

MILFORD CITY COUNCIL
MINUTES OF MEETING
July 12, 2010

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, July 12, 2010.

PRESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier, S. Allen Pikus, 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

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:30 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Pikus, seconded by Mr. Brooks to approve the minutes of the May 25, June 1, June 3, June 14 and June 28, 2010 meetings as presented by the city clerk. Motion carried.

RECOGNITION

Jim Gray/Parade Inserts-Utility Bills

Mayor Rogers advised that Jim Gray is present to ask permission to include the parade flyers in the August and September utility bills for the October parade.

Mr. Gray announced this is the 25th year his family has planned the parade for the City of Milford. He stated that though this is the City of Milford's parade, they only coordinate the affairs and money. In the past they were allowed to have a flyer added to the utility bill and are asking that be done twice this year.

Mayor Rogers asked that council make a motion so it could be on record. Mr. Pikus moved for approval, seconded by Mr. Brooks. Motion carried.

POLICE REPORT

Mr. Morrow noted that the police department continues to be extremely busy. Mr. Morrow moved to accept Chief Hudson's report, seconded by Mr. Starling. Motion carried.

CITY MANAGER REPORT

City Manager Baird read the following report into record:

Milford Charter Amendments (SB312 w/SA 2)

The Delaware State Senate passed the Charter Amendments with one amendment by unanimous vote on June 29 and was followed by the Delaware House of Representatives taking the same action by unanimous vote on June 30. At the request of Sen. Simpson, I testified before the full Senate during its debate on June 29. The bill is now on its way to the Governor

for his signature. The amendment is included as an attachment to the report. I would like to thank Sens. Simpson and Bonini along with Reps. Carey and Walls for their support of the bill.

Election Ward Realignment

Per direction provided by City Council during the Charter review process, City staff is preparing options for Election Ward realignment by City Council. It is my intention to have this information presented to City Council no later than August 31 so that consideration can be given to each of the options presented. I recommend a decision should be made no later than October 2010.

Municipal Street Aid

This year's Bond Bill included \$4 million in Municipal Street Aid which is \$2 million short of the full funding level of \$6 million. This is better than last year when the program was not funded at all, but over 2 years the City is receiving only \$183,000 of the \$550,000 that should have been funded. This loss of revenue is taking its toll on the maintenance of the City's transportation infrastructure.

Governor Markell to speak in Milford

Governor Markell will be addressing the Greater Milford Chamber of Commerce during their lunch meeting on Wed. July 14 at Shawnee Country Club.

Street Improvement Bid Packages

Staff is preparing bid packages for the 2010 Street Improvement Program. The tentative street improvement list includes the following streets: N. Church St.; Part of Masten Circle; Evans Drive, Foster Street, and NE 10th Street. Bids are expected to be out later this month and awarded by City Council in August.

SE Master Plan

Mr. Norris and I will be meeting with State officials on July 13 for what we anticipate will be the last round of State comments on the SE Master Plan for Milford. Once this final review has been completed by the State, the plan will be ready for public review and comment before being presented to City Council for final adoption.

**Senate Amendment No. 2 to Senate Bill No. 312*

AMEND Senate Bill No. 312 by 1 deleting Section 3.04 (consisting of lines 317 thru 322, inclusive,) thereof in its entirety and by renumbering Sections 3.05 thru 3.09 thereof as Sections 3.04 thru 3.08 respectively.

FURTHER AMEND Senate Bill No. 312 by deleting "public" as it appears on lines 462 and 490 thereof and insert in lieu thereof "municipal".

SYNOPSIS - This Amendment removes the notice of action requirement from the Bill and clarifies that the utilities regulated are municipal utilities.

Mr. Adkins asked if the city has considered any more micro-surfacing adding he was impressed with the way it turned out on his street. Mr. Baird said it will not be used until they determine how it will hold up over the winter. He said Kings Highway is a great example of the two finishes where you go from micro-surfacing to paving. He explained the micro-surfacing is only a maintenance product used to extend the life of a surface for seven to ten years. An overlay has a lifespan of ten to twenty years depending on the volume of traffic.

COMMITTEE REPORTS

Economic Development Committee

Mr. Grier advised he is working on some ideas to move forward with economic development. His plan is to schedule a committee meeting for the purpose of developing a five-year plan and will report back at the next monthly council meeting.

Fourth Ward Community Gathering

Mr. Starling thanked Chief Hudson and his officers for their assistance with a recent neighborhood event at Brightway Commons. He informed council the Community Action Group, under the direction of Pastor Malissa Dukes, planned the event in addition to a number of other projects at the housing development.

ADA Compliant Curb Project

Mr. Pikus asked what response Mr. Baird received from DelDOT regarding the sudden halt of the intersection work in the downtown area; Mr. Baird said he received a voice mail late this afternoon.

CORRESPONDENCE

The city clerk read the following letter from Butch Elzey into record:

Mayor and Council:

Some months back, a young Marine from Milford died—Lance Corporal Lee Folke. I did not know Lance Corporal Folke and also know he was not killed in combat. Be that it may, he was still a Marine who was serving our country. I would hope and pray that our town would do something to honor this young Marine as we should honor all our servicemen and women. I would be honored to help in anyway I can. I have seen so many wounded the last five years at Walter Reed Medical Center and have seen the appreciation on the faces of the parents during our barbeque. We all need to honor our fallen by showing the parents that we all truly appreciate the sacrifice their families have given to our country. Trust me; this gesture will help them heal.

Mayor Rogers and Council, great job on balancing the city budget. Word on the street is that Milford has one of the best councils we have ever had.

Mayor Rogers said he just received the request and is considering some type of recognition at the opening ceremony of the Fall Fling. He added it is unfortunate we missed this opportunity on Memorial Day and/or the Fourth of July.

UNFINISHED BUSINESS

North Front Street Sewer Project/Status Report

Mr. Baird recalled the Sewer Repair and Replacement Contract awarded to JJID earlier this year for work on North Front Street.

He reported the work on Northwest Front Street is close to completion. Work continues on Northeast Front Street by the Kent County Pump Station in front of the police station and headed east. A couple of conflicts have arisen that have created a difference in the city's position and the contractor's position. The contract is currently suspended awaiting formal response from the contractor with regard to their engineer drawings and detail plans of how to proceed.

He said that Mr. Dennehy and Mr. Mallamo have been involved in a number of meetings and felt council should be updated at this time.

Principal Randy Duplechain of Davis, Bowen and Friedel then recalled the city entering into a contract with JJID for approximately \$790,000. He explained the portion near Truitt Avenue is close to completion. Only a couple of minor checklist items remain on that end. The contractor was paid \$210,000; \$23,230 is being retained until the project is completed and closed out.

Mr. Duplechain advised the contractor has made a claim for an additional \$40,000. JJID claims they are owed additional compensation due to the Maintenance of Traffic issues related to both portions of the project. The city responded by declining those claims and referencing the project plan specifications which clarifies their responsibility.

Mr. Duplechain pointed out the real issue is related to the work taking place at Brady Drive, the start of the second portion of the project which is an extension of sewer from Brady, east on Front Street toward Rehoboth Boulevard. The original plans called for a bore and jack where they would bore a 30" steel casing pipe. This was needed for the county's 24-inch force main that serves the entire city. The plan was to bore beneath the county's force main with the casing pipe and slip the 18-inch carrier pipe inside. He reported that everything was headed in the right direction until the bore was done. The next day, they were able to go inside the manhole to observe where the casing pipe location would be centered with the manhole. He said that unfortunately, it was about 14 inches off center.

Mr. Duplechain said they have asked JJID for specific plans of how they are going to access the misaligned bore because it is very close to the 24-inch force main.

The contractor came back with a plan and the city responded with comments. The city advised them that all costs associated is their responsibility as well as the time it will take to review and approve a plan needed to move forward.

The contract was stopped until the next week to allow time for JJID to submit the information; the week before last they came back with a letter stating they were going to submit a claim for the misaligned bore. The city again responded stating we were not responsible.

Mr. Duplechain advised that Brad Dennehy and he met with JJID representatives on Wednesday. They felt it was a positive meeting and it appeared they were willing to proceed as was requested. Then late Thursday afternoon another e-mail was received with the following demands and if met by DBF and the city, they would be willing to waive the claim for the misaligned bore:

1. Eliminate all project liquidated damages.
2. JJID maintains its rights to continue to pursue claims related to the eliminated forcemain, MOT and extended overhead issues.
3. City agrees to pay in full the bore lump sum on the next pay estimate when the fix as detailed in our meeting on July 7th is accomplished.

Mr. Duplechain feels this is ridiculous and responded as such. They are again waiting for a response with their means and methods for accessing the bore. He said there is a chance the bore may not be able to be utilized going into the existing manhole and a new manhole required.

As a result, there are a lot of concerns related to the fact that this excavation is still open. In addition, Wadkins Garage and Towing and Blue Hen Spring Works, both businesses in that area, are being impacted.

He concluded by saying they are holding the contractor to the contract documents.

Mayor Rogers asked how much time should they be given; Mr. Duplechain feels we should give them the time they need though they seem to stalling now. He does not want to rush them into a situation because it is very critical with the location of the force main. A decision will need to be made at some point that they must proceed.

Mr. Baird reported that DNREC has also been informed because the project was funded with SRF dollars. He said at this point, he is comfortable with the manner the city is handling this.

Mr. Pikus asked how this affects their time frame as far as this contract noting the 120-day completion requirement. Mr. Duplechain advised they are currently at 159 days. He explained that an extension was not provided though the time frame was suspended which means the clock was stopped. They have approximately 21 days left to complete the project. He said that is basically impossible and will most likely result in liquidated damages which are calculated at \$500 per day.

When questioned, Mr. Duplechain said they like the method being proposed with the timber sheeting but will need more details.

More information will be provided at a later date.

DSWA Municipal Recycling Agreement

Presented was the agreement for recyclables the city will be collecting effective August 1, 2010. Mr. Baird advised that notices have been sent out to customers informing them of the changes along with a schedule though there are no major changes. The agreement is for six years and expires June 30, 2016.

The city manager also reported that if the city decides we no longer want to collect recyclables and instead contract that service out, this agreement can be assigned to the new contractor. The agreement includes a clause that states if our recyclables include 5% or more items being delivered, it can be rejected and those items disposed of as normal waste.

Mr. Baird recommends approval of the agreement as is being presented.

When asked if Mr. Baird foresees a potential return on the investment from recyclables in the future, Mr. Baird answered that under this type of contract that answer is no. He explained that is because we are not playing the market and instead taking our recyclables to DSWA. He believes we could see a small return after the agreement expires and it is decided to get into the business a little deeper. He added the only way we may see any type of return during this six years is if our numbers increased to a point we were seeing a significant savings in tipping fees.

He added the bill adopted this year in Delaware provides some goals which includes some percentages that will kick in over the next couple of years. He feels we may start seeing a return at that point though he is unable to guarantee anything..

Mr. Pikus asked if during the past three years of recycling, has there been any reduction in the standard trash collection. Mr. Baird answered a slight reduction as far as tonnage, but not enough to offset the cost of recycling.

In addition to the facility being in Milford, it was agreed there is an advantage that this is one of the few facilities in the state that accepts recyclables.

Mr. Brooks then advised the notice sent out stated that when the recycling collection fell on holidays, it would be picked up the day prior to the holiday. He asked how our crews will be able to handle both regular collections and recycling in one day. Mr. Baird advised that in addition to our streets and grounds staff, some of the utility crews will be multi-tasking on those days. He agrees that will be a challenge because currently, we have an open collection day which allows some flexibility on collections. During those times, other city staff will need to be utilized.

The city manager advised that last week, employees from other departments were used to assist during the extremely hot days.

Mr. Pikus moved for approval of the Agreement for the Management of Recyclable Materials between DSWA and the City of Milford, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

DSWA Municipal Discount Disposal Fee Agreement

Mr. Baird recalled previous conversations regarding landfill tipping fees when two options were being considered. The other choice was the deferral option in which the DSWA was going to provide an \$8 rebate the first year, it would even out the second year, and the deferral being paid back the third year. DSWA also sent that agreement in which both he and Mr. Portmann were uncomfortable with the language and how it would show as a liability on the city's financial statements.

Option #2 was then considered which is a standard differential disposal fee and includes a discount taken at the gate. That discount will be a \$4 per ton off their base rates which last week went to \$80 a ton. On July 1, 2011, it will increase to \$82 a ton and to \$84 a ton on July 1, 2012. He explained the city's net costs will be \$76, \$78 and \$80 over the three years. The numbers work out the same between the two options, though this is a cleaner agreement and will better reflect our true costs.

In addition, this will not impact the rates proposed in the ordinance covered by this three-year agreement.

Mr. Brooks moved for approval of the Municipal Discount Disposal Fee Agreement between DSWA and the City of Milford, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Adoption of Ordinance 2010-11/Chapter 193/Solid Waste Rates

The rates proposed in Ordinance 2010-11 are those needed to balance the FY2011-12 budget as has been discussed and which ordinance was introduced at the previous meeting.

Mr. Baird noted that one change was made to the ordinance introduced on June 28, 2010. It stated the commercial rates for the 95 gallon cart allowed one collection per week. However, it will be collected twice a week.

Mr. Pikus asked if customers that provide their own bins are still being picked up twice a week; Mr. Baird explained that all commercial collections are twice a week adding that he is unsure why they would not have a city-issued container though it may be lack of room.

Mr. Pikus moved to adopt Ordinance 2010-11, seconded by Mr. Adkins:

Chapter 193: SOLID WASTE

Section 1.

Section 2 of Chapter 193, Rate Schedule, is hereby amended to read as follows:

§ 193-2. Rate schedule.

Code Number Description Monthly Rate

Residential Rates Current Adopted

01 Single Family [includes Multi-Units ~~\$22.00~~ \$23.50
(12 and below)]

~~1/week collection~~ Weekly Collection

~~1/week recycling~~ Bi-Weekly Recycling

Commercial Rates

CART 95-gallon, ~~1/week~~ 2/week* \$30.00 \$32.00

05 3-yard, 2/week, light ~~\$75.00~~ \$80.00

06 Customer-owned, 3-yard, 3/week, heavy ~~\$180.00~~ \$192.00

07 3-yard, 3/week, medium ~~\$125.00~~ \$134.00

08 City-owned, 3-yard, 3/week, heavy ~~\$185.00~~ \$198.00

09 4-yard, 3/week, extra heavy ~~\$425.00~~ \$454.00

Section 3.

Introduction Date: June 28, 2010

Adoption Date: July 12, 2010

Effective Date: July 22, 2010*

*Utility bills generated after July 22, 2010 will reflect the solid waste fees established by this ordinance.

Motion carried by unanimous roll call vote.

Adoption of Ordinance 2010-12/Chapter 185/Sewer Rates

The rates proposed in Ordinance 2010-12, introduced at the previous meeting, are those also needed to balance the FY2011-12 budget.

Mr. Baird explained that city rates will increase from \$2.43 to \$2.71 per 1,000 gallons. All other rates, including the out of town rates, will be adjusted accordingly.

Mr. Brooks asked for confirmation the average household uses 5,000 gallons; Mr. Baird stated yes, that is correct.

Mr. Pikus asked if the big users will be given some adjustment; Mr. Baird said that is an option which will be addressed once this impact has been determined. Mr. Pikus feels that is important in order to keep the image the city is commercial and industrial friendly. Mayor Rogers agreed.

Mr. Adkins moved to adopt Ordinance 2010-12, seconded by Mr. Grier:

Chapter 185: SEWERS

Section 1.

An Ordinance to Amend the Code of the City of Milford, Chapter 185, thereof, entitled Sewers, for the purpose of amending sewer user rates.

Section 2.

Section 10 of Chapter 185, Schedule of Rates and Charges, Paragraphs (A) and (B), is hereby amended to read as follows:

§ 185-10. Schedule of rates and charges.

The Council has the authority to establish sewer rates and charges set forth in the following schedule, which shall be effective ~~August 1, 2008~~ July 22, 2010 and shall be collected from the customer of the sewer system under operation of the City of Milford. The rates and regulations shall be reviewed on an annual basis and adjusted as necessary. Each user of the wastewater facilities will be notified annually of effective user charge rates either by mail or advertisement in a paper of general circulation within the City of Milford.*

A. Rate schedule based on metered water consumption.

(1) City service rate:

(b) Over 1,000 gallons: ~~\$2.43~~ \$2.71 per 1,000 gallons.

B. Rate schedule based on metered sewage flows.

(1) City service rate:

(b) Over 1,000 gallons: ~~\$2.43~~ \$2.71 per 1,000 gallons.

Section 3.

Dates.

Introduction Date: June 28, 2010

Adoption Date: July 12, 2010

*Effective Date: July 22, 2010**

**Utility bills after after July 22, 2010 will reflect the sewer rate established by this ordinance.*

Motion carried by unanimous roll call vote.

Planning Commission Vacancy

Mayor Rogers is planning to fill the one vacancy on the Planning Commission in August, at which time the current commissioners' terms expiring will be reviewed. In addition, he is hoping that more information will be provided on the newly aligned wards.

The item will be placed on the August Monthly Meeting agenda.

NEW BUSINESS

DEMEC/Beasley Station Generator Expansion Project/Pat McCullar

Pat McCullar, President of Delaware Municipal Electric Corporation (DEMEC) and Kimberly Schlichting, Vice President were present.

Mr. McCullar then addressed the proposed expansion of the Warren F. Beasley Power Station in Smyrna, Delaware needed to meet our growing demands and address some of the costs associated with generation on the peninsula.

Mr. McCullar reminded council that DEMEC is the Joint Action Agency created by the Municipal Electric Utilities in the State of Delaware in 1979 and is authorized under Title 22 of the Delaware Code. Their job is to handle wholesale electric supply and the capital financing needs of its members and services in the state. In addition, DEMEC is a generation owner.

Mr. McCullar advised the core seven members in 1979 are Clayton, Middletown, Milford, New Castle, Newark, Seaford and Smyrna. The City of Dover joined in 1992 and the City of Lewes in 1994.

Some of the most recent generation projects they have participated in include the Dover Sun Park Project, a 10 MW solar park on 110 acres in the Garrison Business Park on the east side of Dover. DEMEC took 15% of the project or 1,500 KW of photovoltaic. That project is expected to be in service next year.

Mr. McCullar also reported the Blue Water Wind Project was expected to be up and running in 2014. Given the way federal legislation and regulation is currently going, he believes that date may slip. DEMEC was the first electric utility in the national to sign an agreement for off shore wind supply. They are very much behind that project and their investment in the life of the project will be somewhere between \$200 and \$300 million. DEMEC has a firm contract with Blue Water Wind though there has been zero costs because it is a take and pay contract, which means they must provide energy before they are paid. There was an announcement another firm from New Jersey may become involved in the Blue Water Wind Project.

In relation to the renewable energy grant programs, DEMEC has encouraged the installation of 375 KW of solar voltaic systems in our service territories since 2007. Over \$1.5 million in grants have been awarded to customers.

Mr. McCullar added a commitment was made by DEMEC to expand the percentage of renewable energy in its power supply portfolio. To do that, a number of additional projects will be needed to meet the 25 year goal the State of Delaware has put out.

He reported that DEMEC needs to add the second combustion turbine generator to the project. In 2001, the project was designed as a two-unit facility though one unit was installed initially. That investment is needed with the growing demand, need to control costs and to assure the reliability of electric services on the Delmarva Peninsula.

The second unit, similar to the first, is a combustion turbine. Natural gas will be the primary fuel with a backup fuel of low-sulfur diesel.

Depending on which technology is chosen, nominal output will be 45-55 MW and will be a black-start capable unit as the first unit is.

Mr. McCullar further stated we are tied directly into the distribution system of the Town of Smyrna which means when their outside service fails, this unit can pick them up and supply the electric service. During May, that was done on two consecutive days. Delmarva had to do some transmission system maintenance and if this had not been there, Smyrna would have been in the dark for about four hours a day, two days in a row. Instead, the turbine was brought up and gauged to the Smyrna system and without anyone knowing, the power remained on as normal.

He said the estimated project costs for the second unit are between \$35 and \$38 million and depends which technology is chosen.

Two options are under consideration. They include a second GE LM6000 Combustion Turbine which matches unit #1 with 45 MW of additional output at a cost of \$35 million. The second technology being reviewed is a Rolls Royce Trent Combustion Turbine which is similar technology with a higher output that includes a 55 MW addition at a cost of \$38 million. He explained the KW installed cost is \$777KW for the GE though the additional higher output can be obtained at a lower installed cost of \$690/KW.

Mr. McCullar advised that Dan Corrigan, Vice President of Engineering will be the primary in the recommendation of which unit is selected.

The first project is owned by seven members of DEMEC; it is currently proposed those seven members will take the ownership shares in Unit #2. The participant percentages are proposed with the final ratio shares determined by the DEMEC Board of Directors. He said that the most favored scenario by the board would give Milford 19.58% of the project output. In addition, the board is also considering recasting the allocation for Unit #1 and Unit #2 at the same time to better match with the current peak demand of the members. With that, Milford will have 19.58% of the entire facility and approximately 100 MW of output.

Mr. McCullar then discussed the impact of installing the second unit. The debt service to finance capital improvement will add about \$2.50 a MWH to the power bills of each participating members. However, the impact of having that domestic generation on the Delmarva Power is estimated to decrease the capacity costs by approximately \$3 a MWH.

He said the unit will pay for itself and will return revenues to the members. They anticipate conservatively a total supply cost decrease of 50 cents a MWH or \$550,000 a year for the entire DEMEC group; Milford's share would be approximately \$107,000 per year. Therefore, the unit will return additional revenues.

Mr. McCullar said there is a growing demand on the Delmarva Peninsula which is why the second unit is needed. Right now, we are in an economic downturn and have seen industrial activity curtailed and a lot of projects that would have otherwise moved forward sit down. When the downturn is over, that demand will come rushing back based on past experiences. DEMEC must be prepared to meet that growing demand, otherwise the economic recovery of Delaware may be disadvantaged.

He also reported that transmission capability is inadequate. Without the domestic generation running on the peninsula during peak summer days, the state would be black. The import capability of the transmission lines cannot bring enough power into the state to meet the demands. That is why there is a need for local generation. They are hoping the MAPP Transmission Project will be built though currently, PJM keeps delaying it. Even with that, without any domestic generation, we are at risk.

McCullar said we must find a way to reduce the capacity surcharge that Delaware plays. PJM has a capacity resource model which is locational. If an area is capacity deficit, additional generation must be built or higher transmission charges will be imposed. The capacity charge in Delaware adds about 10% to the power costs of Delaware citizens compared to Pennsylvania, New Jersey and Maryland. The only way that can be eliminated is to get more domestic generation on the peninsula.

There is a public policy that will require more renewable energy which he explained is a intermittent source. Solar power is only available when the sun is shining and wind power is only available when the wind is blowing. There must be a way to back up power supply and when those powers diminish, a fast start generation is needed to make up the difference.

Mr. McCullar asked the City of Milford consider entering into the Purchase Power Agreement as a member of DEMEC. He noted it is similar to the agreement Milford and other members executed in 2001. It provides for the members to secure power entitlement shares in the project and will obligate DEMEC to build, own and operate the facility for the participant's benefits solely. The contract life is equal to the life of the bonds which will be between 25 and 35 years depending on what the most attractive financing is in the market. It is a take or pay contract commitment. Milford and the other members will be obligated to pay the costs of the project, including capital operating and other costs, regardless of whether or not the unit ever generates a kilowatt of energy.

Should all the members approve the agreement, DEMEC will go to the financial markets with the A rated credit and secure a sale of bonds. Once they receive a commitment, they will begin construction of the project in 2011; the target commercial operation date will be June 1, 2012.

Mr. McCullar stated their credit rating is 'A' which is an increase from last year's 'A-'. He reported that most utilities in the country have 'Triple B' credit. DEMEC is one of the highest rated utilities.

The actual cost to Milford is approximately \$2.50 a MWH and is approximately \$400,000 a year. The total cost of the

project will be \$2.7 to \$3 million debt service cost and O&M.

Mr. Pikus asked the cost to Milford residents in their electric bill. Mr. McCullar stated there should be a reduction in their costs. He explained that right now, Unit #1 is returning positive returns to its members and has done for several years. DEMEC expects this project to return more revenue from capacity and energy sales than debt service and O&M costs.

Mr. Baird referenced the \$550,000 shown in annual costs with Milford's net savings of \$107,690.

Mr. Pikus noted the number of alternative energy possibilities and asked the possibility of turning garbage into energy. Mr. McCullar said they would like to consider a biomass project though there is a specific state law that bans those projects in Delaware.

When asked about hydroelectric, Mr. McCullar said we do not have the geology nor the minimum water drops necessary to run a hydro.

A question was asked if the other municipalities had already committed; Mr. McCullar explained the agreement is before seven members with one already committing. Over the next two weeks, they expect all seven to approve the purchase power agreement. If one member withdraws from the project, it will go back before the Board of Directors and Milford's allocation would most likely increase. If a substantial number of members withdraw, the project would not proceed.

Mr. McCullar pointed out that if this occurred and Milford paid more, Milford would also receive a larger share of the revenues.

Mayor Rogers pointed out that Milford has a member on the board to look out for Milford's best interests.

Mr. McCullar noted that DEMEC has two members that do not have any participation or ownership in Unit #1 and are paying more for their supply. He advised the City of Dover will most likely not participate because they are currently developing their own project for a combined cycle unit which DEMEC may also participate in. The City of Lewes is also interested in this project though that must be determined by DEMEC's board. The existing seven participants get right of first choice in the project.

Mr. Baird then stated that DEMEC and other electric utilities will need a greater percentage of renewable power supplies in its portfolio which will cost our rate payers more money because it is more expensive than what is seen today. By moving forward with a second generator, Milford's projected share of the savings will be approximately \$100,000 a year based on the 2012 numbers. He feels those numbers will increase as the capacity costs continue to rise. The \$100,000 in savings will be needed as further investments are made in the renewable portfolios and energy supplies. This is not only to meet the requirements of the law, but also because that is the direction that all utility providers are dealing with throughout the county. It creates a pot of money that can be used for reinvestment in some of the renewable portfolios required for investments.

Mr. Pikus asked for further clarification should two or three members withdraw. Mr. McCullar said the contract requires Milford City Council to pass a resolution authorizing the mayor and city manager to enter into the agreement. The agreement will not be executed until an affirmative commitment is received from all seven. If one withdraws, he verified he would come back and re-visit the percentages to make sure the economics of the project still make sense.

When asked if Milford would have the right to rescind the resolution, Mr. McCullar stated yes, the mayor would simply refuse to sign the contract. He explained that after each members' approval, a simultaneous signing will occur. That also allows the board to make a last minute decision to kill the project.

Mr. Baird then referenced the \$3 capacity cost decrease capacity shown. Instead of paying the \$3 to someone else, we will pay \$2.50 to ourselves (DEMEC) which will result in a revenue-producing asset. Mr. McCullar emphasized the \$3 capacity cost will increase over the years and the \$2.50 is a fixed debt service cost. If \$3 becomes \$5, the savings becomes \$2.50 rather than 50 cents.

A question was asked if the new generator would run at 100% capacity; Mr. McCullar explained it is designed as a peaking generator and will only run in the high demand hours of the year which are typically during June, July, August, December, January and February. Currently, it is running 15 hours a day and have been since late June. Once the hot weather and peak demand for electricity are over, the unit will only run when necessary to meet peak demand or to maintain reliability on the transmission system.

William Pilecki of 79 Ivy Lane asked if it is not running to capacity, does it have the ability to transmit electricity to other areas; Mr. McCullar answered this unit can deliver electricity anywhere in the PJM region.

Mr. Pilecki then asked if there is an option to sell it elsewhere if the demand was there in order to recoup a profit. Mr. McCullar said that is correct but we would not operate the unit at a loss unless it was absolutely necessary in an emergency situation. He said other than that, it is bid everyday in the PJM and if the bid is economic based on PJM's need for energy, they would dispatch it to generate electricity. Regardless of whether it is generating electricity, it is earning capacity revenues 365 days a year.

It was confirmed that FERC (Federal Energy Regulatory Commission) regulates DEMEC and not the Public Service Commission of Delaware. Mr. McCullar noted that DNREC issues the air permit because it is a carbon burning unit. He noted this is the cleanest carbon based generating facility in the State of Delaware.

Mr. McCullar reported that DEMEC has a better record of reliability rating than Delmarva Power and Delaware Cooperative. It was then confirmed that Milford has the third lowest electric rates in the state.

A resolution will be presented to City Council for adoption at the next meeting authorizing Mayor Rogers and Mr. Baird to move forward with this.

When asked about the possibility of increasing membership, Mr. McCullar answered that currently all nine municipal electric utilities that exist in the state are members of DEMEC. There has been some interest from municipal utilities in New Jersey and Pennsylvania. Though they want to entertain that possibility, they want to make sure that expanding membership would not be a disadvantage to the existing membership economically.

Mr. McCullar then discussed three energy bills that were recently passed by the general assembly.

Senate Bill 119 is a revision to the Renewable Portfolio Standards originally adopted in 2006. It is included in Title 26, Subchapter III-A has substantial new impacts and obligations for municipal electric companies.

This was first discussed during the 2009 legislative session but did not proceed. The administration was proposing to eliminate the municipal and cooperative alternative compliance language currently in the RPS law. Instead, this would set the RPS goals the same for all utilities in Delaware. That would have required utilities to meet annual targets which escalate from 2% to 20% in 2019 and 29% by 2029. In 2029, 29% of our power supply would have to come from eligible renewable energy sources. They also wanted to assess large penalties that failed to meet the goals. Alternative Compliance Payments (ACP) would have been in the range of \$200 to \$550/MWH. They also wanted to double the system benefit charge to customers.

Mr. McCullar said this was strongly supported by Governor Markell and his administration. Their approach is create a new industry segment in Delaware around the renewable energy policies.

He reported they went to the governor and indicated they wanted to support this and understand the need to create a new industry to help our economy. However, they explained we are a different business model than Delmarva Power. DEMEC is owned by our communities and we want to make sure the communities are able to decide how this is done. They pointed out Dover's Sun Park and the Blue Water Wind contract and that they have stayed ahead of Delmarva Power. If DEMEC is allowed to do it their way, there will be better results and those goals reached sooner.

The administration agreed and the legislation that was settled on would allow a comparable program for the RPS. The

regulation is not by the state but by the local regulatory authority which in Milford is the City Council.

The law requires green energy contributions continue though we do not have to continue grant programs. However, the green energy funds must be used for renewable energy and energy efficiency.

All the incentives that are given to Delmarva Power to invest in renewable energies will now be given to DEMEC.

When asked how this would impact our customers' bills if the costs are very high, Mr. McCullar said the state capped the cost at 3% annually. As a result, the cost of meeting renewable portfolio standards cannot exceed 3% of our wholesale power costs each year. If it does, city council has the right to freeze the program until those costs are projected to be less than 3%.

He advised there are no penalties in the final legislation, no alternative compliance payments and no loss of special provisions to control the programs at home.

Municipal utilities will be asked to meet targets of 25% by 2025. Of that 25%, 3.5% will come from solar though schedule will be determined by the municipalities. The programs will not have to start until January 2013.

The local regulatory authorities will, either independently or through DEMEC, design a plan to be presented to city councils, the general assembly and the State Energy Office. Each year, the progress must be reported. City councils will have the right to change the plan as often as necessary to meet the goals and control costs for their communities.

In addition, the local regulatory authority will determine what the program looks like based on local needs, value, feasibility and the economic and environment well-being of its members. Besides the 3% cap, there is a subcap of 1%. If the cost of solar power exceeds 1%, the program can be stopped.

The Green Energy Fund programs will continue with contributions of 0.178 MWH of all sales. Funds must be used to support energy efficiency and renewable energy technologies and demand side management programs. Grant programs to end-use customers are not required and communities can decide individually whether to continue the grant programs or use the money for other purposes.

The local authority also has the right to increase the contribution.

The state requirement for the Green Energy subscription has been eliminated. Municipalities may choose to continue to eliminate it. Municipal electric utilities will receive all renewable energy credit incentives currently provided to Delmarva Power & Light. The state will give a 10% bonus for all Delaware projects and use at least 50% of the equipment manufactured in Delaware. An additional 10% bonus will be given for projects sited in Delaware that 75% of the labor comes from the Delaware workforce.

Any new incentives offered to DPL will automatically be offered to the municipal utilities.

There is no state regulation involved by the general assembly, DNREC or PSC and instead is locally control. Each town council will determine the program pace and cost impacts to customers.

More information will be provided by DEMEC for suggested implementation over the next eighteen months.

Senate Bill 226 modifies the state's Green Energy Endowment Program, Title 29, Chapter 80, Subchapter II-The Delaware Energy Act. It has no direct obligations on municipal electric companies though it changes the way the state will allocate and spend the green energy endowment money. The control of grants had been given to the Secretary of DEMEC and the SEU (Sustainable Energy Utility) Oversight Board. They have been very slow to bring anything forward, though Mr. McCullar hopes they will come up with some good programs to advance energy efficiency in Delaware.

Senate Bill 267 addresses Aggregate Net Metering, Title 26, Chapter 10, Electric Utility Restructuring. It allows retail

customers to aggregate usage and invest in renewable generation and requires the towns to accommodate that. It has substantial administration and billing impacts and possible revenue impacts on municipal impacts.

Mr. McCullar also advised that this will allow customers to sign contracts with the developer who may build a community base solar project, then require the local utility to allow it to be installed and to buy excess energy off the product. The system can be built up to 110% of the aggregated consumption of the group of customers. Because it is an aggregate, the projects can be larger than just our typical roof top solar which would inject larger amounts of energy into the distribution system which is a concern.

An amendment was added to strengthen the generator interconnection application process. In that manner, the stability and safety of the distribution systems can be assured.

The bill originally required the electric utilities to manage all individual accounts. They saw this as a billing nightmare and asked for the right to bill and credit a single account and allow the participants to divide it among themselves. He still expects significant challenges in metering and accounting to ensure it works correctly.

The legislation also allows third-party suppliers to serve load inside a municipal service territory. Mr. McCullar said that is in violation of state law for retail competition. He said this is being readdressed with the state.

It could also impact revenues if large projects are built. Those impacts may need to be addressed through rate designs and may decouple retail rate designs similar to what Delmarva is considering for their service territory.

Because of these concerns, they asked that implementation be delayed until July 1, 2011 to allow for further study. The state agreed that if significant issues were raised, they will agree to make changes.

Further information will be provided as these matters develop.

Mayor Rogers and council then thanked Mr. McCullar and Ms. Schlichting for attending tonight's meeting.

MONTHLY FINANCE REPORT

Mr. Pikus reported that through the eleventh month of Fiscal Year 2009-2010 with 92% of the fiscal year having passed, 88.05% of revenues have been received and 82.31% of the operating budget expended.

ADJOURN

Mr. Pikus moved to adjourn the meeting, seconded by Mr. Grier. Motion carried.

The Monthly Meeting was adjourned at 9:25 p.m.

Respectfully submitted,



Terri K. Hudson, CMC
City Clerk/Recorder