

# City of Milford



## AGENDA

Council Meeting

July 26, 2010

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

PUBLIC HEARINGS - 7:00 P.M.

ORDINANCE NO. 2009-10

An Ordinance to Amend the Code of the City of Milford By Adding a New Chapter Entitled Lighting Standards

ORDINANCE 2009-22

An Ordinance to Amend Chapter 230 of the Milford Code Relating to Billboards

### COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Pledge of Allegiance

Invocation

Adoption of Resolution 2010-11/DEMEC Power Sales Contract/Generation Contract

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

Recognition of Marine LCpl Lee R. Folke

Ward Redistricting Update\*

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.

061510 071310 071610 072010 \*072210 Late Info Received \*\*072310 Requested by City Manager Late Info Received

PUBLIC NOTICE  
CITY COUNCIL PUBLIC HEARING  
City of Milford Subdivision Code Amendment  
Ordinance 2009-10 Lighting

NOTICE IS HEREBY GIVEN the City Council of the City of Milford will hold a Public Hearing on an amendment to the City of Milford Subdivision Code on Monday, July 26, 2010 at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers.

Following the hearing, Ordinance 2009-10 may be adopted, with or without amendments.

ORDINANCE NO. 2009-10

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

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Amend the Milford Code by adding a new Chapter entitled Lighting Standards to read as follows:

Chapter \_\_\_\_  
Lighting Standards

§ -1 Statement of Need and Purpose

The City of Milford recognizes the following:

1. Improperly located lighting can cause unsafe and unpleasant condition;
2. Excessive lighting can cause unsafe, unhealthful and unpleasant conditions, waste electricity and threaten the natural environment;
3. Obtrusive lighting and light trespass can cause unsafe and unpleasant conditions;
4. Proper lighting can enhance safety and enjoyment of the built environment;
5. Illumination levels should be appropriate to the visual task.

§ -2 Ordinance Establishment

This ordinance is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. Allow appropriate lighting levels to preserve safety, security, and the nighttime use and enjoyment of property;
2. Reduce light pollution, light trespass, glare, and offensive lighting;
3. Promote energy conservation;
4. Allow people in residential areas to view the stars against a dark sky;
5. Enhance the aesthetics of the built environment; and
6. Protect the character of the natural environment and preserve ecological values.

§ -3 Lighting Definitions

For the purpose of this chapter, certain words and phrases shall be interpreted or defined as follows:

Glare: Intense and blinding light. Causes visual discomfort or disability.

Landscape lighting: Luminaries mounted in or at grade (but not more than 3 feet above grade) and used solely for landscape rather than any area lighting.

Obtrusive light: Spill light that causes glare, annoyance, discomfort, or loss of visual ability.  
Light Pollution.

Luminary (light fixture): A complete lighting unit consisting of one or more electric lamps, the lamp holder, any reflector or lens, ballast (if any), and any other components and accessories.

Fully shielded (full cutoff) luminary: A luminary emitting no light above the horizontal plane.

Spill light: Light from a lighting installation that falls outside of the boundaries of the property on which it is located. Usually results in obtrusive light.

Light trespass: Light falling where it is not wanted or needed. Light trespass is intrusive lighting.

Spill light (also called stray light) is light falling outside of the intended area, and it can result in light trespass. Light coming into a yard or bedroom window at night from streetlights, the nearby car dealer or mall, or from a neighbor's security light is light trespass. This type of light pollution usually has glare and always wastes both light and energy.

#### § -4 Maximum Lamp Wattage and Required Luminaries or Lamp Shielding

All lighting installations shall be designed and installed to be fully shielded (full cutoff), except as in exceptions below, and shall have a maximum lamp wattage of 250 watts for commercial lighting, 100 watts incandescent, and 26 watts compact fluorescent for residential lighting. In residential areas, light should be shielded such that the lamp itself or the lamp image is not directly visible outside the property perimeter.

#### § -5 Applicability

1. New construction/uses. The provisions of this ordinance shall apply to parking lots, buildings, structures, and land uses established after the effective date of this ordinance.
2. Expansion and redevelopment. The provisions of this ordinance shall apply to the entire building/structure, parking area, or use, as appropriate, under the following conditions:
  - a. When a building or structure is expanded in size by 25 percent or more;
  - b. When the area of a parking area is expanded by 25 percent or more;
  - c. If existing lighting is shown to be a safety hazard;
  - d. When an outdoor use (e.g., outdoor storage, vehicle sales) is expanded by 25 percent or more; and
  - e. Any other activity subject to site plan or subdivision review, and
  - f. During the course of natural upgrades and maintenance so all lighting in the city will comply by January 2025.
3. Exemptions. The following are exempt:
  - a. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
  - b. Exit signs and other illumination required by building codes.
  - c. Lighting for stairs and ramps, as required by the building code.
  - d. Signs are regulated by the sign code, but all signs are to be fully shielded.
  - e. Holiday and temporary lighting (less than forty-five days use in any one year).
  - f. Football, baseball, softball and other sport field lighting utilizing sensible curfews (not past 10 p.m. unless in conjunction with an event already started and continuing before that time).
  - g. Low voltage landscape lighting, but such lighting should be shielded in such a way as to eliminate glare and light trespass.

4. Severability and conflicts with other ordinances
  - a. Validity and Severability: Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.
  - b. Conflict with Other Ordinances: Should any section or provision of this Ordinance be found to be in conflict with any other municipal ordinance or regulation, the more stringent section or provision shall prevail.

§ -6 Additional Requirements:

1. Residential Outdoor lighting. Lighting attached to single-family home structures should not exceed the height of the eave and should be shielded such that the lamp image is not directly visible outside the property perimeter.
2. Pole-mounted luminaries. Luminaries shall not be taller than 15 feet in residential and downtown zoning districts or when placed within 50 feet of a residential zoning district. In all other zoning districts, luminaries shall not be taller than 30 feet;
3. Building-mounted luminaries. In non-residential zoning districts, building-mounted luminaries shall not be attached to a sloped roof and shall not be taller than 30 feet or the height of the principal building, whichever is less. The use of wall-pack luminaries is discouraged;
4. Overhead electrical lines prohibited. For new installations, electrical lines for luminaries mounted on freestanding poles shall be placed underground between poles.
5. Material for light poles. Light poles shall be anodized, painted or otherwise coated so as to minimize glare from the light source;
6. Continued maintenance. Lighting installations shall be maintained in good repair to meet the provisions of this ordinance on an on-going basis;
7. Lighting curfew. For parcels with non-residential uses, lighting in vehicle parking areas containing 20 parking spaces or more shall be reduced to 50 percent one hour after the business closing to one hour before the business opens.;
8. Luminaire types. Full-cutoff luminaries shall be used in parking areas, along internal streets, and along pedestrian ways. The City/town may allow cutoff luminaries or semicutoff luminaries in these locations when the overall upright would be less than for fullcutoff luminaries. To promote a unified development theme, post top luminaries (also referred to as period lighting) may be used as an alternate if they have built-in reflectors that effectively eliminate upright. Except as provided in this ordinance, all other luminaries shall be directed downward and the light source shall be shielded so that it is not visible from any adjacent property;

§ -7 Other Guidelines

1. Flag poles, statues and similar monuments. A flag pole bearing a state flag, a flag of the United States or a flag of a foreign nation may be illuminated provided the following standards are met:
  - a. The luminaries shall be fully shielded.
  - b. Upward aiming luminaries shall be placed as close to the base as possible.
  - c. The luminaries shall not collectively exceed 40,000 mean lumens.
  - d. Public statues, memorials or other similar monuments may also be lighted upon approval by the planning board, provided the above standards are met.
2. Building façade lighting. The exterior of a building may be lighted provided the following standards are met:
  - a. The lighting is done to accentuate an architectural or aesthetic element of the building, not the entire building.
  - b. The light shall only be directed onto the building façade and not spillover beyond the

plane of the building.

- c. Upward aimed lighting shall not exceed 4,000 mean lumens per accent feature, shall be fully shielded, and mounted as flush to the wall as possible.
- d. Lighting exceeding 4,000 mean lumens per accent feature shall be aimed downward, fully shielded, and mounted as flush to the wall as possible.

Section 2. Dates.

Introduction to City Council: June 22, 2009

Planning Commission: July 21, 2009, August 18, 2009

City Council Hearing & Adoption Date: July 26, 2010

Effective Date: August 5, 2010

A complete copy of the Code of the City of Milford is available by request through the City Clerk's Office or by accessing the website [cityofmilford.com](http://cityofmilford.com)

By: Terri K. Hudson, CMC

06-15-10

PUBLIC NOTICE  
CITY COUNCIL PUBLIC HEARING  
City of Milford Zoning Code Amendment  
Ordinance 2009-22

NOTICE IS HEREBY GIVEN the City Council of the City of Milford will hold a Public Hearing on an amendment to the City of Milford Zoning Code on Monday, July 26, 2010 at 7:00 p.m. in the Joseph Ronnie Rogers Council Chambers.

Following the hearing, Ordinance 2009-22 may be adopted, with or without amendments.

AN ORDINANCE TO AMEND CHAPTER 230 OF THE MILFORD CODE RELATING TO BILLBOARDS.

The City of Milford hereby ordains as follows:

Section 1.

An Ordinance to amend the Code of the City of Milford, Chapter 230, thereof, entitled Zoning Code.

Section 2.

Amends §230-4, Definitions and Word Usage, by adding 'Billboards' and the following definition:

*BILLBOARDS – A sign directing attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is maintained.*

Section 3.

Amends §230-26, General Standards, by adding:  
(E), Billboards as a Conditional Use in C-3 Zoning District.

*BILLBOARDS are permitted in the C-3 Zoning District as a Conditional Use provided they meet any State of Delaware requirements as well as the following requirements:*

- (1) *Height: Billboards shall be no greater than 32 feet in height.*
- (2) *Size: Billboards shall be no smaller than 200 square feet or no larger than 400 square feet in area and only one advertisement per side shall be permitted.*
- (3) *Location: All measurements shall be made parallel to the roadway between perpendiculars extended from the billboard locations in question.*
  - (a) *No billboard shall be closer than a fifteen hundred (1500) foot radius from another billboard.*
  - (b) *The leading edge of all billboards must be set back 50 feet from the street right of way.*
  - (c) *No billboard shall be constructed within two thousand (2000) feet of any residential unit within the City of Milford.*
  - (d) *No billboard shall be placed to face abutting residential property within the City of Milford.*
- (4) *Lighting: Floodlighting shall be arranged so that the source of light is not visible from any point off the lot and that only the sign is directly illuminated thereby.*
  - (a) *Flashing lights are expressly prohibited; flashing means any method of conveyance produces or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.*
- (5) *Maintenance: Billboards shall be constructed of durable material and kept in good condition and repair. Any billboard which is allowed to become dilapidated and considered by the City of Milford Code Enforcement Officer to constitute a nuisance shall be removed at the expense of the owner or lessee of the property on which it is located.*

Section 4.

Amends §230-26, General standards, Sign Chart, as follows:

ZONING  
City of Milford  
Sign Types and Allowable Dimensions and Restrictions

**SEE ATTACHED SIGN CHART**

Section 5.

Introduction to City Council: 11-23-09

Planning Commission Public Hearing: 12-15-09

City Council Public Hearing & (Projected) Adoption Date: July 26, 2010

Projected Effective Date: August 5, 2010

A complete copy of the Code of the City of Milford is available by request through the City Clerk's Office or by accessing the website [cityofmilford.com](http://cityofmilford.com)

By: Terri K. Hudson, CMC

06-15-10

Zoning Dist	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)	PROPOSED: Billboard		
	Ht	Sq Feet	Ht	Sq Feet			Ht	Sq Feet	Ht	Sq Feet	Sq Ft				Ht	Sq Feet
R-1	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited		
R-2	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited		
R-3	42"	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Prohibited	N/A	N/A	Prohibited		
C-1	42"	2	48"	4	10%	15	48"	9	48"	4	Prohibited	N/A	N/A	Prohibited		
C-2	N/A	N/A	48"	4	10%	20	48"	9	48"	4	Prohibited	N/A	N/A	Prohibited		
C-3	N/A	N/A	28'	225	10%	20	10'	48	28'	225	32 and ratio of 4:8	N/A	N/A	32' 200 up to 400		
H-1	N/A	N/A	25'	70	5%	N/A	N/A	N/A	25'	70	Prohibited	N/A	N/A	Prohibited		
OC-1	N/A	N/A	28'	225	5%	N/A	10'	48	28'	225	Prohibited	N/A	N/A	Prohibited		
I-1	N/A	N/A	28'	200	5%	N/A	10'	48	28'	200	Prohibited	N/A	N/A	Prohibited		
I-2	N/A	N/A	28'	200	5%	N/A	10'	48	28'	200	Prohibited	N/A	N/A	Prohibited		

**CITY OF MILFORD  
("Project Participant")**

CONTRACT RESOLUTION  
2010-11

A RESOLUTION APPROVING A PROJECT TO BE UNDERTAKEN BY THE DELAWARE MUNICIPAL ELECTRIC CORPORATION; AUTHORIZING THE EXECUTION OF A POWER SALES CONTRACT BETWEEN THE CITY OF MILFORD AND THE DELAWARE MUNICIPAL ELECTRIC CORPORATION; AUTHORIZING THE REFUNDING BY THE DELAWARE MUNICIPAL ELECTRIC CORPORATION OF CERTAIN BONDS; AND AUTHORIZING OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Milford (the "Project Participant") is a duly organized and validly existing political subdivision under the laws of the State of Delaware (the "State"), and particularly pursuant to its Charter, 57 Del. Laws Ch. 726, as amended (the "Charter"); and

WHEREAS, the Delaware Municipal Electric Corporation ("DEMEC") is a municipal electric company incorporated in the State, established by certain cities and towns, and formed pursuant to Chapter 13 of Title 22 of the Delaware Code (the "Act"); and

WHEREAS, the Project Participant is a member of DEMEC, and by a resolution heretofore duly adopted by the Council, the Project Participant has duly authorized, executed and delivered the Agreement and Articles of Incorporation, dated as of July 9, 1979 forming DEMEC, and all amendments thereof and supplements thereto (the "DEMEC Joint Action Agreement"); and

WHEREAS, DEMEC is authorized and empowered under the Act and the DEMEC Joint Action Agreement, among other things, (i) to plan, develop, acquire, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend or improve one or more electric projects (as defined in the Act); (ii) to issue its bonds, notes or other evidences of indebtedness to pay all or part of the costs of acquiring and developing such projects; and (iii) to exercise all other powers which may be necessary and convenient to effectuate the purposes of DEMEC; and

WHEREAS, DEMEC has previously undertaken a project consisting of the acquisition, development, construction and equipping of a peak power generating station in Smyrna, Delaware (the "Initial Project"); and

WHEREAS, DEMEC and the Project Participant have previously entered into a Power Sales Contract dated May 1, 2001 (the "Initial Power Sales Contract") whereby DEMEC agreed to sell and the Project Participant agreed to purchase the Project Participant's share of the electric energy and electric capacity of the Initial Project; and

WHEREAS, in order to finance the Initial Project, DEMEC issued its Electric Revenue Bonds, Series 2001, dated September 1, 2001, in the initial principal amount of \$34,790,000 (the "2001 Bonds") and pledged its right to receive payments from the Project Participant under the Initial Power Sales Contract to the trustee for the 2001 Bonds to secure payment on the 2001 Bonds; and

WHEREAS, DEMEC has determined to undertake a new project (the "New Project") consisting of the development, engineering, design and installation of a second generator at DEMEC's existing power generation station in Smyrna, Delaware, and all ancillary equipment necessary for the generation of up to an additional 67MW of nameplate capacity and certain other related capital improvements to benefit the Project Participant and certain other participating members of DEMEC (collectively, the "Project Participants"), all as more fully described in the Independent Engineer's Report (the "Engineer's Report"); and

WHEREAS, DEMEC will undertake and operate the New Project in order to supply Electric Capacity and Electric Energy (each as defined in the hereinafter mentioned New Power Sales Contract) to the Project Participant and to the other Project Participants contracting with DEMEC therefor, and will sell the Electric Capacity and Electric Energy of the New Project to the Project Participant pursuant to a New Power Sales Contract between DEMEC and the Project Participant (the "New Power Sales Contract") and pursuant to contracts substantially similar to the New Power Sales Contract with such other Project Participants (all such contracts are hereinafter referred to collectively as the "New Power Sales Contracts"). A draft of the New Power Sales Contract is attached hereto as Exhibit A; and

WHEREAS, in order to enable DEMEC to issue its electric revenue bonds, or bond anticipation notes (such bonds and notes are hereinafter referred to as the "Bonds"), to pay the cost of acquiring and constructing the New Project, it is necessary for DEMEC to have entered into the New Power Sales Contracts with the Project Participant and the other Project Participants, and to pledge such contracts and the payments required to be made in accordance with such contracts as security for the payment of such Bonds; and

WHEREAS, pursuant to Section 2.01 of the Charter and Section 1307(a) of the Act, the Project Participant has the authority to enter into the New Power Sales Contract, and by the adoption of this Resolution desires to authorize the execution of the New Power Sales Contract.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Project Participant as follows:

Section 1. Approval of New Project. The Project Participant hereby approves the New Project as described in the Engineer's Report, and requests DEMEC to undertake the New Project for the benefit of the Project Participants. A copy of the Engineer's Report has been reviewed by the appropriate officials of the Project Participant, including those sections of the Engineer's Report analyzing the capital and operating costs of the New Project.

Section 2. Authorization of New Power Sales Contract. The Project Participant hereby authorizes the execution of the New Power Sales Contract, and authorizes and directs the Mayor and the Clerk of the Project Participant to execute and acknowledge the New Power Sales Contract on behalf of the Project Participant. The New Power Sales Contract shall be substantially in the form presented to this meeting, which is hereby approved, subject to such changes and modifications as counsel may recommend and the Mayor of the Project Participant may approve, such approval to be conclusively evidenced by his/her execution thereof.

The Project Participant acknowledges that under the terms of the New Power Sales Contract, the Project Participant is obligated to make payments (the "Payments") for its share of all of DEMEC's Monthly Power Costs (including debt service on the Bonds, reserves for debt service, operating and maintenance expenses of the New Project and reserves therefor, the requirements of any rate covenant with respect to debt service coverage for the Bonds, and other amounts as set forth in the New Power Sales Contract) and all Monthly Transmission Costs of DEMEC properly allocable to the Project Participant irrespective of whether energy is produced or delivered to the Project Participant or whether the New Project is completed, operable or operating, and notwithstanding suspension, interruption, interference, reduction or curtailment of the output of the New Project, and shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not be otherwise conditioned upon performance by DEMEC under the New Power Sales Contract or any other agreement or instrument or the validity or enforceability of any other New Power Sales Contract, or any other agreement between DEMEC and any other Project Participant. The Project Participant acknowledges that DEMEC's ability to issue the Bonds and finance the New Project depends on the inclusion of the above-described provisions in the New Power Sales Contracts.

The obligation of the Project Participant to make Payments under the New Power Sales Contract shall not constitute a debt of the Project Participant or a general obligation of or pledge of the full faith and credit of the Project Participant, and the Project Participant shall not be obligated or compelled to levy *ad valorem* taxes to make the Payments provided for in the New Power Sales Contract. The obligation to make Payments shall constitute an operating expense of the Project Participant's electric utility system payable solely from the revenues and other available funds of the electric utility system.

The Project Participant also acknowledges that under the terms of the New Power Sales Contract, if one or more of the Project Participants defaults in its payment of its obligations under its New Power Sales Contract, the Project Participant, together with all the other non-defaulting Project Participants, shall be required to accept and pay for the capacity and energy which was the obligation of the defaulting Project Participant.

Section 3. Authorization of Refunding of 2001 Bonds. The Project Participant hereby authorizes DEMEC to refund the 2001 Bonds if it can be demonstrated that debt service savings can be achieved by refunding the 2001 Bonds, after taking into account any necessary costs associated with refunding the 2001 Bonds. If the determination is made by DEMEC to refund the 2001 Bonds, the Project Participant acknowledges the refunding bonds (the "Refunding Bonds") will be considered "Bonds" under either the Initial Power Sales Contract or the New Power Sales Contract, and agrees to include payments for debt service on the Refunding

Bonds in its required payments under either the Initial Power Sales Contract or the New Power Sales Contract, as the case may be.

Section 4. Certificate of Project Participant. Attached hereto as Exhibit B is a Certificate of the Project Participant which must be executed and delivered to DEMEC upon the execution of the New Power Sales Contract. The Council hereby finds that the information set forth in said Certificate is true and correct and authorizes and directs the Mayor and the Clerk to execute said Certificate and deliver it to DEMEC upon execution of the New Power Sales Contract, and any "bring-down" certificate required upon the issuance of the Bonds. A similar certificate is authorized in the event Refunding Bonds are issued.

Section 5. Authorize Other Action. The Project Participant hereby authorizes the Mayor and the Clerk to take all other action and sign any other documents or agreements necessary or appropriate to cause the New Project to be completed, the Bonds to be issued, and the 2001 Bonds to redeemed and the Refunding Bonds to be issued (if so determined), all as contemplated by this Resolution.

Section 6. Confirm Appointment to DEMEC Board of Directors. The Project Participant hereby confirms the appointment of David Baird as the Project Participant's member on the Board of Directors of DEMEC.

Section 7. Effective Date. This Resolution shall go into effect immediately upon its adoption by Council.

Dated: \_\_\_\_\_, 2010

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CERTIFICATE OF CLERK

I hereby certify that the foregoing is a true and correct copy of a Resolution duly adopted by a majority vote of the entire Council of the City of Milford at a regular meeting of said Council duly called and held on July 26, 2010; that public notice of said meeting was given as required by law; that said Resolution has been duly recorded upon the minutes of said Council; and that said Resolution has not been amended, repealed or superseded and is in fully force and effect this 26<sup>th</sup> day of July, 2010.

[SEAL]

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Teresa K. Hudson/City Clerk

**EXHIBIT "A"**

**POWER SALES CONTRACT**

**EXHIBIT "B"**

**CERTIFICATE OF PROJECT PARTICIPANT**

STATE OF DELAWARE            )  
  )  
COUNTY OF SUSSEX            )

The undersigned hereby certify that they are the Mayor and Clerk of the City of Milford (the "Project Participant"), a member of Delaware Municipal Electric Corporation ("DEMEC"), and that as such they are authorized to execute this Certificate on behalf of the Project Participant and hereby certify as follows:

1. This Certificate has been executed in connection with the Power Sales Contract, dated as of July 26, 2010 (the "Power Sales Contract"), between the Project Participant and DEMEC.

2. (a) The Project Participant is a municipality, duly organized, existing and operating under the general laws of the State of Delaware, and particularly pursuant to the Charter of the City of Milford, 57 Delaware Laws, Chapter 726, (b) there has been no change in or litigation over the organization of the Project Participant since its organization and (c) the legislative powers of the Project Participant are by law vested in a Council (the "Council") composed of 9 members (including the Mayor).

3. Attached hereto as *Exhibit "A"* is a true, complete and correct copy of the Power Sales Contract. Attached hereto as *Exhibit "B"* is a true and correct copy of excerpts from the minutes of a regular public meeting of the Council held on July 26, 2010, including a resolution adopted at such meeting authorizing the execution and delivery of the Power Sales Contract and related matters (the "Contract Resolution"). The Contract Resolution is in full force and effect and has not been amended, modified, repealed or supplemented.

4. The names of the Mayor and other members of the Council and the Clerk, all in office since May 3, 2010, together with the dates of commencement and expiration of the term of office of the Mayor and the other members of the Council, are as follows:

TITLE	NAME	COMMENCEMENT DATE OF CURRENT TERM	DATE CURRENT TERM EXPIRES
Mayor	Joseph Ronnie Rogers	05/10	05/12
Council 1 <sup>st</sup> Ward	Steven L. Johnson	05/09	05/11
Council 1 <sup>st</sup> Ward	Garrett L. Grier III	05/10	05/12

Council 2 <sup>nd</sup> Ward	Jason W. Adkins	05/09	05/11
Council 2 <sup>nd</sup> Ward	S. Allen Pikus	05/10	05/12
Council 3 <sup>rd</sup> Ward	Owen S. Brooks, Jr.	05/10	05/12
Council 3 <sup>rd</sup> Ward	Douglas E. Morrow	05/09	05/11
Council 4 <sup>th</sup> Ward	Katrina E. Wilson	05/10	05/12
Council 4 <sup>th</sup> Ward	James O. Starling, Sr.	05/09	05/11

5. In accordance with the requirements of applicable law, the clerk of the Project Participant gave public notice of the meeting of the Council referred to in paragraph 3, specifying the date, time, and place of such meeting of the Council by:

(a) causing a notice of meeting to be posted on or before \_\_\_\_\_, 2010 at the Project Participant's principal office in the form attached hereto as *Exhibit "C"*; said notice of meeting having continuously remained so posted and available for public inspection during the regular office hours of the clerk of the Project Participant; and

(b) causing a copy of the notice of meeting in the form attached hereto as *Exhibit "C"* to be provided on or before \_\_\_\_\_, 2010 to at least one newspaper of general circulation within the geographic jurisdiction of the Project Participant.

6. The persons named below were on the date of the execution of the Contract Resolution and the Power Sales Contract, and are on the date hereof, the duly elected or appointed and qualified incumbents of the offices of the Project Participant set opposite their respect names and official, true and genuine signatures of such officers are affixed at the end of this Certificate:

<u>Office</u>	<u>Name</u>
Mayor	Joseph R. Rogers
Clerk	Teresa K. Hudson

7. There is attached hereto as *Exhibit "D"* a true, correct and complete copy of the resolution or ordinance of the Project Participant providing for the establishment of its electric system (the "System"). Such resolution or ordinance is in full force and effect and has not been repealed. The Project Participant now owns and operates the System and furnishes electric energy to all persons desiring such service within its service area. The electric energy to be provided by its Power Entitlement Share in the Project (each as defined in the Power Sales Contract) will be used by the Project Participant to provide electric service within its service

area.

8. By resolutions heretofore duly adopted by the Council, the Project Participant has duly authorized, executed and delivered the Agreement and Articles of Incorporation, dated as of July 9, 1979, and all amendments thereof and supplements thereto (the "DEMEC Joint Action Agreement") and that the DEMEC Joint Action Agreement constitutes the legal, valid and binding agreement of the Project Participant.

9. There is attached hereto as *Exhibit "E"* a true, correct and complete copy of a resolution or ordinance adopted by the Council with respect to electric rates. Said resolution or ordinance is the only resolution or ordinance of the Project Participant establishing the rates and charges for the Project Participant's electric system and is in full force and effect as of the date hereof.

10. David W. Baird has been duly appointed by the Council as the Project Participant's Representative to DEMEC.

11. Prior to the adoption of the Contract Resolution and the execution of the Power Sales Contract, the Council determined the needs of the Project Participant for electric power and energy based on engineering studies and reports and considered, among other things, the following: (a) the economies and efficiencies of scale to be achieved through the acquisition by DEMEC of the Project for the benefit of the Project Participant and the other members of DEMEC participating in the Project, (b) the need of the Project Participant for the electric energy represented by its Power Entitlement Share in the Project to meet its current requirements and to provide reserves and peaking capacity, (c) the estimated useful life of the Project, (d) the estimated time necessary for the development of the Project and the length of time in advance necessary to obtain, acquire or construct an additional or alternative power supply, (e) the reliability and availability of the Project Participant's existing power supply sources, the Project and alternative power supply sources and the cost or estimated cost thereof, and (f) all such other matters as were deemed necessary or appropriate by the Project Participant as a basis for and in connection with its authorization and execution of the Power Sales Contract.

12. The Project Participant has requested DEMEC to develop the Project on its behalf in order to provide electric energy needed by the Project Participant to serve the customers of the System.

13. The Project Participant has no outstanding bonds, notes or other evidences of indebtedness, or agreements to take or pay for power and energy, payable from any revenues of the System, other than the Power Sales Contract, the Initial Power Sales Contract (as defined in the Contract Resolution) and any other agreement with DEMEC and

[(a) list outstanding bond issues of the Project Participant secured by the revenues of the System; and

(b) list all agreements for power and energy.]

14. The payments to be made by the Project Participant to DEMEC under the Power

Sales Contract will constitute operating expenses of the System and a cost of purchased electric energy.

15. There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or, to the best of our knowledge threatened, against the Project Participant which (a) challenges, contests or questions the due and regular adoption of the Contract Resolution or the validity thereof, affects or seeks to prohibit, restrain or enjoin the Project Participant from complying with the obligations contained in the Power Sales Contract, including the payment obligations to DEMEC contained therein, (b) in any way affects or questions the validity or enforceability of the DEMEC Joint Action Agreement or the Power Sales Contract, nor, to the best of our knowledge, is there any basis therefor, (c) challenges or affects the corporate existence of the Project Participant or the titles of its officers to their respective offices, (d) seeks to prohibit, restrain or enjoin the collection of revenues from the System to be used to make payments to DEMEC under the Power Sales Contract, and (e) involves any of the property or assets of the Project Participant which involves the possibility of any judgment or liability, not fully covered by insurance, which may result in any material adverse change in the business, properties, assets or in the condition, financial or otherwise, of the System.

16. (a) The payments to be made to DEMEC by the Project Participant pursuant to the Power Sales Contract will not be, directly or indirectly, (i) secured by any interest in (A) property used or to be used in a trade or business carried on by any person other than a state or local governmental unit or (B) payments in respect of such property, or (ii) derived from payments (whether or not by or to the Project Participant), in respect of property, or borrowed money, used or to be used in a trade or business carried on by any person other than a state or local governmental unit.

(b) Except as listed below, no user of the System will use the System on any basis other than the same basis as the general public; and no person other than a state or local governmental unit will be a user of the System as a result of (i) ownership, or (ii) actual or beneficial use pursuant to a lease or a management or incentive payment contract, or (iii) any other similar arrangement which results in trade or business use as described in Section 141 of the Internal Revenue Code of 1986, as amended and Treasury Regulations Section 1.141-3.

[Insert list of preferential users]

17. The information provided by the Project Participant to DEMEC pursuant to Section 11(c) of the Power Sales Contract and attached as Annex 2 thereto with respect to the Project Participant and the System is true, correct and complete. The Project Participant has duly authorized DEMEC to use information in connection with the preparation of an official statement of DEMEC with respect to the bonds to be issued to provide financing for the costs of the Project and to provide such information to interested parties.

Dated: July 26, 2010.

By: \_\_\_\_\_  
Mayor Joseph R. Rogers, City of Milford  
Kent and Sussex Counties, Delaware

By: \_\_\_\_\_  
Clerk Teresa K. Hudson, City of Milford  
Kent and Sussex Counties, Delaware

(SEAL)

**EXHIBIT A**

[Attach Copy of Power Sales Contract]

**EXHIBIT B**

[Attach Copy of Contact Resolution]

**EXHIBIT C**

[Attach Notice of Meeting]

**EXHIBIT D**

[Attach Copy of Resolution or Ordinance Establishing Electric System]

**EXHIBIT E**

[Attach Copy of Resolution or Ordinance Establishing Rates]



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**

800 BAY ROAD  
P.O. BOX 778  
DOVER, DELAWARE 19903

CAROLANN WICKS, P.E.  
SECRETARY

July 1, 2010

The Honorable Velda Jones-Potter  
State Treasurer  
Department of Finance  
Thomas Collins Building  
Dover, DE 19901

Dear Ms Jones-Potter:

As required by Title 30 Del. C § 5146 of the Delaware Code as amended, the Department of Transportation is herewith forwarding to you a certification as to the sum of money due each municipality from the State Municipal Street Aid Fund. The amount to be distributed this year is \$4.0 million, pending approval by the General Assembly. By law the distribution is based 60 percent on mileage and 40 percent on population.

The attached tabulation has been compiled from affidavits submitted by the municipalities, or, in the absence of affidavits, from the most recent, accurate, and acceptable figures available to the Department of Transportation, as specified by Paragraph 5165 (b) of the same sub-chapter as amended.

You will note below that the same information and a copy of this letter are also being forwarded to the municipalities for their information and review.

If there are any questions on this or other aspects of the computation, please feel free to contact me at 760-2303.

Sincerely,

A handwritten signature in cursive script that reads "Carolann Wicks".

Carolann Wicks  
Secretary

CW/dss/dss  
Attachment  
cc: Municipal Officials



**MUNICIPAL STREET AID FUND  
DISTRIBUTION TABULATION  
FISCAL YEAR 2011 (7/1/2010-6/30/2011)**

**July 1, 2010**

TOWN	2010 POPULATION	2010 STREET MILEAGE	DISTRIBUTION BY POPULATION FACTOR	DISTRIBUTION BY MILEAGE FACTOR	TOTAL AID FY-2010	TOTAL AID FY-2011
BELLEFONTE	1,243	0.00	\$ 7,564.5946	\$ 0.0000	\$ 0.00	\$ 7,564.59
BETHANY BEACH	4,302	19.93	\$ 26,180.9219	\$ 60,730.5646	\$ 0.00	\$ 86,911.49
BETHEL	188	1.79	\$ 1,144.1221	\$ 5,454.4762	\$ 0.00	\$ 6,598.60
BLADES	1,166	5.26	\$ 7,095.9914	\$ 16,028.2373	\$ 0.00	\$ 23,124.23
BOWERS	385	1.95	\$ 2,343.0160	\$ 5,942.0271	\$ 0.00	\$ 8,285.04
BRIDGEVILLE	1,835	9.29	\$ 11,167.3621	\$ 28,308.4268	\$ 0.00	\$ 39,475.79
CAMDEN	3,260	10.80	\$ 19,839.5643	\$ 32,909.6888	\$ 0.00	\$ 52,749.25
CHESWOLD	1,309	0.45	\$ 7,966.2545	\$ 1,371.2370	\$ 0.00	\$ 9,337.49
CLAYTON	2,456	5.28	\$ 14,946.6165	\$ 16,089.1812	\$ 0.00	\$ 31,035.80
DAGSBORO	530	3.63	\$ 3,225.4506	\$ 11,061.3121	\$ 0.00	\$ 14,286.76
DELAWARE CITY	1,682	8.31	\$ 10,236.2414	\$ 25,322.1772	\$ 0.00	\$ 35,558.42
DELMAR	1,407	6.48	\$ 8,562.6586	\$ 19,745.8133	\$ 0.00	\$ 28,308.47
DEWEY BEACH	1,997	0.60	\$ 12,153.2545	\$ 1,828.3160	\$ 0.00	\$ 13,981.57
DOVER	36,359	100.27	\$ 221,271.9991	\$ 305,542.0830	\$ 0.00	\$ 526,814.08
ELLENDALE	332	3.79	\$ 2,020.4710	\$ 11,548.8630	\$ 0.00	\$ 13,569.33
ELSMERE	5,935	16.26	\$ 36,118.9613	\$ 49,547.3648	\$ 0.00	\$ 85,666.33
FARMINGTON	122	0.21	\$ 742.4622	\$ 639.9106	\$ 0.00	\$ 1,382.37
FELTON	1,347	5.67	\$ 8,197.5132	\$ 17,277.5866	\$ 0.00	\$ 25,475.10
FENWICK ISLAND	1,400	5.95	\$ 8,520.0583	\$ 18,130.8008	\$ 0.00	\$ 26,650.86
FRANKFORD	591	2.68	\$ 3,596.6817	\$ 8,166.4783	\$ 0.00	\$ 11,763.16
FREDERICA	761	2.21	\$ 4,631.2602	\$ 6,734.2974	\$ 0.00	\$ 11,365.56
GEORGETOWN	5,157	26.02	\$ 31,384.2432	\$ 79,287.9725	\$ 0.00	\$ 110,672.22
GREENWOOD	837	4.97	\$ 5,093.7777	\$ 15,144.5512	\$ 0.00	\$ 20,238.33
HARRINGTON	3,279	12.16	\$ 19,955.1936	\$ 37,053.8718	\$ 0.00	\$ 57,009.07
HARTLY	107	0.00	\$ 651.1759	\$ 0.0000	\$ 0.00	\$ 651.18
HENLOPEN ACRES	380	3.61	\$ 2,312.5872	\$ 11,000.3682	\$ 0.00	\$ 13,312.96
HOUSTON	487	2.09	\$ 2,963.7631	\$ 6,368.6342	\$ 0.00	\$ 9,332.40
KENTON	232	0.94	\$ 1,411.8954	\$ 2,864.3618	\$ 0.00	\$ 4,276.26
LAUREL	3,814	11.76	\$ 23,211.0730	\$ 35,834.9945	\$ 0.00	\$ 59,046.07
LEIPSIC	236	0.80	\$ 1,436.2384	\$ 2,437.7547	\$ 0.00	\$ 3,873.99
LEWES	3,670	20.06	\$ 22,334.7242	\$ 61,126.6998	\$ 0.00	\$ 83,461.42
LITTLE CREEK	172	0.18	\$ 1,046.7500	\$ 548.4948	\$ 0.00	\$ 1,595.24
MAGNOLIA	211	0.13	\$ 1,284.0945	\$ 396.1351	\$ 0.00	\$ 1,680.23
MIDDLETOWN	18,600	51.88	\$ 113,195.0599	\$ 158,088.3940	\$ 0.00	\$ 271,283.45
MILFORD	9,302	41.74	\$ 56,609.7015	\$ 127,189.8528	\$ 0.00	\$ 183,799.55
MILLSBORO	2,360	10.48	\$ 14,362.3839	\$ 31,934.5869	\$ 0.00	\$ 46,296.97
MILLVILLE	272	0.00	\$ 1,655.3256	\$ 0.0000	\$ 0.00	\$ 1,655.33
MILTON	2,301	9.27	\$ 14,003.3243	\$ 28,247.4829	\$ 0.00	\$ 42,250.81
NEW CASTLE	5,164	18.44	\$ 31,426.8435	\$ 56,190.2464	\$ 0.00	\$ 87,617.09
NEWARK	30,613	65.33	\$ 186,303.2456	\$ 199,073.1453	\$ 0.00	\$ 385,376.39
NEWPORT	1,240	4.67	\$ 7,546.3373	\$ 14,230.3932	\$ 0.00	\$ 21,776.73
OCEAN VIEW	1,099	22.63	\$ 6,688.2457	\$ 68,957.9868	\$ 0.00	\$ 75,646.23
ODESSA	286	2.05	\$ 1,740.5262	\$ 6,246.7465	\$ 0.00	\$ 7,987.27
REHOBOTH	6,060	18.52	\$ 36,879.6808	\$ 56,434.0219	\$ 0.00	\$ 93,313.70
SEAFORD	6,699	34.66	\$ 40,768.4788	\$ 105,615.7235	\$ 0.00	\$ 146,384.20
SELBYVILLE	2,335	10.93	\$ 14,210.2400	\$ 33,305.8239	\$ 0.00	\$ 47,516.06
SLAUGHTER BEACH	524	1.16	\$ 3,188.9361	\$ 3,534.7444	\$ 0.00	\$ 6,723.68
SMYRNA	10,805	30.26	\$ 65,756.5926	\$ 92,208.0725	\$ 0.00	\$ 157,964.67
SOUTH BETHANY	1,848	9.82	\$ 11,246.4769	\$ 29,923.4393	\$ 0.00	\$ 41,169.92
TOWNSEND	1,140	2.36	\$ 6,937.7617	\$ 7,191.3764	\$ 0.00	\$ 14,129.14
VILL. OF ARDENCROFT	282	1.01	\$ 1,716.1832	\$ 3,077.6653	\$ 0.00	\$ 4,793.85
VILLAGE OF ARDEN	502	3.63	\$ 3,055.0495	\$ 11,061.3121	\$ 0.00	\$ 14,116.36
VILLAGE OF ARDENTOWN	325	2.22	\$ 1,977.8707	\$ 6,764.7694	\$ 0.00	\$ 8,742.64
VIOLA	162	0.67	\$ 985.8925	\$ 2,041.6196	\$ 0.00	\$ 3,027.51
WILMINGTON	72,432	147.49	\$ 440,803.4719	\$ 449,430.5557	\$ 0.00	\$ 890,234.03
WOODSIDE	228	0.24	\$ 1,387.5523	\$ 731.3264	\$ 0.00	\$ 2,118.88
WYOMING	1,141	4.62	\$ 6,943.8475	\$ 14,078.0335	\$ 0.00	\$ 21,021.88
<b>TOTAL</b>	<b>262,909</b>	<b>787.61</b>	<b>\$ 1,600,000.0000</b>	<b>\$ 2,400,000.0000</b>	<b>\$ 0.00</b>	<b>\$ 4,000,000.00</b>

TOTAL MUNICIPAL POPULATION = 262,909

DISTRIBUTION RATIO = \$1,600,000.00 / 262909 = \$ 6.085755907937730 PER CAPITA

TOTAL MUNICIPALLY MAINTAINED STREET MILEAGE = 787.61

DISTRIBUTION RATIO = \$2,400,000.00 / 787.61 = \$ 3047.193407904930000 PER MILE



# Sussex County Association of Towns

P.O. Box 589 Georgetown, DE 19947

*Town of Bethany Beach*

*Town of Bethel*

*Town of Blades*

*Town of Bridgeville*

*Town of Dagsboro*

*Town of Delmar*

*Town of Dewey Beach*

*Town of Ellendale*

*Town of Fenwick Island*

*Town of Frankford*

*Town of Georgetown*

*Town of Greenwood*

*Town of Henlopen Acres*

*Town of Laurel*

*City of Lewes*

*City of Milford*

*Town of Millsboro*

*Town of Millville*

*Town of Milton*

*Town of Ocean View*

*City of Rehoboth Beach*

*City of Seaford*

*Town of Selbyville*

*Town of Slaughter Beach*

*Town of South Bethany*

*Sussex County Council*

## MARK YOUR CALENDARS!

**TO:** All Municipalities

**FROM:** Robin Griffith

**RE:** Schedule Change – October SCAT Meeting

**DATE:** July 19, 2010

SCAT's October meeting, which is Candidates Night, will be held on Wednesday, October 13th, instead of Wednesday, October 6th. This schedule change is due to the fact that another Candidates Night has already been scheduled on October 6th.

The October meeting will be hosted by the City of Seaford and will be held at the Seaford Fire Hall.

Letters of invitation have been sent to all candidates; primary candidates were also included in the mailing with the understanding that Candidates Night is for General Election candidates only.

Please mark your calendars now so that you will not miss this important event!

If you have any questions or concerns, please do not hesitate to call me at 855-7743 or email me at [rgriffith@sussexcountyde.gov](mailto:rgriffith@sussexcountyde.gov).