

*MILFORD CITY COUNCIL  
MINUTES OF MEETING  
February 22, 2010*

On Monday, February 22, 2010, a Public Comment Session was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

With no one signed up to speak, no Comment Session was held.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk

*MILFORD CITY COUNCIL  
MINUTES OF MEETING  
February 22, 2010*

The Milford City Council held Public Hearings on Monday, February 22, 2010 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING:           Honorable Mayor Daniel Marabello

IN ATTENDANCE:    Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins,  
Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

ALSO:                City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

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

City Council of the City of Milford held hearings to take public comment and make a final determination on the following matters:

*Change of Zone-Beverly Ann Thawley Change of Zone  
AR to C3 of 9.28 +/- Acres  
Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal Highway  
Tax Parcel 3-30-11.00-70.03*

*Ordinance 2009-21  
An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Beverly Ann Thawley,  
Tax Parcel, Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal, to be annexed into  
the City of Milford by resolution, hereafter adopted by City Council*

*Resolution 2010-2/Annexation of Beverly Ann Thawley Property*

City Planner Gary Norris advised the Planning Commission held a public hearing on January 19, 2010 and by a vote of 6-0, recommended a change of zone from AR to C-3. No conditions were applied to the approval. He confirmed the zoning complies with the certified City of Milford Comprehensive Plan.

Mr. Morrow moved to adopt Ordinance 2009-21 changing the zone of the Beverly Ann Thawley property to C-3, seconded by Mr. Starling. Motion carried by a vote of 6-0 with Mr. Spillane abstaining because he did not sign the Annexation Committee Report.

Mayor Marabello asked for a motion on the resolution finalizing the annexation noting this parcel will become part of Ward Three.

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

*Annexation/Lands of Beverly Ann Thawley  
Tax Parcel 3-30-11.00-70.03  
9.28 +/- Acres  
Zoning: C-3*

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

*All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and*

*on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:*

*Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:*

- 1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and*
- 2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley*

*thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,*

*and having considered the recommendation of the Annexation Committee appointed to investigate said annexation; having held a Public Hearing on February 22, 2009 on said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; the City of Milford, hereby determines as follows:*

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

*Be It Further Resolved, the Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.*

*And Be It Further Resolved, that from and after the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.*

*Now, I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on February 22, 2010, at which a quorum was present and voting throughout and that the same is still in full force and effect.*

*Mayor Daniel Marabello*

Mr. Spillane questioned how it was determined this parcel would become part of Ward Three because it was his impression the property had to be contiguous with that ward. He recalled there was a gap between Ward Three and this parcel as was previously discussed. City Solicitor Willard confirmed it should be contiguous.

City Planner Norris confirmed the property was contiguous on the west side of Route 1 which is the third ward boundary.

Motion carried by a vote of 6-0 with Mr. Spillane abstaining because he did not sign the Annexation Committee Report as previously stated.

*Lynn & Karen McColley for a Change of Zone - Deferred until 05/24/10  
Tenth Street & N.E. Front Street*

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

With no further business, Mayor Marabello declared the Public Hearings adjourned at 7:12 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Terri K. Hudson".

Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL  
MINUTES OF MEETING  
February 22, 2010*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, February 22, 2010.

**PRESIDING:** Mayor Daniel Marabello

**IN ATTENDANCE:** Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

**ALSO:** City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

**COUNSEL:** City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 7:12 p.m.

*Introduction of Ordinance 2010-1/Chapter 230/Zoning Code-Signs*

The following ordinance was officially introduced for later adoption by city council:

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

*The City of Milford hereby ordains:*

*Section 1. Amends Chapter 230 Zoning-4 Definitions.*

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

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

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

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

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

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

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

*C. Guidelines for all Zoning Districts. The following are the general guidelines for signage in all zoning districts:*

*(1) Sidewalk or pedestrian areas are not to be obstructed in any way by signs of any type.*

*(2) Variances for dimensional increases in area, height or coverage must be submitted for review and determination by the Board of Adjustment of the City of Milford. Violations of the requirements set forth in the attached chart shall be deemed as a violation of this chapter and will be subject to the penalties herein described.*

*(3) All signs whose primary function it is to direct attention to the identity of the business, professional or industrial activity and which describes said nature of such operation shall be deemed a business sign. Such signs shall not exceed two in number on any one road frontage.*

*Section 7.*

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

*F. EMB signs. The following are the guidelines for all EMB signage:*

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

*Section 8.*

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

City Planner Gary Norris advised the Planning Commission is working diligently to revise the sign section in the Milford Zoning Ordinance. This amendment is being proposed because it relates to EMB signs. Currently, such signs are absent from the zoning code and are taken before the Board of Adjustment and a variance is granted.

He explained this ordinance only permits EMB signs in a C-3 district with various rules, regulations and restrictions. The final draft will be referred back to the planning commission for a review and public hearing before council takes final action.

Mr. Spillane asked at what point the entire sign ordinance will be revised; Mr. Norris is hoping to receive final input from the Chamber of Commerce by April; those revisions will be considered in April and May and a final draft completed by June.

When asked why only a portion of the sign ordinance is being submitted, Mr. Norris explained the planning commission felt this should be addressed as a separate section and rules established due to the increasing number of requests the city is receiving.

Mr. Spillane expressed concerns about the problems encountered with the sign ordinance that recently affected the outcome of a sign violation in court. Mr. Norris advised that the city solicitor and he are working on an amendment to the billboard section with the intent to present it at the April planning commission meeting.

Planning Commission Chuck Rini was present and added that the planning commission continues to work on various areas of the sign ordinance. The comprehensive plan also calls for the planning commission to review a number of these codes. This was an area that was being addressed before these other issues came up. He stated the commission felt it was ready for formal action. In addition, they felt it was a problem because of the increasing number of requests and the fact it was not addressed in our zoning code.

City Manager Baird added the city receives a number of questions from the public in relation to these signs and the EMB's are the trend the sign industry is moving. The only way to currently handle them is through the Board of Adjustment which is costly and time consuming for both the applicants and city and is why the planning commission has been addressing this for several months.

*Adoption of Resolution 2010-3/Electrical Standard Amendment*

Mr. Baird referenced the resolution he is asking council to adopt this evening. He also referenced the ordinance being introduced this evening which closely mirrors the resolution. He explained they both relate to PJM, the grid operator in this area and their demand response program. This program allows PJM to call on the city's retail electric customers or other retail customers within the region to curtail their electric usage during peak times. To participate in that program, retail customers are required to sign up through an enrollment process with PJM. In the past, only verbal approval was needed from the city through DEMEC for the commitment to PJM. At that point, the application would move forward. In late 2008 and early 2009, there was a federal energy regulatory commission order issued that required local jurisdictions governing electric utilities to take formal actions to allow customers to participate. This resolution/ordinance will permit our customers to participate in the demand response program. DEMEC recently received an interpretation of the order and the reason it is being presented now for formal action by city council.

The intent is that during peak demand periods, customers can be called on four to five times a year to curtail their electric usage. In return, they are given payments for participating in the program. Depending on the amount of curtailment, businesses could receive \$70,000 to \$100,000 in annual savings. Mr. Baird emphasized the incentive if curtailment is able to be worked into their operations.

He said that from the city's standpoint, it is less strain on our system in times of peak usage and allows our infrastructure to withstand those peak usages better. It also helps prevent us from overbuilding our system to handle above capacity needs for those peak load times. When these customers are called upon to curtail their service, it will be for short intervals of 30, 60 or 90 minutes tops.

The city manager assured council there will be a very minimal impact on our electric revenue. The benefit to the grid is the same as the benefit to the city in being able to facilitate the required demand during those peak times. That is the reason the financial incentives are being offered to the retail customers.

Mr. Baird advised that council will need to take formal action. He advised this involves an annual application process and this year's deadline is Friday, February 26<sup>th</sup> which is why the resolution is being presented for adoption this evening. However, that will be followed by a formal ordinance which will officially amend the electric tariff.

Mr. Spillane asked if there is a possibility that residential customers would be eligible to participate or even a group of homes. Mr. Baird said that cannot be ruled out though he is unsure if there is enough load to qualify under this program. That is something that will need to be looked at. He said what is being considered is whether DEMEC should facilitate this on behalf of all the cities thus making it more advantageous to our retail customers in the city as well as DEMEC as a whole.

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

*A RESOLUTION BY CITY COUNCIL TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING THE ELECTRICAL STANDARDS OF THE CITY OF MILFORD TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.*

*THE CITY OF MILFORD HEREBY ORDAINS as follows:*

*Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).*

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."

Whereas, pursuant to the Electrical Standards of the City of Milford, the Council of The City of Milford ("City Council") is authorized to enact rules governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford's retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. The City of Milford Electrical Standards are hereby revised by adding under the heading "Aggregation of Retail Customer Demand Response" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 3. The City of Milford Electrical Standards are hereby revised to add under the heading "Ancillary Services Provided by Demand Response Resources" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation

*and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).*

- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.*

*Section 4. NOW, THEREFORE, I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Milford at a council meeting held the 22<sup>nd</sup> day of February 2010 by a majority vote.*

*Daniel Marabello*

Motion carried by unanimous roll call vote.

*Introduction of Ordinance 2010-3/Chapter 119/Electric Tariff Amendment*

The following ordinance was officially introduced and is scheduled for formal adoption at the March 8, 2010 Council Meeting:

*AN ORDINANCE TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING CHAPTER 119, ELECTRICAL STANDARDS, OF THE CITY OF MILFORD CODE TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.*

*THE CITY OF MILFORD HEREBY ORDAINS as follows:*

*Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).*

*Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."*

*Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: "Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator's or regional transmission organization's bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority."*

*Whereas, pursuant to the City of Milford Code, Chapter 119, the Council of The City of Milford ("City Council") is authorized to enact the City of Milford Electric Tariff governing the provision of electric power to retail customers served within the service territory of the City of Milford.*

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford's retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. Chapter 119, City of Milford Electric Tariff, is hereby revised to add under the heading "Aggregation of Retail Customer Demand Response" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 3. CHAPTER 119, City Electric Tariff, is hereby revised to add under the heading "Ancillary Services Provided by Demand Response Resources" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 4. EFFECTIVE DATE. This ordinance shall take effect in accordance with law.

Adopted Date March 8, 2010

Effective Date March 18, 2010

With no further business, Mayor Marabello adjourned the Council Meeting at 7:21 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL  
MINUTES OF MEETING  
February 22, 2010*

The City Council of the City of Milford met in Workshop Session on Monday, February 22, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

ALSO: City Manager David Baird, Police Chief Keith Hudson and City Clerk/Recorder Terri Hudson

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello convened the Workshop Session of City Council at 7:21 p.m.

City Solicitor Willard referred the changes made to Articles I thru IV which included the minutes of the conversations and decisions of the January 25<sup>th</sup> meeting, the marked up copy of the charter dated 02-04-10 and the clean copy with those changes implemented.

The solicitor began the review with Article V. He reiterated that those items underlined were moved from another section pointing out that all administrative matters and appointees were now combined in Article V.

*Review of City of Milford Charter*

**ARTICLE V. Administration and Appointees** (Previous Article III & VI)

**5.01 - Form of Government** (Previous 3.01)

The form of government established by this charter shall be known as the "Council-Manager" form.

It was confirmed that annual evaluations are included in the employment contract and should not be addressed in the charter. Mr. Willard noted that new language was included to reference the employment contract in both the appointment and removal sections.

**5.02 - City Manager - Appointment; Qualifications, Compensation** (Previous 6.01)

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council. The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

**5.03 - City Manager - Removal** (Previous 6.02)

The Council shall remove the Manager from office in accordance with the following procedures and those conditions contained in the City Manager's employment contract:

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution

which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days.

A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

**5.04 - Acting City Manager** (Previous 6.03)

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

**5.05 - Powers and Duties of the City Manager** (Previous 6.04)

The City Manager shall be the chief administrative officer of the City. He *or she* shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He *or she* shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove ~~all~~ City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

- (c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not vote.
- (d) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.
- (e) He *or she* shall prepare and submit the annual budget and capital program to the Council.
- (f) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.
- (g) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.
- (h) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.
- (i) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

Language was added to the duties of the city clerk that already exist in other areas and are now clarified in one section.

**5.06 - City Clerk - Appointment and Duties** (Previous 4.07)

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all Council proceedings and documents, manage the City's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the Council.

This section was changed to allow the solicitor's appointment at the annual organization meeting. As a result, this will become a regular item on the organization meeting agenda. The balance remains the same.

**5.07 - City Solicitor** (Previous 7.02)

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor for an indefinite term who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice

law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

The Chief Police section was changed by referencing their employment contract. Language was also added to reflect the Policeman Bill of Rights.

**5.08 - Police Department** (Previous 7.03)

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. The terms of his employment shall be contained in an employment contract

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~and~~ The Council shall, from time to time, make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the provisions of State law and the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

City jail was changed to city 'holding cell' to reflect what currently exists today.

#### 5.09 - City Holding Cells ~~CITY JAIL~~ (Previous 7.04)

The Council may build and maintain a jail holding cell for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to transport to a detention facility, hearing and trial or arraignment.

It was decided to allow the City Alderman to remain in case the position was ever reinstated.

#### 5.10 - City Alderman (Previous 7.05)

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He or she shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if for any cause he or she may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He or she shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He or she shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mr. Willard said it appears the last sentence was not in the original charter, but was being considered and later removed. Mr. Baird agreed there was some contradiction in language regarding the roles of council and the administration which is the reason for its removal.

#### 5.11 - Finance Department (Previous 7.06)

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the Council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and Council shall direct and which will keep the Council, City Manager and the public informed of the financial condition of the city. ~~The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe.~~

Mr. Willard advised the following sections were changed pursuant to state law and changes to the city code. To be consistent, any reference to state statute will state 'in accordance with Delaware Code'.

**5.12 - Planning Department** (Previous 7.07)

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the Council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the Council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

**5.13 - City Planning Commission** (Previous 7.08)

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

**5.14 - Board of Adjustment** (Previous 7.11)

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

**Article VI. Financial Procedures** (Previous Article VIII)

**6.01- Fiscal Year** (Previous 8.01)

The Fiscal year of the City shall be set by the City Council.

**6.02- Submission of Budget Date** (Previous 8.02)

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

**6.03- Budget Message** (Previous 8.03)

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

**6.04- Operating Budget** (Previous 8.04)

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general

summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

The time line for submitting the capital program to council was changed to coincide with the submission of the annual budget. The section number in paragraph (a) was corrected from 8.02 to 6.02.

#### **6.05- Capital Program** (Previous 8.05)

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program at the time the annual budget is submitted to City Council as defined in Section 6.02. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action On Operating Budget (Previous 8.06)

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

6.07- Council Action On Capital Program (Previous 8.07)

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

Section 6.08 was changed to be consistent with FOIA.

6.08- Public Records (Previous 8.08)

Copies of the budget and the capital program as adopted for the fiscal year are public records and shall be made available to the public through the Freedom of Information Act and the at suitable places City of Milford website in the City.

6.09- Amendments After Adoption (Previous 8.09)

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

The solicitor noted that emergency appropriations were changed to allow council to use short term borrowing as provided in the charter. The section number in paragraph (b) was corrected from 11.07 to 8.07 (numbers were changed as result of reorganizing charter).

The language removed was previously discussed.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may exercise short term borrowing authority as provided in Section 8.07 of this Charter. ~~may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.~~

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

Mr. Willard explained that paragraph (d) allows council to approve by majority vote the transfer of any unexpended money from one department to another which only simplifies the language. It was confirmed the intent remains the same. When asked if this should state majority of all of council, the solicitor explained that generally the rule is if there is a quorum present, the action is approved by majority vote. This excludes the charter section that requires four affirmative votes or where it states by majority vote.

The language will remain as proposed.

(d) Transfer Of Appropriations. At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ by majority vote transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

#### 6.10- Lapse Of Appropriations (Previous 8.10)

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall

continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration Of Budget (Previous 8.11)

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if they deem it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

**Article VII. Taxation, Assessors and Assessment Of Taxes** (Previous Article X)

7.01- (Previous 10.01) Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

Below section was rewritten and though the intent remains the same, the intent was clarified and language updated by removing 'scrap assessment' and replacing it with 'supplemental assessment'.

City Manager Baird added that some of the language in the assessment area was modified to parallel with the state requirements in relation to the assessment of real property.

7.02- (Previous 10.02) It shall be the duty of the City Manager each year to include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment. In the year that A SUPPLEMENTAL ASSESSMENT IS MADE, a scrap assessment is made, the General Assessment then in force as supplemented or modified by the scrap supplemental assessment, shall constitute the assessment for the year.~~

7.03- (Previous 10.03) The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04- (Previous 10.04) The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

7.06- (Previous 10.05) The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as ~~supplemented~~ adjusted by the ~~scrap~~ supplemental assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.07- (Previous 10.06) At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

Mr. Baird pointed out the second sentence is a carryover from the state code. Mr. Willard further explained that 'taxable' is a person who has been assessed.

7.08 - (Previous 10.07) The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City. If any taxable fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.

7.09- (Previous 10.08) The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.10- (Previous 10.09) The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.11- (Previous 10.10) The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.12- (Previous 10.11) (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the Secretary City Clerk commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by Council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(3) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition . . . . .

For filing and recording return of sale . . . . .

To the City Manager for preparing certificate . . . . .

For making sale of land . . . . .

For preparing and filing return . . . . .

For posting sale bills . . . . .

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(4) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(f) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(g) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(h) The provisions of this Section ~~7.12~~ 7.12, other than the provisions of subsection (b) of this Section ~~7.12~~ 7.12, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article ~~XIA~~ IX of this Charter, provided that all references in this Section ~~7.12~~ 7.12 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

**7.13- Real Estate Transfer Tax** (Previous 10.12)

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council.

Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

**7.14- Assessment, Payment, And Collection Of Taxes For New Construction** (Previous 10.13)

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

**Article VIII. Borrowing Of Money And Issuance Of Bonds** (Previous Article XI)

Mr. Willard referred to the city manager's recommendation as shown in the below brackets, as well as Mr. Spillane's recommendation. Matter was referred to city council.

Mr. Willard explained that typically this involves a percent of the assessed value. Mr. Baird further explained that currently there is no borrowing seal for this city. This will establish a sealing that the city would be able to borrow.

When a concern was expressed by Mr. Spillane over the voters being removed from referendum process for a bond issue, Mr. Baird explained that currently, the charter requires that any long term borrowing issue, whether it is \$10,000 or \$10 million, require a public referendum and the voters need to approve it. Prior to that, city council must officially agree it be taken to the voters. However, there is no limit on the borrowing.

Mr. Adkins agrees a maximum limit needs to be added. Because the city is borrowing against the property of the city, he does not want to see the city borrow 50% of the total value, as an example. Mr. Willard agreed that he was surprised Milford did not have a sealant as the majority of other towns do.

When asked if there is an average percentage, the city manager said no, because there is no uniformity in assessments. Some communities have their own assessments as Milford does while others adopt the county assessments. In Sussex County, the assessments are 50% of the 1974 value and the overall assessment is low. In that case, the bond cap is set at a much higher amount. In Milford, our assessments are much more current and the cap would be on the lower side. In his opinion, there is no right or wrong answer but the dollar amount obtained by putting the calculation in.

Mayor Marabello advised the last assessment was approximately \$756 million and 2% would be approximately \$15 million. He added that presently the city has \$26 million that has been borrowed or committed, which is slightly less than 4% of the assessed valuation.

Mr. Workman agrees the city should not have the ability to borrow too much and that a cap would be appropriate.

The mayor feels that to prevent having to change that number, the easiest manner would be to add a percentage of assessed evaluations.

Mr. Baird discussed this matter with the Town of Middletown whose cap is 15% though it ranges and in the case of lower assessments, may be 40 or 60%. It also varies depending on what the money will be spent on. He said that those with utilities often have a higher borrowing limit.

Mr. Baird's recommends 15% as the starting point; the mayor advised that 15% is \$113 million. Mr. Spillane feels that may be too high and confirmed that regardless of the amount, the voters would make the final decision. He is willing to go 10% and the mayor advised that is still \$75 million. Mr. Adkins is uncomfortable making a recommendation and prefers a recommendation by the city manager or finance staff.

Mr. Baird reiterated his suggestion of at least 15% noting the public works committee had just met to discuss a number of ongoing or pending projects. They include \$3.5 million for street projects, \$8.5 million for water, sewer and electric which are already factored into the \$26 million.

He added the other issue is as this is paid down, additional borrowing capacity is gained back. As assessments increase, the debt limit will also grow. When a percentage is plugged in, it will become a floating number.

Mr. Starling and Mr. Morrow both agree that 15% is appropriate. Mr. Brooks said that if 15% is added, the matter must still go to referendum. Mr. Baird agreed noting the way the charter is currently written. He explained that is with any long term borrowing, which is identified as anything over a five-year term.

The majority of council members agreed a 15% cap is appropriate though Mr. Spillane recommends 10% or below. Mr. Johnson stated that he does not believe a cap is needed as long as any borrowing is required to go to referendum.

Mr. Willard said he will leave the matter bracketed for further discussion.

**8.01 -** (Previous 11.01) The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness {up to \$ \_\_\_\_\_ % of assessed value of real property} pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

**8.02 -** (Previous 11.02) This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(d) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters

along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(e) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

**8.03 -** (Previous 11.03) The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

**8.04 -** (Previous 11.04) It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty

(60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing*" and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing*", and a box shall be provided after each and the voter instructed to place an "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he or she, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City

Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

**8.05 -** (Previous 11.05) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefore.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

**8.06- *Refinancing Of Municipal Bonds*** (Previous 11.06)

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

Mr. Willard referred to Section 8.07 noting that currently states the City of Milford may borrow money up to the amount of annual tax billing through short term. The language added would require council to authorize the borrowing by resolution.

Mr. Baird recalled the conflicting language in the current charter and referenced existing Section 2.01(e). It was confirmed that section was completely removed from the updated version. See below language removed:

*The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford, a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.*

Mr. Willard explained that short term borrowing can only be in the amount of the previous year's aggregate tax billing and must be done by resolution. Mr. Baird confirmed the payment term is no more than five years.

On short term borrowing, the city manager explained it is up to one year of the city's total tax revenue which is just under \$3 million. That allows the city to borrow at any given time up to that total on short term borrowing that must be repaid in five years. A special election is not required and this only requires an action of city council which is how the charter reads today.

The solicitor asked if aggregate should be added; Mayor Marabello said that would prevent borrowing short term from year after year. Mr. Brooks and Mr. Morrow noted that can only be done for specific items including emergencies. Mr. Baird agreed adding short term capital projects are also included. In the case of an operating deficit, the city would not be in a good position to consider short term borrowing and would most likely need a longer period of repayment.

It was agreed to add 'in aggregate' as noted below:

**8.07- Short Term Borrowing** (Previous 11.07)

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow in aggregate money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project anticipative funding. The money shall be paid back in no longer than five (5) years.

**Article IX. Tax Increment Financing and Special Development Districts** (Previous Article XIA)

**9.01 - Tax Increment Financing and Special Development Districts** (Previous 11A.01)

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance

with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

**9.02 – Non Recourse** (Previous 11A.02)

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD. Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

**Article X. Severance** (Previous Article XII)

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

**Article XI. Transitional Provisions** (Previous Article XIII)

**11.01- Officers And Employees** (Previous 13.01)

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he *or she* shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

**11.02- Departments, Offices And Agencies** (Previous 13.02)

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any

conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

**11.03- Pending Matters (Previous 13.03)**

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

**11.04- State And Municipal Laws (Previous 13.04)**

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective, are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

**11.05- Survival Of Powers And Validations Sections (Previous 13.05)**

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that

purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

**Article XII. Repealer** (Previous Article XIII - Subparagraph)

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled “An Act Changing the Name of ‘The Town of Milford’ to ‘The City of Milford’ and establishing a Charter therefore, as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act.”

The Charter shall become effective upon signature of the Governor.

*Synopsis*

*The Charter replaces the City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council with participation from the public worked for over a year to reorganize and revise their charter. This bill is a result of that effort and the following summarizes those changes from the previous charter.*

*A table of Contents delineating the Articles has been included at the outset.*

*The Charter has been reorganized by changing the order of the Articles and moving various sections to more appropriate Articles. The organization is attempted to be more logical. As the articles appear the territory and annexation procedures appear, then the election process, then the powers of the city, then the form of government, then the administration, followed by financial articles involving taxing and borrowing. The existing Charter had two articles for the power of the city and had the structure article between them. The existing charter had a separate article for the City Manager and other administrative appointments. Those appointed offices have been combined in one article. The election article has been moved from Article IX to Article II.*

*The most significant substantive changes are as follows:*

(To be added upon completion of final draft.)

Upon completion, Mr. Willard asked if there were any more questions or comments.

Mr. Spillane questioned Section 5.11-Finance Department and the last sentence that was struck:

The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe.

He is concerned that this will prevent council from viewing the financial records of the city. Mr. Starling feels that any potential problem should first be relayed to council. Council, as a group, would then decide how to proceed.

Mr. Spillane asked if that process would still be necessary if he only had a question. He does not think that would be necessary if he only needed a copy of something.

Mr. Willard feels it somewhat flies in the face of the council-manager form of government. Because council is somewhat like a board of directors and action needs to be taken collectively. Mr. Adkins concurs adding that as a council, they have powers as a whole. If they decide as a whole to act, then something can be requested as is stated in the powers.

With no further comments, Mr. Workman asked when council will receive the final draft and asked when it will go before the public. Mr. Spillane noted there are still several unresolved issues.

Mr. Baird does not believe we are prepared for a public hearing at this point. Mr. Spillane agrees we need to meet again and then schedule the public hearing.

The city manager recommends that a final draft be prepared for consideration by city council. After that point, the public hearing could be scheduled. Following that public hearing, any council member is able to propose amendments to the charter as they see fit. If someone in the public is recommending a change, they should work with their council representative to propose an amendment. Each individual amendment would then be voted on by council. Following that, the document, with or without amendments, would be adopted.

Mr. Spillane recommends one more committee meeting. At that time, many of these unresolved issues could be finalized. Mr. Brooks disagreed noting the hours of discussion when no final decision could be made and it was agreed that council would have the final say.

Mr. Workman suggests looking at what has been agreed to, put that into a final format, open it up to public comment, then bring it back to council for a final decision. He feels we need to proceed so it can be presented to the general assembly this legislative session.

Mr. Baird also recommends that Councilman Spillane and Councilman Brooks make a proposal on those areas where there is no consensus. Council can then take a vote.

The unresolved issues were then reviewed.

It was agreed the minutes would be completed by the city clerk and the unresolved issues listed and provided to city council.

When asked to schedule the next meeting, Mr. Baird asked the charter be placed on the next agenda. Mr. Spillane asked that another special meeting be scheduled as was originally planned in order to expedite the process. Mr. Adkins disagreed stating he is concerned about the cost of an extra meeting.

A workshop will be added following the monthly meeting of council to address the unresolved issues.

With no further business, the Workshop Session concluded at 8:34 p.m.

Respectfully submitted,



Terri K. Hudson, CMC  
City Clerk/Recorder