

*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