing, which is identified as anything over a five-year term.

The majority of council members agreed a 15% cap is appropriate though Mr. Spillane recommends 10% or below. Mr. Johnson stated that he does not believe a cap is needed as long as any borrowing is required to go to referendum.

Mr. Willard said he will leave the matter bracketed for further discussion.

8.01 - (Previous 11.01) The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness **{up to $_____ _____% of assessed value of real property}** pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - (Previous 11.02) This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(d) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(e) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03 - (Previous 11.03) The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 - (Previous 11.04) It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior

to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing"* and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing"*, and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he or she, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05 - (Previous 11.05) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the

registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it *shall* also provide a sinking fund therefore.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds (Previous 11.06)

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

Mr. Willard referred to Section 8.07 noting that currently states the City of Milford may borrow money up to the amount of annual tax billing through short term. The language added would require council to authorize the borrowing by resolution.

Mr. Baird recalled the conflicting language in the current charter and referenced existing Section 2.01(e). It was confirmed that section was completely removed from the updated version. See below language removed:

The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford, a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City,

and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.

Mr. Willard explained that short term borrowing can only be in the amount of the previous year's aggregate tax billing and must be done by resolution. Mr. Baird confirmed the payment term is no more than five years.

On short term borrowing, the city manager explained it is up to one year of the city's total tax revenue which is just under $3 million. That allows the city to borrow at any given time up to that total on short term borrowing that must be repaid in five years. A special election is not required and this only requires an action of city council which is how the charter reads today.

The solicitor asked if aggregate should be added; Mayor Marabello said that would prevent borrowing short term from year after year. Mr. Brooks and Mr. Morrow noted that can only be done for specific items including emergencies. Mr. Baird agreed adding short term capital projects are also included. In the case of an operating deficit, the city would not be in a good position to consider short term borrowing and would most likely need a longer period of repayment.

It was agreed to add 'in aggregate' as noted below:

8.07- Short Term Borrowing (Previous 11.07)

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow in aggregate money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project ~~anticipative~~ funding. The money shall be paid back in no longer than five (5) years.

Article IX. Tax Increment Financing and Special Development Districts (Previous Article XIA)

9.01 - Tax Increment Financing and Special Development Districts (Previous 11A.01)

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 – *Non Recourse* (Previous 11A.02)

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD.

Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

Article X. Severance (Previous Article XII)

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions (Previous Article XIII)

11.01- Officers And Employees (Previous 13.01)

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he *or she* shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies (Previous 13.02)

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters (Previous 13.03)

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

11.04- State And Municipal Laws (Previous 13.04)

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective, are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

11.05- Survival Of Powers And Validations Sections (Previous 13.05)

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. Repealer (Previous Article XIII - Subparagraph)

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled "An Act Changing the Name of 'The Town of Milford' to 'The City of Milford' and establishing a Charter therefore, as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act."

The Charter shall become effective upon signature of the Governor.

Synopsis

The Charter replaces the City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council with participation from the public worked for over a year to reorganize and revise their charter. This bill is a result of that effort and the following summarizes those changes from the previous charter.

A table of Contents delineating the Articles has been included at the outset.

The Charter has been reorganized by changing the order of the Articles and moving various sections to more appropriate Articles. The organization is attempted to be more logical. As the articles appear the territory and annexation procedures appear, then the election process, then the powers of the city, then the form of government, then the administration, followed by financial articles involving taxing and borrowing. The existing Charter had two articles for the power of the city and had the structure article between them. The existing charter had a separate article for the City Manager and other administrative appointments. Those appointed offices have been combined in one article. The election article has been moved from Article IX to Article II.

The most significant substantive changes are as follows:

(To be added upon completion of final draft.)

Upon completion, Mr. Willard asked if there were any more questions or comments.

Mr. Spillane questioned Section 5.11-Finance Department and the last sentence that was struck:

~~The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe~~.

He is concerned that this will prevent council from viewing the financial records of the city. Mr. Starling feels that any potential problem should first be relayed to council. Council, as a group, would then decide how to proceed.

Mr. Spillane asked if that process would still be necessary if he only had a question. He does not think that would be necessary if he only needed a copy of something.

Mr. Willard feels it somewhat flies in the face of the council-manager form of government. Because council is somewhat like a board of directors and action needs to be taken collectively. Mr. Adkins concurs adding that as a council, they have powers as a whole. If they decide as a whole to act, then something can be requested as is stated in the powers.

With no further comments, Mr. Workman asked when council will receive the final draft and asked when it will go before the public. Mr. Spillane noted there are still several unresolved issues.

Mr. Baird does not believe we are prepared for a public hearing at this point. Mr. Spillane agrees we need to meet again and then schedule the public hearing.

The city manager recommends that a final draft be prepared for consideration by city council. After that point, the public hearing could be scheduled. Following that public hearing, any council member is able to propose amendments to the charter as they see fit. If someone in the public is recommending a change, they should work with their council representative to propose an amendment. Each individual amendment would then be voted on by council. Following that, the document, with or without amendments, would be adopted.

Mr. Spillane recommends one more committee meeting. At that time, many of these unresolved issues could be finalized. Mr. Brooks disagreed noting the hours of discussion when no final decision could be made and it was agreed that council would have the final say.

Mr. Workman suggests looking at what has been agreed to, put that into a final format, open it up to public comment, then bring it back to council for a final decision. He feels we need to proceed so it can be presented to the general assembly this legislative session.

Mr. Baird also recommends that Councilman Spillane and Councilman Brooks make a proposal on those areas where there is no consensus. Council can then take a vote.

The unresolved issues were then reviewed.

It was agreed the minutes would be completed by the city clerk and the unresolved issues listed and provided to city council.

When asked to schedule the next meeting, Mr. Baird asked the charter be placed on the next agenda. Mr. Spillane asked that another special meeting be scheduled as was originally planned in order to expedite the process. Mr. Adkins disagreed stating he is concerned about the cost of an extra meeting.

A workshop will be added following the monthly meeting of council to address the unresolved issues.

With no further business, the Workshop Session concluded at 8:34 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Requesting the following FY09-10 Budget Transfer:

$25,000 for Legal Costs

General Fund/Fund Balance 101-0000-399.10.00

to

Council/Legal Expense 101-1110-411.30.20.00

Organization	City of Milford, DE	URL	http://www.cityofmilford.com/
Street Address	180 Vickers Dr.		
Address 2			
City	Milford	State DE	Postal Code 19963

CivicPlus provides telephone support for all trained clients from 7am –7pm Central Time, Monday-Friday (excluding holidays). Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for ensuring CivicPlus has current updates.

Emergency Contact & Mobile Phone	Jason Kilpatrick 302-422-1099
Emergency Contact & Mobile Phone	Wes Banasan 302-422-1098
Emergency Contact & Mobile Phone	Debbie Johnson 302-424-8396

Billing Contact	Jason Kilpatrick			E-Mail	jkilpatrick@milford-de.gov
Phone	302-422-1099	Ext.		Fax	302-422-1120
Billing Address	180 Vickers Dr.				
Address 2					
City	Milford, DE			Postal Code	19963
Tax ID #	516000177			Sales Tax Exempt #	
Billing Terms	Annual			Account Rep	Brad Wartell
Info Required on Invoice (PO or Job #)					

Contract Contact	David Baird			Email	dbaird@milford-de.gov
Phone	302-424-3712	Ext.	304	Fax	302-424-3558

Project Contact	Jason Kilpatrick			Email	jkilpatrick@milford-de.gov
Phone	302-422-1099	Ext.		Fax	302-422-1120

Terms & Conditions

Client Deliverable

1. Icon Enterprises, Inc., d/b/a CivicPlus will create a unique website for City of Milford, DE (Client) that includes all functionality as defined in Exhibit A – Project Development Services, attached hereto.

Additional Services

2. Client may contract with CivicPlus for additional Consulting, Website Design, Setup, Programming, and Training services (Project Development Services) that exceed those defined in Exhibit A. CivicPlus will invoice Client for the additional services immediately prior to project Go-Live.
3. Client may contract with CivicPlus for additional Annual Support, Maintenance & Hosting services that exceed those defined in Exhibit B – Annual Support, Maintenance & Hosting Services. CivicPlus will invoice Client for annual services immediately prior to project Go-Live.

4. Services that involve billable time beyond the contracted amount will be documented and invoiced. Written approval by the client is necessary before billable time is incurred.
5. Additional module upgrades may be purchased and activated at any time.

CivicPlus Advantage Billing & Payment Terms

The following agreement terms apply to the CivicPlus Advantage Plan – whereby the initial project development fees and recurring fees are paid equally over a three (3) year period. See Exhibit A for complete details and fee options.

6. Billing for the CivicPlus Advantage Plan begins on the first day of the fourth month following the signing of this agreement, or upon Project Go-Live, whichever happens first.
7. The Client shall sign a project completion and acceptance form prior to Project Go-Live. All Parties agree that the website will not go-live until the project is accepted in writing by the Client.
8. The CivicPlus Advantage Plan provides a fixed fee for an Agreement term of 36 months from the first date of billing. At 36 months, Client has the following options:
    a. Renew the CivicPlus Advantage Plan for an additional 12 months. At the end of 48 total months on the CivicPlus Advantage Plan, client is entitled to receive a basic redesign of their website at no additional cost, subject to the restrictions detailed in Exhibit A.
    b. Terminate the CivicPlus Advantage Plan by providing written notice as noted in item 14 and contract for Annual Support, Maintenance & Hosting services with CivicPlus.
    c. Terminate services with CivicPlus.
9. Fees for the Plan will be invoiced annually in advance and are due by the first of the following month, but no sooner than 30 days from invoice date.
10. Service will be discontinued if payment is not made within 30 days after the invoice due date.
11. Payments received will be applied first to finance charges, then to the oldest outstanding invoice.
12. If the Client's account exceeds 90 days past due, the web service may be temporarily removed from service until the Client's account is made current. Client will be given 30 days notice prior to removal of the website for non-payment.
13. Provided the Client's account is current, at any time the Client may request an electronic copy on CD of the website Customer Content. Client agrees to pay $225 per completed request.

Agreement Renewal

14. Either party may terminate this Agreement at the end of the contract term by providing the other party with 60 days written notice, prior to the contract renewal date. The Contract Renewal Date is thirty-six (36) months after the original contract was signed by the client. Renewal Options are listed in Item 8 of this Agreement.
15. In the event of early termination of this Agreement by the client, full payment of the remainder of the contract is due within 15 days of termination.

Support

16. CivicPlus will provide unlimited telephone support Monday-Friday, 7:00 am – 7:00 pm (Central Time) excluding holidays, for all trained Client staff. Emergency Support is provided on a 24/7/365 basis for emergency contacts named by the Client. Client is responsible for providing CivicPlus with contact updates.
17. Support includes providing technical support of the CivicPlus CMS System, application support (pages and modules), and maintenance of Client's website. Following initial setup, additional page design, graphic design, user training, site modification, and custom programming may be contracted separately for an additional fee.
18. During the period of this agreement and subsequent annual renewals, CivicPlus warrants that it will, without additional charge to the client, immediately correct any problems or defects discovered in the System and reported to CivicPlus by the client, such warranty to include ongoing maintenance upgrades and technical error correction.
19. CivicPlus provides online website statistics software at no extra charge. If Client desires to use another website statistic software, CivicPlus will provide the necessary log file access.

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

Marketing

20. If applicable, Client agrees to work with the CivicPlus Marketing Department to gather information and meet deadlines associated with website award contest entries throughout the term of this Agreement. Client permits CivicPlus to include an example of the Client's home page and a link to the Client's website on the CivicPlus corporate website.
21. Client will cooperate with the CivicPlus Marketing Department to create a news item to be released in conjunction with their project Go-Live date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.
22. Client will cooperate with the CivicPlus Marketing Department to create a case study related to their website.
23. Client agrees to allow CivicPlus to display a "Powered by CivicPlus" insignia and web link at the bottom of their web pages. Client understands that the pricing and any related discount structure provided under this Agreement assumes such perpetual permission.

Intellectual Property, Ownership & Content Responsibility

24. This Agreement is not a sale of the CivicPlus Content Management System (CMS) and its associated applications and modules (the Proprietary System). CivicPlus owns the Proprietary System and provides a right of use to the Client during the period of this Agreement. Rights are non-transferable.
25. Upon full and complete payment of submitted invoices for the development of graphic designs, web content, page designs and banners ("Customer Content"), client will own the Customer Content that is incorporated into the Proprietary System in the course of using the Proprietary System.
26. Upon completion of the development of the site, client will assume full responsibility for Web site content maintenance and content administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.
27. Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Proprietary System in any way; (ii) modify or make derivative works based upon the Proprietary System; (iii) create Internet "links" to the Proprietary System or "frame" or "mirror" any functionality on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Proprietary System in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Proprietary System, or (c) copy any ideas, features, functions or graphics of the Proprietary System.
28. The CivicPlus name, the CivicPlus logo, and the product and module names associated with the Proprietary System are trademarks of CivicPlus, and no right or license is granted to use them.

Indemnification

29. Client shall defend, indemnify and hold harmless CivicPlus, its partners, employees, and agents from and against any and all lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses including attorney's fees of any kind, without limitation, in connection with the operations of and installation of software contemplated by this Agreement, or otherwise arising out of or in any way connected with the CivicPlus provision of service and performance under this Agreement. This section shall not apply to the extent that any loss or damage is caused by the gross negligence or willful misconduct on the part of CivicPlus.
30. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier or other service provider whose facilities or services are used in furnishing any portion of the service received by the customer. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by customer or any entity other than CivicPlus that furnishes services, facilities or equipment used in connection with CivicPlus services or facilities.

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

31. Except as expressly provided in this Agreement, CivicPlus makes no expressed or implied representations or warranties, including any warranties regarding merchantability or fitness for a particular cause.

Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

City of Milford DE	Date
CivicPlus	Date

Sign and Fax this Copy	**And – Mail Two (2) Signed Originals**
Attn: Contract Manager Fax: 785-587-8951	CivicPlus Contract Manager 317 Houston St., Suite E Manhattan, KS 66502

We will fax a counter-signed copy of the faxed contract back to you so we can begin your project. Upon receipt of two signed originals, we will counter-sign and return one copy for your files.

--Remainder of this page left blank intentionally--

Exhibit A - CivicPlus Project Deliverables

Provided below is a project estimate based upon deliverables in your website design. Additional options may be added in phases or as desired.

Consulting, Website Design, Setup, Programming and Training Options All Quotes are in US Dollars and Valid for 120 Days from April 30 , 2010	
Year One	**$8,600**
Year Two	**$8,600**
Year Three (Client may terminate contract at the end of 36 months or select from options available in Item 8 of the Terms & Conditions)	**$8,600**

Project Development Fee includes use of CivicPlus CMS with these modules & functionality:

Modules

- Archive Center
- Bid Postings (1 Category)
- Business/Resource Directory
- Calendar
- Carbon Calculator
- Document Center
- Emergency Alert Notification
- Facilities & Reservations (50 Facilities)
- FAQs
- Featured Info Module
- Forms Development Tool (5 Forms - Client develops)
- Healthy City Initiative
- Intranet (1 Group)
- Job Postings (1 Category)
- News Flash
- Notify Me Email Subscription
- Online Job Application (1 Generic Application)
- Opinion Poll
- Photo Gallery (50 Photos)
- Postcard Module
- Quick Links
- Real Estate Locator (25 Properties)
- Request Tracker (5 Users)
- Staff Directory

Functionality

- Action Items Queue
- Audit Trail / History Log
- Automated PDF Converter
- Automatic Content Archiving
- Dynamic Breadcrumbs
- Dynamic Sitemap
- Expiring Items Library
- Graphic Link Administration
- Links Redirect and Broken Links Finder
- Menu Management
- Mouse-over Menu Structure
- Online Editor for Editing and Page Creation
- Online Web Statistics (Only with CivicPlus Hosting)
- Page Wizard for Preformatted Page Options
- Printer Friendly / Email Page
- Rotating Content
- RSS
- Search Engine Registration
- Site Layout Options
- Site Search & Entry Log
- Slideshow
- User / Group Permission with Author & Publisher Rights
- Web Page Upload Utility
- Website Administrative Log

These Upgrades are Included in the Project Development Fee:

Module Upgrades	**Functionality Upgrades**
• None	• None
Gov 2.0 Upgrades	
• Blog – Basic • Facebook Integration	• Share • Twitter – Basic Profile Setup

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

Pre-Implementation Options		Optional Fee	Fee
Optional: On-Site Kick-Off Meeting			
• Project kick-off meeting with departments to provide overview of website project, capabilities and introduction of effective website communication. • One day meeting with website committee to discuss design goals and review audience goals • Discuss design and layout standards with website committee.	• Assign information gathering tasks. • **Deliverable: A document** summarizing the meetings, with analysis and recommendations. Design information gathered. • **Quote includes all travel expenses.**	*Optional*	
Optional: On-Site Strategic Planning Meeting with Individual Departments			
• Interpretation of current departmental processes and services resulting in recommendations for website solutions. • Two days of meetings with up to 12 departments.	• **Deliverable:** A document summarizing the meetings, with analysis and recommendations. Design information gathered. • **Quote includes all travel expenses.**	*Optional*	

Objective 1: Establishing Your Site's Focus		Optional Fee	Fee
Phase 1: Analysis and Timeline Development			
• Identify custom modules and integration projects. • Phone interviews with departments and gather information • Review current site statistics, if available.	• Establish project timeline. • Coordinate the DNS details. • **Deliverable:** Project Timeline and worksheets.		**Included**
Phase 2: Website Design			
• Create a professional and attractive "look and feel" for the entire website. • Create the layout for each page which will incorporate photographs, graphic illustrations, topic headings, and dynamic components. • Modify design with input from client.	• Determine customization of modules or custom development projects and provide estimates for project changes. • **Deliverable:** Website Design Composition.		**Included**
Phase 3: Navigation Architecture Development			
• Develop the global navigation and sub-navigation, persistent navigation, and resource links for the client's website.	• Determine optimum taxonomy structure. • **Deliverable:** Navigation structure optimized for your website.		**Included**
• Optional: Onsite Meeting for Individualized Content Planning (up to 12 departments)			
• Two days of onsite meetings. • Analyze call log. • Review assignments. • Review individual section's navigation. • Identify services and needs of departments • Demonstrate best website practices.	• Review functionality and how it applies to individual sections. • **Deliverable:** Presentation on best practices, review worksheet assignments, and review design composite. • **Quote includes all travel expenses.**	*Optional*	
Phase 4: Modules and Site Setup			
• Set up dynamic elements on pages. • Additional modules may be established based upon recommendations in Phase 1.	• **Deliverable:** Set up a fully functional site, the software that runs the site and statistical analysis for the site.		**Included**

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

Objective 2: Content Development and Page Layout	*Optional Fee*	Fee
Phase 5: Content Development		
• Develop sitemap as pages are being developed • Gather content worksheets from your departments and contact departments as needed for additional content • Develop new web pages as needed with assistance from client and migrate existing content • Approximately 75 standard pages and up to 375 supporting elements will be developed (You will have ability to create unlimited pages after training) • Ongoing review with your staff as major areas are developed • **Deliverable:** Website content development and module content.	*Optional - Add $1,450 per 50 additional pages*	**Included**
Phase 6: Test and Review / Establish Future Expectations		
• Make final revisions to website. • Quality Assurance review of new website • Review ongoing responsibilities of department heads and administrative staff. • **Deliverable:** List of items that need to be addressed.		**Included**
Objective 3: Equipping Your Staff for Successful Website Maintenance		
Phase 7: Consulting and Training for Your Trainers or Website Administrator		
Included - Basic Page Admin Training • Basic page development using Page Wizards • Applying modules to pages • Applied use and usability consulting • Effective communication through your website **Included - Basic System Admin Training** • Set up groups and users • Establish permissions **Included - Basic Module Admin Training & Use** Slideshow and Images, Document Center, News Flash, Staff Directory, Opinion Poll, Resource Directory, Calendar, FAQs, Quick Links, and RSS **Included - Advanced Module Admin Training & Use** • Archive Center, Notify Me, Intranet, Emergency Alert Notification (Single Page Push) **Also includes - Module Upgrade Training** Bid Posting, Facilities & Reservations, Forms Development Tool,, Online Job Application, Photo Gallery, Real Estate Locator, Request Tracker, Where Do I...?, Emergency Alert (Site Wide Push) **Also includes - Gov 2.0 features** Basic Blog, Facebook, Twitter, Share		
ON-SITE TRAINING Eight-hour days of on-site training and usability consulting for content administrators (up to 10 employees). **Quote includes travel expenses. Laptop training available for additional fee.**		
TRAIN-THE-TRAINER 24 hours, online phone training and consulting for up to two employees	*Optional*	**Included**
Training in Manhattan, KS - Eight-hour days of On-Site Training and Usability Consulting for Content Administrators (up to 10 employees) in our Manhattan, KS office. **Client is responsible for all travel-related arrangements and expenses.**	*Optional - $1200/day*	
Additional Option - One day of On-Site Consulting with department administrators to review the website and additional time for basic learners. Review website procedures. Must be combined with on-site training above.	*Optional - $2,500*	
Objective 4: Website Deployment		
Phase 8: Go-Live and Project Review		
• Launch site. • Gather feedback from staff involved in project. • **Deliverable:** Final project review report.		**Included**
Optional: **Content Fixes** – This is a site review and cleanup; the Quality Control team will clean up the site, correcting any issues found in pages that were created by client staff.		
Optional: **Website Presentation** – One day of on-site meetings to present website to stakeholders. **Quote includes travel expenses.**		
Phase 9: Marketing		
• Registration of site with all major search engines		**Included**
Phase 10: Ongoing Consultation		
• Site review and consulting • Layout, design and content recommendations • Recommend site enhancements for improved visitor interaction		**Included**
Total Module Upgrade Fee (see front page for details)		**Included**
Total Functionality Upgrade Fee (see front page for details)		**Included**
Total Project Development Fee	**Varies**	**Included**

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

Exhibit B - Annual Support, Maintenance and Hosting Services

Server Storage not to Exceed 15GB

Support, Maintenance & Hosting Includes:

Hosting	CivicPlus Application & Modules	Support
✓ Shared Web/SQL Server	✓ Install Service Patches for OS	✓ 7am-7pm (CST), Monday-Friday (excluding holidays)
✓ DNS Consulting & Maintenance	✓ Upgrades	✓ 24/7 Emergency Support
✓ Monitor Bandwidth-Router Traffic	✓ Fixes	✓ Dedicated Support Personnel
✓ Redundant ISP	✓ Improvements	✓ 2-hour Response During Normal Hours
✓ Redundant Cooling	✓ Integration	✓ Usability Improvements
✓ Natural Gas Powered Generator	✓ Testing	✓ Integrate New & Upgraded Services
✓ Daily Tape Backup	✓ Development	✓ Proactive Support for Updates & Fixes
✓ Intrusion Detection &Prevention	✓ Usage License	✓ Online Training Manuals
✓ Antivirus Protection		✓ Monthly Newsletters
✓ Upgrade Hardware		✓ Phone Consulting

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

Exhibit C – Basic Redesign of Website

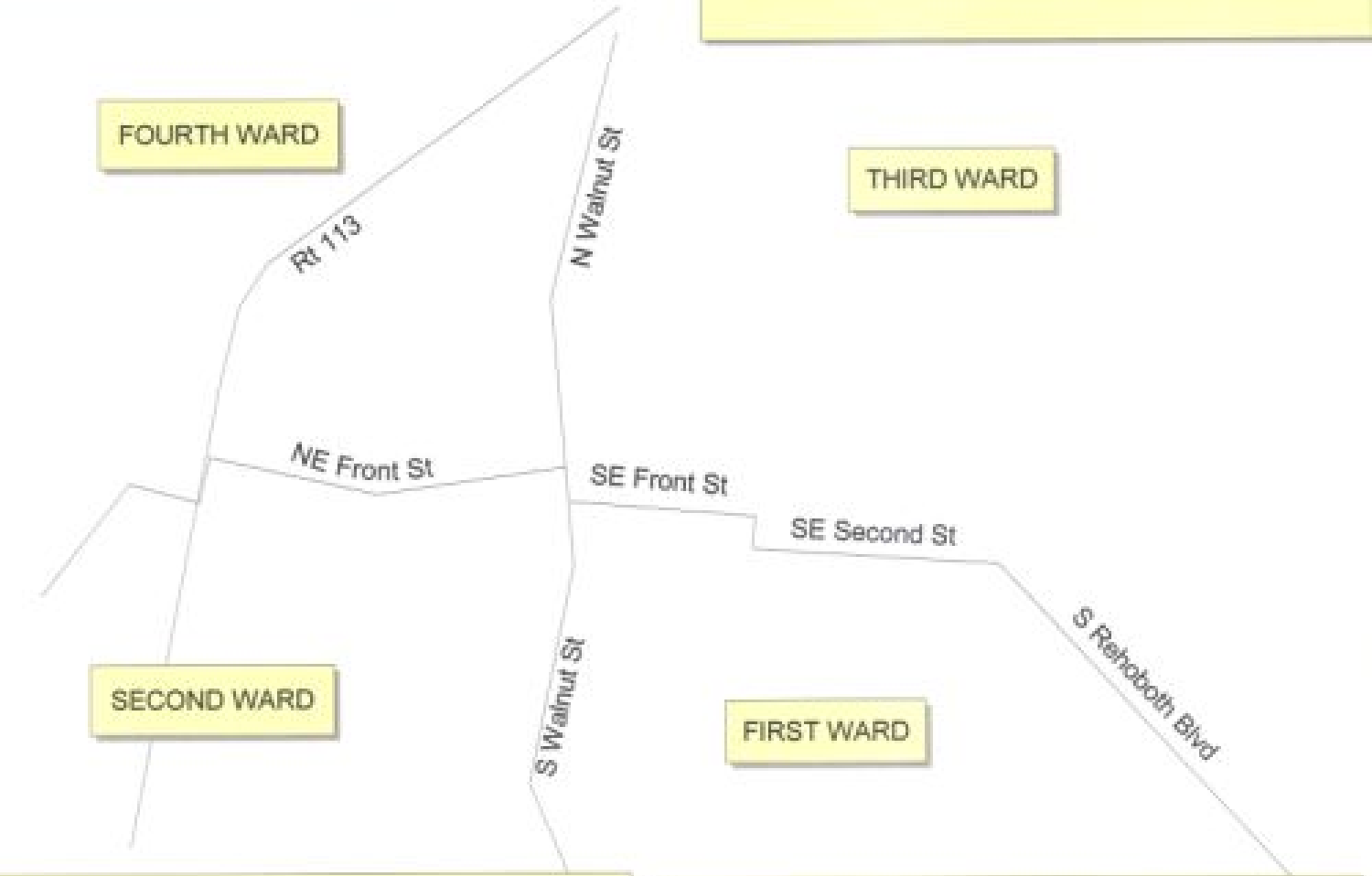
Basic Redesign of Website	Value
Package Includes: • Redevelop banner • Up to 3 graphic buttons to promote special services • Redevelop navigation method (may choose top drop-down or other options) • Design setup • Print this page option • Email this page option • Breadcrumbs • Sitemap • Redevelop graphic elements of website (Newsflash, FAQs, Calendar, etc.) • Project Management • Testing • Review • Migrate content "As Is" *This is a one-time migration of everything on your existing site to your newly redesigned site. Everything created in your new site will be deleted, so it is very important to do this method first before adding new pages to your new site.*	**$7,900**

CivicPlus • 317 Houston St., Suite E • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-233 • Accounting Ext. 215 • Support Ext. 307 • Fax 785-587-8951

City of Milford Election Wards

FOURTH WARD
1-701 Odd Numbers North Side NW Front St
2-1042 Even Numbers West Side N Walnut St

THIRD WARD
1-1061 Odd Numbers East Side of N Walnut St
1-201 Odd Numbers North Side of SE Front St
9-1019 Odd Numbers North Side of SE 2nd St
313-715 Odd Numbers East Side of S Rehoboth Blvd



SECOND WARD
2-1000 Even Numbers West Side of S Walnut St
2-616 Even Numbers South Side of NW Front St

FIRST WARD
2-200 Even Numbers South Side of SE Front St
2-1022 Even Numbers South Side of SE Second St
400-800 Even Numbers West Side of S Rehoboth Blvd
1-1035 Odd Numbers East of S Walnut St

Revised DSWA Tonnage Report

Current annual cost for tipping fees $61.50/ton	$288,098
Rebate for tonnage ($10.00/ton)	($46,840)
Current Cost	$241,258

(Based on 4684 tons)

Proposed New Rate for tipping fees- July1, 2010 – June 30, 2011 $80.00/ton	$374,720
Rebate for tonnage ($4.00/ton)	($18,736)
Deferral ($8.00/ton)	($37,472)
Cost	$318,512

Proposed New Rate for tipping fees – July 1, 2011 – June 30, 2012 $82.00/ton	$384,088
Rebate for tonnage ($4.00/ton)	($18,736)
Cost	$365,352

Proposed New Rate for tipping fees – July 1, 2012- June 30, 2013 $84.00/ton	$393,456
Rebate for tonnage ($4.00/ton)	($18,736)
Payment of deferral $8.00/ton	$37,472
Cost	$412,192

Mayor Ronnie Rogers
City Hall
201 South Walnut Street
Milford, DE 19963

My name is Joan King, and I am a Milford native.

I have felt for some time I would like to write and inform you as to the exceptional city workers I have had the pleasure to interact with.

Denise and Susan are in the utility billing department. While not having the most pleasant of topics to discuss, we do consistently work out some compromise acceptable to everyone. I am grateful to them.

Recently, I was cleaning up a property/yard on South East Front Street. I was taking debris to the curb and, again, whether it was trash day or not, it was picked up. One day, there were some heavy logs in the back yard; I had not yet moved everything to the street. Four workers stopped, loaded up what was on the street and, then, went behind the property and helped me pick up the rest. Four nameless fellows who did an incredibly kind thing when they could just as easily have ridden by.

I was living temporarily at 400 Pierce Street in Milford. There was a tree close to the street that a city worker realized might pull down some power lines if it fell during a storm. Within a week, the men came and took it down. No, I don't know his name.

I also have had opportunity to interface with Mr. Brad Dennehy and CC Dennis. I had a question about a basement which, there again, they could have told me was outside of their job duties. Instead, they came, looked at it and gave, what I felt, to be very good guidance in resolving the situation.

I am grateful to each of these individuals and hope they will recognize themselves in this letter. Having been a public servant for almost a third of my life, I know all too well the thankless nature of some of these jobs. But, please know, that in these situations mentioned above, each of you has gone beyond what you had to do in making Milford a better place. Thank you, again, to each one.

Joan King
May 14, 2010

MEETING NOTICE

LOCATION:	**Abbott's Grill** **249 NE Front Street, Milford**
DATE:	**Wednesday, June 2, 2010**
TIME:	**6:00 p.m. – Social** **6:30 p.m. – Dinner**
HOST:	**Town of Slaughter Beach**
SPEAKER:	**Robert Stuart,** **Sussex County EMS Director**
COST:	**$25.00**

MENU:

Entrée Choices:

1- Pasta Primavera

2- Cajun Meatloaf with mashed potatoes and vegetable

3- Chicken with Mushrooms and Madeira served with whipped potatoes and vegetable

(Entrée choice to be made that night.)

Dessert: Strawberry Shortcake

For reservations, please call Slaughter Beach Town Hall at 424-7659 and leave a message. Please call no later than FRIDAY, MAY 28TH, BY NOON.

Please make checks payable to the Town of Slaughter Beach.