

MILFORD CITY COUNCIL
MINUTES OF MEETING
June 8, 2015

The Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, June 8, 2015.

PRESIDING: Mayor Bryan W. Shupe

IN ATTENDANCE: Councilpersons Christopher Mergner, Garrett Grier III, S. Allen Pikus, James Burk, Owen Brooks, Jr., Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

COUNSEL: City Solicitor David Rutt, Esquire

CALL TO ORDER

Mayor Shupe called the Council Meeting to order at 7:07 p.m.

INVOCATION & PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Morrow to approve the minutes of the April 27, 2005 Council Meeting, May 4, 2005 Organizational Meeting, May 11, 2005 Council Meeting and May 26, 2005 Committee, Public Hearing and Council Meeting, seconded by Mr. Grier. Motion Carried.

RECOGNITION

Mayor Shupe welcomed Councilman Pikus back after an absence due to an illness. Councilman Pikus thanked everyone for the well wishes and prayers.

Proclamation 2015-15/Garden Club Week (Previously Presented)

Mayor Shupe referenced a proclamation presented to the members of the Garden Club last week:

WHEREAS, Gardeners have a passion for nurturing the beauty and resources of the earth through the planting of seeds, the care of all plants and the harvesting of the riches of their efforts; and

WHEREAS, Gardeners seek to add beauty, splendor, fragrance and nutrition to our lives through the growing of herbs, vegetables, foliage and flowers; and

WHEREAS, Gardeners work to preserve our country's traditional spirit of independence and initiative through innovation and hard work; and

WHEREAS, Gardeners advocate the importance of all creatures, large and small, that share our world and their roles in a balanced and productive ecology; and

WHEREAS, Gardening furnishes a challenging and productive activity for many citizens, for those just learning as well as those having years of experience; and

WHEREAS, Gardening promotes a healthy lifestyle that lasts a lifetime, helps reduce stress from other areas of life and teaches that rewards come from diligent efforts; and

WHEREAS, Gardening enables members of Garden Clubs across the nation and the world to serve others in the communities in which they reside and work.

NOW, THEREFORE, BE IT RESOLVED, in an effort to acknowledge the importance of Gardening and the numerous contributions of gardeners, I, Bryan W. Shupe, by virtue of the authority vested in me as Mayor of the City of Milford, do hereby proclaim the week beginning June 7, 2015 as National Garden Week in the City of Milford and encourage all citizens to recognize and thank this generous organization for their service and dedication to our community.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this Fourth day of June in the Year of our Lord Two Thousand and Fifteen.

s/Mayor Bryan W. Shupe

Proclamation 2015-16/Delaware Hospice/New Hope Program/25th Anniversary/Counselor Robin Murphy

Mayor Shupe read the following proclamation into record:

WHEREAS, In 1990, New Hope was established by Delaware Hospice as a free program to serve children and teens during their time of grief;

WHEREAS, The New Hope program is based on the belief that children can be supported in the process of grief reconciliation if they are provided with opportunities to express their feelings;

WHEREAS, New Hope Counselors have provided support, counseling and education to approximately 10,000 children, teens and their families through a variety of workshops, support groups, individual counseling, and a summer camp;

WHEREAS, The capstone of the program is Camp New Hope, a four-day inspiring summer day camp, where these children and teenagers have opportunities to interact with other children who have also experienced loss;

WHEREAS, The camp offers group projects, counseling, individual support, education and free time to allow children to process emotions though its highlight is a special memorial service, attended by parents and family, at the conclusion of the camp, where members celebrate and honor the life of each child's loved one;

WHEREAS, It is with great honor, that the City of Milford wishes to recognize the nationally recognized New Hope Program for twenty-five years of phenomenal dedication and service;

NOW, THEREFORE BE IT RESOLVED, that I, Bryan W. Shupe, by virtue of the authority vested in me as Mayor of the City of Milford, do hereby graciously acknowledge the 25th Anniversary of the Delaware Hospice's New Hope Program and the generous support of donors and volunteers who make this free program possible.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford, in the State of Delaware to be affixed this Eighth day of June in the Year of our Lord Two Thousand and Fifteen.

s/Mayor Bryan W. Shupe

He then presented the proclamation to New Hope Counselor Robin Murphy and Sondra Satterfield.

EXECUTIVE SESSION

Mr. Pikus moved to go into Executive Session reference a strategy session and personnel matter, seconded by Mr. Grier. Motion carried.

Mayor Shupe recessed the Council Meeting at 7:12 p.m. for the purpose of an Executive Session as stated below and permitted by Delaware's Freedom of Information Act:

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed (Contract Issue)

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation (Hammond Issue).

Return to Open Session

City Council returned to Open Session at 8:05 p.m.

Hammond Easement

Mr. Pikus moved to authorize the city solicitor to negotiate the settlement as discussed in Executive Session to be paid from electric reserves, seconded by Mr. Grier. Motion carried.

MONTHLY POLICE REPORT

Police Committee Chair Morrow presented the monthly police report on behalf of Chief Hudson noting they have had yet another busy month. Ms. Wilson moved to accept the report, seconded by Mr. Burk. Motion carried.

CITY MANAGER REPORT

Mr. Medlarz referenced the following report:

Administration:

- * *Made several contacts with potential USDA, Rural Economic Development Loan and Grant (REDLG) funding candidates*
- * *Presented Lakeview Ave. land use modification at the State Planning Office*
- * *Continued public works agreement effort for S.E. utility expansion*
- * *Continued negotiations with First State Manufacturing associated with the potential land exchange*
- * *Continued parcel consolidation/rezoning effort for Perdue*
- * *Continued settlement efforts with regards to the Watergate adjoins and their attorneys*
- * *Attended 2nd DEMEC strategic planning session*
- * *Attended opening at Dorey's Insurance and associated Chamber Mixer*
- * *Conducted conference call with American Municipal Power on smart metering*
- * *Met twice with DelDOT regarding BayHealth entrances on Wilkins Road*
- * *Conducted BayHealth planning meeting with Fire Marshall*
- * *Attended Milford Economic Development Meeting*

Electric Department:

- * *Attended 2nd DEMEC strategic planning session*
- * *Participated in a conference call with AMP in reference to the smart metering*
- * *Provided new power service to Watergate Subdivision Townhouse Complex 3 & 4*
- * *Assisted in the relocation planning effort for fire siren*
- * *Installed new capacitor banks in 210 kV circuit to improve power factor*
- * *Installed fiber feed to Cascades and Fisher Avenue pump stations*

Streets and Solid Waste Department:

- * *Repaired storm drain pipe on N.E 10th Street (pending hot mix)*
- * *Street crews continued sidewalk/curbing repair throughout the town*
- * *Sidewalk repair in Saw Mill Village completed*
- * *Significant improvement on the streets with less and less bulk as well as excess trash*
- * *Educating customers on avoidance of commingling waste streams*

Water and Sewer Department:

- * *Replaced meter pit 800 S.E. Second Street*
- * *Repaired water leak on Williams and Jefferson Streets*
- * *Installed meter pit at 207 Montgomery Street*
- * *Pumped down Shawnee Acres Pump Station in support of Watergate project*
- * *Assisted Nichols Construction in force main upgrade project*

City Manager Medlarz referenced our continued effort with the Bayhealth expansion. We continue to work with State Planning, DeIDOT and other state agencies to move this project forward.

Mr. Brooks recalled a meeting with Bayhealth when they announced they would be breaking ground the third quarter of this year. Mr. Medlarz predicts the ceremonial groundbreaking will most likely occur the first quarter of 2016 at this point. Bayhealth remains anxious to move their project as quickly as possible.

Mr. Mergner asked if the city will have any input on the entrances off Wilkins Road or will that be a DeIDOT decision. The city manager reported that he informed them the city wanted to control the roadway. However, two meetings later they were informed by the State Planning Director, who works under the State Secretary, that DeIDOT will not entertain that request. As a result, DeIDOT will dictate the design and location of the entrances.

Mr. Mergner expressed concern due to the developments on the opposite side of Wilkins Road.

The city manager then reported that he and Electric Superintendent Rick Carmean are very involved in the DEMEC planning strategic planning. The city has a lot of issues on the metering side and the automated metering. Council will see this item come back with additional information in the near future.

Motion to accept the City Manager report made by Mr. Morrow, seconded by Ms. Wilson. Motion carried.

COMMITTEE & WARD REPORTS*Bamboo Problem*

Ms. Wilson noted that the abandoned property at 604 North Street is overgrown with bamboo. She reported that the property looks like a small forest where wild animals are living as a result of the overgrowth. The bamboo is now spreading into the neighbor's yards.

Mr. Mergner said the only way to prevent it from spreading is to install a barrier ground level.

Ms. Wilson said the owner lives in Florida. They have someone who maintains the lawn though they will not pay him to address the bamboo problem. The code official has been in contact with the owner but the problem is getting worse.

The city manager explained that bamboo is an invasive species and the city has an invasive species section in the code. He will contact the code official to ensure the notifications went out. We are required to meet certain times lines and after that, the city can go in and address the invasive species and charge the owner or lien the property.

COMMUNICATIONS & CORRESPONDENCE

Mr. Mergner thanked Chief Hudson for helping the Orchard Hill community by installing some signs to assist with the speeding problem. He said the sign was a big help and he has received a positive response.

Mr. Burk said he agrees and referenced a sign on South Walnut Street and Kings Highway. He has been talking with Chief Hudson about getting some data and agrees that people drive too fast in this city. He feels the problem is bigger than the police can handle and believes that it is not just the responsibility of the police to enforce but something our citizens need to monitor themselves. He said the speed limit is 25 miles for a reason and people need to remember those reasons.

Mr. Pikus said the speed sign on Kings Highway has really helped adding that Chief Hudson went through a lot to get it in the right place and appreciates how he continued working on this until the residents were satisfied.

Ms. Wilson asked if Chief Hudson will have community policing officers out again this summer. Chief Hudson said that there has been some foot patrol by officers though his seasonal officers officially begin this weekend. They will be focusing on the parks and downtown area. As a result, our residents will see an increase in both foot and bike patrols.

Chief Hudson confirmed they presently have four seasonals though five were hired. They lost one during the training period.

UNFINISHED BUSINESS

Recommended Charter Review/Powers of Elected and Appointed Officials/Mayor Shupe

Mayor Shupe said he asked the city solicitor to review the charter as a result of two new council members. As a result, the solicitor put together a synopsis of the charter explaining the powers of city officials and council. The mayor asked all of council to review the charter on their own time.

Mayor Shupe said he would like to meet with each ward to discuss any recommendations each ward has. If no recommendations, he still wants to meet with the two council members from each ward to discuss what is happening, concerns and any possible ideas.

The mayor encouraged each council member to take some time to review the charter in the meantime so that any recommendations can be discussed with him.

He said that City Manager Medlarz is committed to this as well and will participate in these meetings prior to the June 22nd or July 13th meeting. He said this can be done legally by only meeting with the two council members at a time.

Mr. Brooks noted that over five years ago, a committee was appointed that consisted of the mayor, some council members, the city clerk and city solicitor. It took almost two years to completely review the charter and make recommendations. Mayor Shupe prefers to talk to the two ward representatives to discuss recommendations and also talk about concerns and ideas.

Mr. Brooks asked if the mayor is asking what council wants such as road paving, grasscutting, etc. City Solicitor Rutt said the charter was actually adopted five years ago. He agrees it is a good practice to go back because we have a new mayor, new city manager and new council members in addition to a new solicitor. He feels this should be done on its five-year anniversary. Once all the changes have been made, it would have to go to the general assembly in 2016.

Mr. Brooks said he read the charter today and made notes. Mayor Shupe said that can be shared during the ward meetings. He said that other items can be discussed during the second half of the meeting.

Mr. Brooks said that he and Mr. Morrow look forward to sitting down with the mayor and telling him what they need; Mr. Pikus agreed.

Mr. Burk said he made some notes where one section refers to another and they don't coincide. Mayor Shupe agreed those are the things that can be addressed during the meetings.

Mr. Starling prefers a workshop that all of council attends. He is uncomfortable with two council members meeting separately and giving individual opinions. He feels it should be done as a group so everyone can hear what each other says. That way the full council can discuss and understand what each ward would like to happen.

Mr. Morrow asked if the meetings have to be recorded; Mr. Rutt said not if it is just the two council representatives and the mayor and city manager adding that does not fall under FOIA.

Introduction/Ordinance 2015-10/City of Milford Code/Part II-General Legislation/Appendix B Electric

City Manager Medlarz recalled this ordinance being discussed at the last meeting. Since then, some green energy language was added. This was needed to ensure that permitting covers the various systems available today. Right now, we only require an interconnection agreement even though our residents have to go to Sussex County to get a building permit for solar panels. Milford does not permit that project. The solar panels are installed, then the city is asked to activate them though we are unable to because they may be too large, for example. The permitting process would prevent that from occurring.

A public hearing on this matter has been scheduled on June 22, 2015.

City Solicitor referenced Section 4.4(a):

PROVISIONS FOR ALL DEPOSITS

4.4.A Deposits shall be in an amount equal to two-twelfths of the estimated annual revenue or a minimum as may be reasonably required by the City (See Appendix 1-Fee Schedule). No interest will be paid on the Deposits from the Residential Customers. Simple annual interest will be paid on the Deposit from other Customers. Interest will be paid at the time the Deposit is returned to the Customer. No interest will be paid unless the Deposit is held longer than ninety days.

The city manager explained that simple annual interest could be interpreted as an illegal interest. Legal interest in Delaware is federal rate plus 5%. He suggests changing 'simple annual interest' to 'accrued interest earned on the deposit'. In that way, whatever percentage earned in the bank is what they receive. Because commercial customers pay a large deposit, they may discover this is a big windfall for them.

The city manager then introduced the following ordinance:

*Ordinance 2015-10
City of Milford
Appendix B-Electric Tariff-Rules and Regulations*

Whereas, the City Manager, together with the Customer Service and Electric Department representatives, have recommended an amendment to the City of Milford Code, Appendix B-Electric Tariff-Rules and Regulations; and

Whereas, the City Manager has submitted the amended code to City Council for consideration and approval; and

Whereas, the City Council of the City of Milford is in agreement there is a need to update the City Electric Rules and Regulations in order to maintain high standards.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford, Appendix B, Electric Tariff--Rules and Regulations, that establishes Electric Standards and Rates for the City of Milford.

Section 2.

Appendix B, Electric Tariff–Rules and Regulations, of the City of Milford Code is hereby repealed and a new Appendix B established by inserting the following in lieu thereof:

Section 3.

Appendix B is hereby entitled Electric Rules and Regulations.

Section 4.

Appendix B hereby contains the following Sections, Classifications and Appendices:

Section 1 - General Conditions

Section 2 - Definitions

Section 3 - Application and Contract for Service

Section 4 - Customer Advance Usage Fees and Deposits

Section 5 - Payment Terms

Section 6 - Administration of Service Classification

Section 7 - Customer's Installation

Section 8 - Secondary Services and Transformer Installations

Section 9 - Meter Installations

Section 10 - Adjustment of Charges

Section 11 - Continuity of Service by City

Section 12 - Customer's Use of Service

Section 13 - Defects in Customer's Installation

Section 14 - Access to Premises

Section 15 - Tampering with City's Property

Section 16 - City's Right to Discontinue Service

Section 17 - Discontinuance of Service by Customer

Section 18 - Primary Extensions

Section 19 - Purchase Power Cost Adjustment (PPCA)

Section 20 - General Cost Adjustment

Section 21 - Delaware Public Utility Tax

Section 22 - Green/Renewable Energy Fund Program

Section 23 - Aggregation of Retail Customer Demand Response

Section 24 - Fee Schedule

Service Classifications

Appendix 1 - Fee Schedule

Appendix 2 - Worksheets

Appendix 3 - VGRE Application

Section 5.

Dates.

Introduction 06-08-2015

Adoption 06-22-2015

Effective 07-02-2015

Section 6.

A complete copy of the current and proposed Appendix B may be viewed by contacting the City Clerk's Office at Milford City Hall at 302-424-3712 or by accessing the city website at www.cityofmilford.com.

Adoption scheduled for June 22, 2015 following the public hearing.

Status of Project Work Projects

Mr. Medlarz submitted a status report noting that the items in italics needed councils' vote. He is asking for consent approval and any item that must be removed or modified will not apply. He asked Mr. Rutt if that meets with his concurrence. Mr. Rutt agreed stating that a consent agenda is a good way to handle. Mr. Medlarz said this provides a written record of the approval.

He then reviewed each of the following items:

1. Southeast Water Storage Tank and Treatment Plant Project (Wickersham Subdivision):
 - a) Storage tank (CBI contract) and treatment plant (Kuhn contract) projects ongoing w/city engineer performing administration and inspections under the current contract.
 - b) City contacted Verizon who expressed interest in placing an antenna on top of the water tower. The city engineer and Verizon will develop a change order scope to be included as a component in a long term lease proposal for the site. The city engineer has submitted a change order for the additional design and coordination. *Councils' approval of the expense in association with said effort in the amount of \$3,500.00 using USDA Project Funds or Water Fund Reserves if request ruled ineligible by USDA is requested.*
 - c) Installation contract (AC Schultes) for first water supply production well complete and testing of second aquifer ongoing with promising capacity results (+/-150 gpm) but no results from the water quality testing. Design, administration and construction for second production well is on hold pending receipt of quality testing. Recommendation is to continue current approach via future city council approved change orders for city engineer and Kuhn Construction.
2. Seabury Avenue Water Supply Expansion:
 - a) Installation contract of well 11R ongoing with AC Schultes as a sub-contractor under the city engineer.
 - b) Equipment design and installation contract is time sensitive due to the current critical water supply conditions. Recommendation is to select a design build approach with a single change order to the city engineer approved by council allowing the quickest implementation.
3. DNREC Water Allocation Permitting:
 - a) City has been out of compliance of its DNREC Water Allocation Permit for several years.
 - b) DNREC, city manager and city engineer developed an approach to fill in data gaps. The team stands ready to make an interim submittal.
 - c) The final renewal and record keeping should be accomplished with city assistance due the size of the task. Current city staff does not have that expertise but could be trained by an appropriate team member. *In order to fund the effort, a funding allocation for the city engineer, in the amount not to exceed \$10,000, should be approved by council from water fund reserves.* The past implementation was pieced together from different city engineering line items.
4. Airport Road Pavement Rehabilitation:
 - a) Exploratory road cross section borings have been completed and a preliminary design has been developed. Plans and specification are on hold until the end of the 2015 legislative session and the subsequent determination of availability of any Community Transportation Fund assistance.
 - b) Phase 1 of the pavement rehabilitation would include the west bound lane between US-113 and Bowman Road utilizing any CTF funds and tying the project to a partially CTF-funded cemetery expansion project where the millings could be utilized. Supplemental funding would be pulled from Municipal Street Aid as required. *This project could be handled by a city project manager if approved by council in conjunction with the city engineer for a reduced fee of \$7,500.00 funded out of street fund reserves. City council authorization is requested.*
 - c) Phase 2 of the pavement rehabilitation project would require further inspection of the east bound lane before developing a final design and implementation approach.
5. Southeast Area Utility Extensions (BayHealth Campus):
 - a) The Southeast Sewer Extension concept plan is complete. A preliminary cost estimate has been prepared and a draft Public Works Agreement involving BayHealth, Wickersham and Fannin has been drafted based on the Kent County template. An initial meeting has been held with a fourth interested party. The Agreement will be submitted to all parties for review once the potential fourth party decides to join no later than June 15th. Once all comments are

incorporated, the Agreement will be presented to Council for review and approval. No city financial contribution is anticipated beyond the now complete Shawnee Acres Pump Station force main upsizing (Nichols Construction contract). In the Marshall Commons area of the work the routing had to be changed into the pavement due to an unforeseen utility conflict. *City councils' approval of the required a change order for pavement restoration to Nichols Construction in the amount of \$7,530.00 funded out of Sewer Fund Reserves is requested*

- b) The Southeast Water Extension concept plan has been started but finalization is waiting on campus concept plan development by the BayHealth design team. Once completed BayHealth and the city will develop an exclusive implementation public works agreement for council review and approval.
 - c) The Southeast Electric and Fiber Extension concept plan has been started based on several design meetings with BayHealth. Once completed, BayHealth and the city plan to develop an exclusive implementation public works agreement for council review and approval.
 - D) The BayHealth Campus power back-up component allows for a jointly funded power generation or combined heat power project between BayHealth and the city. The next step is to arrange a planning meeting between the city electrical engineer, the BayHealth power generation design team and DEMEC. Depending on the outcome of that planning meeting, a unique three-way agreement with DEMEC could be developed.
 - e) The recommended implementation approach could be accomplished via a design by the city engineers (civil and electrical) followed by separate construction bids for each aspect with construction administered by the city project manager if approved by council and inspected by the respective city engineers.
6. Washington Street Water Treatment Plant:
- a) The raw water distribution system on South Washington Street has been completed. The treatment plant has been designed for the alternative location under the water tower previously approved by council. This site was not included in the SRF application and required additional survey as well as environmental and archeological evaluations including coordination with the State Historic Preservation Office. The project is now permitted and ready for bidding pending the results of the final archeological report.
 - b) The proposed plant is fed by wells 1, 2 & 3. The oldest is well 1 that has debris in the screen area thus limiting its production. We are proposing to include the installation of a new 8-inch or 10"X 8" replacement production Well 1R in close proximity to the approximate screen depth as the existing Well 1 but with an increased pumping capacity of 350 gallons per minute (GPM). This is a 100-GPM increase over the existing well which should be achievable given in 1988 a specific capacity of 10.8 GPM per foot of drawdown was measured.
 - c) Some but not all of the additional services were invoiced and paid; however, no official change in project scope was issued. These items should have been identified and brought before Council though that was not done. City engineer has submitted a scope change request for the coordination and third party consulting services. *Councils' approval in association with the changed site conditions and addition of replacement well 1R in an amount not to exceed \$23,500.00 using SRF Water Project funds is requested.*
 - d) Additional electrical design was also needed to accommodate the power back-up to the customer service center, add a second generator for the Washington Street Sewer Pump Station, temporary tie-in of well 2 and the relocation of the fire siren. The city engineer has submitted a change order for the additional electrical design. *Councils' approval of the expense in association with said the design effort in the amount of \$13,800 using SRF Water Project funds is requested.*
 - e) The overall project is still within budget since the building component and the customer service center has been removed from the scope.
7. 2015 Sewer System Upgrades and Rehabilitation Project:
- a) Bond Counsel and city administration started on the implementation of the borrowing ordinances and the associated referendum. Anticipated completion of the administrative process for approval of all tasks is September 1, 2015. Support documentation in this process will be provided by the city planner.
 - b) Once authorized by the voters, the design of the project will be accomplished by the city engineer for all aspects but the SCADA system. We will attempt to accomplish this task within house staff.
 - c) The separate construction bids for each aspect, i.e., pump station upgrades and I&I removal, will be administered by the city project manager if approved by council and inspected by the city engineer.

8. Northwest Milford Water & Sewer Expansion:

- a) The N.W Milford Water and Sewer Study was completed by the city engineer in the spring of 2015. The Hickory Glenn developer is currently reviewing the expansion options as per the study.
 - b) The Amberwood Subdivision has been sold and the new owner is seeking a commercial rezoning which the city planner is currently ushering through the state PLUS process.
 - c) Once both entities conclude their respective steps, a preliminary cost estimate based on the final selected option must be prepared and a public works agreement drafted potentially involving Baltimore Air Coil based on the Kent County template. It will be submitted to all parties to review and determine if BAC decides to join any aspect or not. Once all comments are incorporated, the agreement will be presented to council for review and approval.
9. Truitt Avenue Paving Project:
- a) The project was created by council by switching exchanging funding between a legislative CTF parking lot project and a city road project. CTF monies in the amount of \$75,987.00 are now in place a pavement and sidewalk upgrades on Truitt Avenue.
 - b) Phase 1 of the rehabilitation would include at a minimum the handicap ramps on all corners as well as the deteriorated curb and sidewalk sections
 - c) Phase 2 of the project would cover the pavement rehabilitation with taper milling and utility adjustments.
 - d) This project could be handled by a city project manager if approved by council in conjunction with the city engineer for a reduced fee of \$3,500.00 funded out of Street Fund Reserves.
 - e) The funding is insufficient for a full rehabilitation. Therefore, the bid documents will have to reflect an add-on approach by city block in order to fit it in the available funding within the contract scope awarded by city council on a case by case basis.

City Manager Medlarz asked for council to consider a consent motion for the identified public works action items.

Mr. Pikus moved to approve as recommended in the status report, seconded by Mr. Wilson. Motion carried.

Mayor Shupe thanked the city manager for staying on top of these projects adding much of the work is needed as a result of adding infrastructure and growth. He noted that the city's number one priority this year is infrastructure and pointed out that Mr. Medlarz is proceeding at a great pace.

Approval/Public Works Position/Projects Manager & Contract

City Manager Medlarz recalled this item was discussed at the previous meeting and there were some legal questions based on the contractual issues asked at the previous meeting.

City Solicitor Rutt said he is considered this in terms of being a contract position. The IRS has a 20-point checklist for an individual contractor. He feels this is almost impossible to make this a separate contract position because one of the things needed is for the person to be answerable to city manager and to city council.

Mr. Rutt further explained that based on some of the factors on the checklist apply, this person is considered an employee and the first item is where the person would receive their instructions. It is not a situation where the city would pay a contractor to pave a road (for example), provide them the plans and let them go to work. Instead, he said this is a situation where the person would work for the city, go and inspects roads and reports back on the condition.

Items such as services rendered, hiring, supervision, work hours and training are some of the factors that make the contractor an employee.

The solicitor stated that after reviewing the contract and comparing it to the IRS regulations, he does not believe he can be hired as a contractor. Therefore, this person would be considered a city employee.

He recommends council approving the position as a city employee.

Mr. Medlarz explained that this position is based on project needs. Mr. Burk feels that because this would now be considered a city employee, council needs to officially create the position and referred to previous job descriptions that were

approved. Mr. Rutt advised that council can authorize the city manager to hire a project manager. That would be similar to council approving and creating an economic development director.

Mr. Grier asked what was spent contractually for public works projects. Mr. Medlarz stated he would have to research that information. He noted that the Bayhealth sewer project alone would financially support this position because it will be built through reimbursable expenses if approved in the upcoming referendum.

The city manager explained that several projects, such as the water allocation permit, should be handled by the city. He also noted that this position will not be needed forever and is the reason it was presented contractually. It can be reviewed after three years as is proposed, though council has the ability to change the term.

Mr. Grier asked if this will show up in the budget as an \$80,000 expense and a \$80,000 plus revenue item. Mr. Medlarz explained that it will not be displayed in the manner because the projects are reimbursable even though the city is not a for-profit organization. The IRS would have a problem if Bayhealth were charged more than what they incurred.

Mr. Grier said his point is whether this will save the city money versus what we would typically pay another engineer for these projects. Mr. Medlarz said it will clearly save money which will allow those funds to be spent on other items.

Mr. Pikus asked if the contractors are currently paying these expenses. Mr. Medlarz confirmed it would not be paid out of the city budget. Mr. Pikus pointed out that if someone is hired, it becomes a budgeted position with benefits. Mr. Medlarz agreed adding that once the year is over, we can account for the \$80,000 plus benefits though he can show where we took in x amount of dollars. However, we cannot always guarantee 100%.

Mr. Burk said what occurs when a project is delayed. If we hire an employee, the city continues to pay their salary regardless of whether or not the project moves forward. He feels that is the benefit of using an outside contractor; in that situation, we would not have to pay unemployment for example.

Mr. Medlarz explained that we need the services and cannot treat this as a contractor because we are directing the work to be done. Mr. Burk agrees but pointed out whatever engineering firm we are using now, if there were a delay or a project fell through for whatever reason, the city would not be responsible financially. That will not occur if the person becomes a city employee.

Right now, the city manager said that he either needs a project manager or some of these projects will start slowing down.

Mr. Morrow referred to Mr. Burk's earlier statement and again asked if we normally contract that to an outside firm. Mr. Medlarz said he can easily go to DBF or another firm and ask them to do these things. The will result in less money to spend on bricks and mortar. At that point, the city is spending money on administration costs.

The city manager sees this as a benefit but he cannot guarantee preventing project delays though he can guarantee a vast majority of those expenses will be covered.

Mr. Mergner believes there will be fewer delays by having our fingertips on these projects versus having an outside firm handling it. Mr. Grier recalled this position being cut years ago and it appears as though we are now back adding them. Mr. Mergner pointed out that is the reason for the contract term.

Mr. Rutt noted there is also a termination clause.

Mr. Pikus feels this should be discussed during the budget hearings over the next two nights.

Mr. Medlarz explained that the Kent County budget had included a revenue line item titled 'third party contributions'. Every year that revenue might show 85% or 95%. As a result, he said he is not budgeting for a person but instead looking at interim funding. In the end, most of the money will be recovered. Mr. Burk said that frequently a lot of the time and money would not be in the same fiscal year. Mr. Medlarz agreed because the budget is prepared in advance versus the reconciliation taking place in retrospect.

Mr. Medlarz asked council which is the preferred approach. Mr. Grier prefers knowing what has been spent for the same type services; Mr. Pikus said we can find that out. Mr. Grier feels it is a fair question to justify the position.

The city manager explained that we will have to go through all the engineering bills and pull out the administration component. Ms. Wilson feels it should not be that difficult and believes it would be beneficial to have a line item titled 'administration services'.

Mr. Medlarz argued that the engineering services are budgeted for engineering services. They are not broken out by each function so each bill will need to be reviewed to determine how much was spent on administration services. He can have that number by the end of this week at the earliest but not by the budget hearing tomorrow night.

Mr. Pikus confirmed this position would oversee electrical and water and sewer projects. Mr. Medlarz said the position would handle all those needs.

Ms. Wilson pointed out that Mr. Medlarz also knows that once the Bayhealth project begins, our public works needs will grow.

Mr. Pikus then confirmed the public works superintendent was budgeted. Mr. Medlarz stated yes and agreed that a job description is needed for the project manager as Mr. Burk recommended. It could then be presented to council for approval. However, he does not want to write a description if the position has not been approved.

Mr. Medlarz then noted that the gentleman that applied for this position is in the audience. He then referred to the DFIT Membership Resolution that is scheduled for later in the meeting. DFIT requires the city to have a safety plan and employee safety meetings. This person is OSHA certified and there is no other city employee with even half an OSHA certification. When he became city manager, he did not expect to need a citywide safety plan though that will now be required. This person has the ability to handle this task though it is completely unrelated to the project manager position.

Mayor Shupe asked council to consider the projected growth and aging infrastructure in our city. As a result, there will be a lot of work needed and more projects in the future. His opinion is the city will be ahead financially. Mr. Mergner agrees and stated that it sounds to him like we would save money in the long run.

Mr. Brooks stated that he agrees with Mayor Shupe; Ms. Wilson said she recalls for years councils' concern about the money we were spending on engineering. That is the reason we hired an engineer who oversaw projects during the building boom. Things are picking up and she feels we may have that need again. She said Mr. Rutt says this person will have to be an employee so we need to figure out how we can get this done if council approves the position.

Mr. Medlarz agrees that Mr. Rutt established he needs to be considered an employee.

Mr. Grier asked what the city manager needs tonight; Mr. Medlarz said he needs to know whether this will be approved. He would then do a job description and the employee would go through the hiring process before the offer can be officially made.

He is asking council whether they are comfortable where we are and the pace we are proceeding or if they would like to add this position to get things moving even quicker.

Mr. Mergner asked if a motion is needed to start the process.

Mr. Morrow pointed out we have two nights of budget hearings ahead of us and he prefers waiting until then.

Mr. Burk then asked if the economic development position was posted or was there only one application. Mr. Medlarz said it was posted and eleven people applied.

Mr. Burk asked if this position will be posted now that it has been determined this will be a city employee; Mr. Medlarz explained that the person he has in mind actually applied for the public works superintendent but his background is perfect for this position.

Mr. Rutt explained that under the City Charter Section 3.01, public competitive bidding shall not be required under any of the following circumstances:

- (1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof.
- (2) A contract for professional services.
- (3) A contract which is less than Thirty Thousand Dollars (\$30,000). Such a contract shall not be for a portion of a project or proposal that would otherwise require bidding. The aggregate amount shall not exceed Thirty Thousand Dollars (\$30,000).

Mr. Pikus asked if this falls under that; Mr. Rutt said no and council feels that it should be posted then.

Ms. Wilson said it was posted as another position; Mr. Medlarz explained the public works superintendent was advertised. The only reason this is before council is because this is a unique circumstance where the right person applied at the right time for the right job. He reiterated that this person has overseen hundred-million dollar projects.

Mr. Medlarz explained he did not come to find the City of Milford; they just happened to collide. Mr. Morrow confirmed that he applied for the superintendent position. Mr. Medlarz said that was because he asked him to apply. Mr. Medlarz said he may not want to come after hearing this conversation.

Mr. Grier feels it is important to ask questions considering we are talking expensive projects. Mr. Burk agrees adding he wants to make sure we do things legally and prevent someone from later stating that they did not have the opportunity to apply for a position we created. He pointed out that we are constantly hearing about things in the past that were done incorrectly and recalled the issue regarding the electrical easement which has cost the city a lot of unnecessary money. He wants to make sure we do things right from here out.

Mr. Pikus asked the solicitor if we have to advertise the position. Mr. Rutt feels we need to advertise it. He continued to read from the charter:

The Council is vested with authority on behalf of the city to enter into contracts for the rendering of personal service to the City and/or the purchase of supplies and doing of work for any municipal purpose for the City provided. Notwithstanding anything herein to the contrary, public competitive bidding shall not be required under any of the following circumstances:

- (1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof.
- (2) A contract for professional services.
- (3) A contract which is less than Thirty Thousand Dollars (\$30,000).

Mr. Mergner then asked for confirmation that council cannot approve the contract. Mr. Rutt said if council wants to do a contract, they can. But it must explain what exactly is needed.

Ms. Wilson suggested posting it for a few days and then hire this person. Mr. Morrow said it first needs to be added to the budget. Once the budget is approved, it can be posted.

Mr. Medlarz said if the right person does not apply for this management position, then we will be better off continuing the way we are. The intent is to move the city forward. As a result, council may see a posting and the position not be filled unless the right person applies.

Mr. Brooks stated that he is in favor of this position. His only concern is that we have a balanced budget and it appears we will show the expenditure but nothing on the revenue side. Mr. Medlarz explained that he did this for thirteen years and Kent County had a balanced budget which showed a third-party revenue which was used for the projects. The position is

close to being revenue neutral though it can never be 100% because there are overlaps and timing issues. However, the city will gain more than the benefit in dollars because we will free up other monies that can be used for projects.

Mr. Pikus feels that by law, the position needs to be advertised and the city manager has the ability to hire the right person. If Mr. Medlarz feels this person is the most qualified, then he should be the person hired.

Mr. Medlarz feels it should be advertised as a contractual position otherwise the protection goes away. Anything other than that is a city employee.

Mr. Brooks moved to authorize the advertising for a contractual position for project management services, seconded by Mr. Burk. Motion carried.

NEW BUSINESS

Approval/Telamon Corporation/Revised Lease Agreement

The city manager explained that the Head Start (Telemon) building is included in the city's insurance policy for casualty and loss. The building does not belong to the city though we own the property. Our insurance broker recommended a revised agreement at which time we realized the agreement on file had expired.

Mr. Starling confirmed the building has insurance; Mr. Medlarz assured him there is insurance noting that the city pays for casualty insurance and Telemon pays for the same coverage which makes no sense.

A new lease was created with a longer term that addresses the insurance issues so the city no longer pays insurance coverage for something the city does not need. By discontinuing this insurance will free up \$600 to \$700 of general fund money.

Mr. Medlarz recommends the new lease be approved which will alleviate some of our insurance costs and provides Telemon a longer term lease with easier renewals.

Mr. Pikus moved to approve the revised five-year Telemon agreement to be effective June 2, 2015, seconded by Ms. Wilson. Motion carried.

Approval/Delaware League Annual Dues

Mr. Brooks referenced the invoice for \$4,000 which is based on population. He noted that the city's current population is over 10,000 and towns with 10,000 or more residents pay \$5,000 a year. According to the city manager, we are just below 10,000; Mr. Brooks questioned that number. Mr. Medlarz stated that the official number provided by the Delaware Consortium is 9,708.

Mr. Pikus moved to authorize the payment of \$4,000 for Delaware League Local Government annual dues, seconded by Mr. Burk. Motion carried.

Approval/SCAT Dues

Mayor Shupe reported that annual dues of \$250 must be paid to remain a member of Sussex County Association of Towns.

Ms. Wilson moved to authorize payment of \$250 for Sussex County Association of Towns Annual dues, seconded by Mr. Morrow. Motion carried.

Introduction/Ordinance 2015-03/City of Milford Zoning Amendment/Chapter 230

City Manager Medlarz reported that the ordinance relates to the recent floodplain ordinance revision. Part of the requirement was to review the riparian buffers and wetland setbacks. This establishes reasonable setbacks. Presently there are no setbacks for undeveloped and redeveloped properties.

City Manager Medlarz introduced the following ordinance:

Ordinance 2015-03
CITY OF MILFORD ZONING AMENDMENT/CHAPTER 230

WHEREAS, the City is required as part of its mitigation action plan to establish riparian buffer standards and building setbacks along waterways; and

WHEREAS, the City of Milford deems it necessary to establish and regulate riparian buffers and wetland setbacks within the City in order to protect and preserve the natural open space of the City's water bodies, lakes, ponds, and river for the enjoyment of all residents and visitors alike.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

An Ordinance to Amend the Code of the City of Milford by Amending Chapter 230 entitled Zoning.

Section 2.

Article VIII-Miscellaneous Provisions, 230-45.2 Wetland Area is hereby amended by adding the following:
§ 230-45.2 Wetland Areas.

A. A wetlands investigation shall be performed by a qualified wetlands specialist at the expense of the applicant in preparation for any activity on real property, which requires conditional use, site plan or subdivision plan approval by the Planning Commission and/or City Council as set forth in this chapter and Chapter 200 Subdivision of Land.

B. The limits of all wetlands determined to be present on the subject property shall be flagged by the wetlands specialist and identified on the subject property by customary survey markers and shall be delineated on the plan. Wetlands areas shall be tabulated on the plan in acres.

C. No portions of wetlands areas shall be subdivided, filled, developed, or cleared of vegetation unless granted permission to fill and/or eliminate the wetlands area under state and/or federal permit, including nationwide permits authorized by the United States Army Corps of Engineers; they shall remain as essentially undisturbed natural areas.

D. No buildings, structures, impervious surface, fill, obstructions to drainage, or land disturbance shall be situated nearer than 25 feet to a delineated wetlands area. The placement of fill, regrading, or other obstructions to surface sheet flow, or the clearing or removal of natural vegetation within this setback area, shall be prohibited. For areas within this same twenty-five-foot building setback that are devoid of any natural vegetation, fencing, landscaping, and lawn areas shall be permitted. Notwithstanding all of the foregoing, limited cuts into the surface area of this twenty-five-foot setback area in conjunction with the placement of outfall stabilization facilities therein (such as stone rip-rap, turf stabilization, or other geosynthetic materials) may be permitted for the purpose of stabilizing and/or installing stormwater management outfalls, thus providing for a nonerosive flow condition at the outfall, provided that such encroachments into the twenty-five-foot setback area shall be limited to a maximum distance into the wetland buffer of 15 feet measured from the twenty-five-foot wetland buffer line, and shall be limited to a maximum width of 20 feet.

Section 3.

Article VIII-Miscellaneous Provisions, 230-45.3 Water Bodies, Streams and Other Watercourses; Riparian Buffers is hereby amended by adding the following:

§ 230-45.3 Water Bodies, Streams and Other Watercourses; Riparian Buffers.

A. Lakes, ponds, rivers, and streams shall be left as permanent open space. No filling, piping or diverting of water bodies, lakes, ponds, or streams shall be permitted except for required roads, to be approved by the U.S. Army Corps of Engineers, DelDOT, and/or DNREC as appropriate.

B. No buildings, structures, or paved surfaces, except stairs and ramps, fences, open decks, patios or docks with a combined area of 200 square feet or less, shall be permitted to be constructed nearer than:

- (1) One hundred feet to the shoreline, as defined by the mean high-water line, of any tidal water body, tidal stream, or tidal marsh; or
- (2) One hundred feet to the shoreline, as defined by the mean high-water line of any nontidal freshwater water body, lake, pond, or blue-line stream as depicted on the most recent revision of the United States Geological Survey Topographic Quadrangle Maps; or
- (3) Fifty feet to the shoreline or top of bank, as defined by a greater than 50% change in slope in a distance of less than 10 feet, of any stream (non-blue-line), creek, or drainage ditch.

C. For projects located within a promulgated total maximum daily load (TMDL) basin, the property owner or applicant acting on his or her behalf shall be responsible for the preservation or reestablishment of riparian buffers in order to facilitate the reduction of nutrients and other pollutants to the level necessary to ensure compliance with TMDL load reductions. The clearing or removal of natural vegetation within this setback area shall be prohibited. Existing riparian buffers shall either be preserved as provided above or planted to within 100 feet from the center line of the stream or to the greatest extent possible if existing conditions already encroach in said setback.

Section 4. Dates.

Planning Commission Review and Public Hearing: May 12, 2015

City Council Review and Public Hearing: June 8, 2015

Adoption: June 22, 2015

Effective: July 2, 2015

Introduction Ordinance 2015-08/Change of Zone/Edwin M. Mow/505 Lakeview Avenue

City Manager Medlarz reported that for many decades, doctor offices have been operating at these two locations across from LD Caulk Company. The future land use in our comprehensive plan identifies them as residential zoning. There is no conditional use on record for either property. As a result, they are legally non-conforming.

The city manager then introduced the following ordinance:

Ordinance 2015-08
CHANGE OF ZONE/EDWIN M. MOW

Whereas, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on June 16, 2015; and

Whereas, Milford City Council will hold a Public Hearing on June 22, 2015 to allow for public comment and further review of the ordinance; and

Whereas, it is deemed in the best interest of the City of Milford to allow a change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, tax map and parcel 1-30-3.07-120.00, owned by Edwin M. Mow located at 505 Lakeview Avenue, is hereby zoned OB1.

Section 2. An amendment to the Future Land Use Map of the Comprehensive Plan indicating the property as employment zoned future land use will be adopted prior to the property record card being amended to indicate the OB1 zoning.

Section 3. Dates.

Planning Commission Review & Public Hearing: June 16, 2015

City Council Introduction: June 8, 2015

City Council Public Hearing: June 22, 2015

Introduction Ordinance 2015-09/Change of Zone/Masten Medical LLC/509 Lakeview Avenue

City Manager Medlarz introduced the following ordinance:

Ordinance 2015-09
CHANGE OF ZONE/MASTEN MEDICAL LLC

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 1.09 +/- acres of real property from R1 (Single Family Residential) to OB1 (Office Building) at 509 Lakeview Avenue, Milford, Delaware. Present Use: Doctor's Office. Proposed Use: Same. Tax Map and Parcel: 1-30-3.07-122.00

Whereas, the City of Milford Planning Commission will consider the change of zone application at a Public Hearing on June 16, 2015; and

Whereas, Milford City Council will hold a Public Hearing on June 22, 2015 to allow for public comment and further review of the ordinance; and

Whereas, it is deemed in the best interest of the City of Milford to allow a change of zone as herein described.

NOW, THEREFORE, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, tax map and parcel 1-30-3.07-122.00, owned by Masten Medical LLC located at 509 Lakeview Avenue, is hereby zoned OB1.

Section 2. An amendment to the Future Land Use Map of the Comprehensive Plan indicating the property as employment zoned future land use will be adopted prior to the property record card being amended to indicate the OB1 zoning.

Section 3. Dates.

Planning Commission Review & Public Hearing: June 16, 2015

City Council Introduction: June 8, 2015

City Council Public Hearing: June 22, 2015

Introduction/Ordinance 2015-11/Amending 2008 City of Milford Comprehensive Plan

This ordinance amends the comprehensive plan which will allow the Mow and Masten properties to be rezoned. It involves a future land use amendment related to the two zoning applications. Without the correct zone in the comprehensive plan, neither of the applications can be considered.

Mr. Medlarz took the initiative to start the PLUS process because the city prevented Dr. Mow from having certain uses over the past few years because of the incorrect zoning. Therefore, he felt time was of the essence and took it through the PLUS process.

He reported that another eight to nine other properties are in similar situations. Mr. Pierce is working on them as well.

City Manager Medlarz then introduced the following ordinance:

Ordinance 2015-11
AMENDING AND ADOPTING BY ORDINANCE
THE 2008 CITY OF MILFORD COMPREHENSIVE PLAN

WHEREAS, pursuant to Title 22-Municipalities, Chapter 7-Planning Commission, Section 7-Establishment; Membership, of the Delaware Code, the City of Milford established a Planning Commission, and

WHEREAS, pursuant to Title 22-Municipalities, Chapter 7-Planning Commission, Section 702-Comprehensive Development Plan, of the Delaware Code, the City of Milford adopted Ordinance 2011-15, a Comprehensive Plan update, on July 11, 2011 to include the addition and implementation of the Southeast Master Plan, and

WHEREAS, the City of Milford adopted Ordinance 2015-06, a Comprehensive Plan Amendment, on July 27, 2015, to amend the Southeast Master Plan, and

WHEREAS, the Comprehensive Plan requires an amendment to the Future Land Use Map (map 14) in order to bring parcels into compliance with the Code of the City of Milford, Chapter 230: Zoning; and

WHEREAS, the City of Milford City Manager and Planning and Economic Development Coordinator have prepared and consulted with the Office of State Planning an amendment to the 2008 Comprehensive Plan which will permit the future land use designation as Employment; and

WHEREAS, the City of Milford Planning Commission held a duly advertised public hearing for public review and comment on the 2008 Comprehensive Plan amendment on June 16, 2015 and did recommend approval and adoption of the amendment of the 2008 Comprehensive Plan, and

WHEREAS, the Mayor and City Council held a duly advertised public hearing on the amendment of the 2008 Comprehensive Plan on June 22, 2015 at which time the amendment of the 2008 Comprehensive Plan was reviewed with the public.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS that the amended 2008 Comprehensive Plan is hereby adopted on June 22, 2015 and made effective as the amended 2008 Comprehensive Plan for Milford on this 2nd day of July 2015.

Planning Commission Review & Public Hearing: June 16, 2015

City Council Introduction: June 8, 2015

City Council Review & Public Hearing: June 22, 2015

Resolution 2015-04/Sewer System Improvements/Issuance of \$1.6M Bond(s)/Scheduling Public Hearing

Mr. Medlarz said this resolution starts the borrowing process and establishes terms, what the money will be used for and payment. Repayment will be through impact fees first, then sewer revenues.

He informed council this is still a general obligation bond and in the end, if all other revenues fail, tax revenues would have to be used to repay the bond. However, that has never happened in the City of Milford's history because of sufficient sewer revenues.

The USDA requires government accounting standard practices be applied which is strict separation of funds. They tell you a general obligation bond has to be issued; his preference would be for the city to issue a revenue bond versus a general obligation bond.

Mr. Pikus then moved to adopt Resolution 2015-04, seconded by Mr. Brooks:

CITY OF MILFORD
RESOLUTION 2015-04

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$1,600,000 MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF A GENERAL OBLIGATION BOND OR BONDS IN ORDER TO FINANCE COSTS ASSOCIATED WITH IMPROVEMENTS TO THE SEWER SYSTEM OF THE CITY OF MILFORD AND ESTABLISHING THE TIME AND PLACE FOR A PUBLIC HEARING THEREON.

WHEREAS, the City of Milford (the "City") pursuant to Article 8 of 72 Del. Laws Ch. 148, as amended (the "Charter") proposes to issue up to \$1,600,000 maximum aggregate principal amount of the City's general obligation bond or bonds (collectively, the "Bonds") in order to (i) partially finance the construction costs associated with the City's approved improvements, rehabilitations, upgrades and repairs to its sewer system, including the addition of a sewer supervisory control and data acquisition (SCADA) system instrumentation, pump stations upgrades and removal of external inflow and infiltration sources; and (ii) pay the costs of issuance of the Bonds (collectively, the "Project");

WHEREAS, the City has applied for a loan through the United States Department of Agriculture – Rural Utilities Service (the "Department") in order to provide funds to pay for the Project;

WHEREAS, the Department has issued a Letter of Conditions dated September 10, 2014, as amended April 27, 2015, to lend the City up to \$1,600,000 in the maximum aggregate principal amount for the Project for a period of forty (40) years, with an interest rate for the first partial loan of \$600,000 not-to-exceed 2.375% and an interest rate for the second partial loan of \$1,000,000 not-to-exceed 2.125%;

WHEREAS, in addition to the aforementioned loan, the City also expects to receive a grant from the Department to help finance the Project in an amount up to \$2,000,000, and the City must directly contribute \$400,000 of its Sewer Fund Reserves towards the Project before utilizing loan and grant funds from the Department; and

WHEREAS, to authorize the borrowing of up to \$1,600,000 through the issuance of the Bonds for the Project and in order to comply with the requirements of Article 8 of the Charter, the City Council, through its adoption of this Resolution, hereby gives notice to the electors of the City that the City Council proposes to borrow an amount of money, not to exceed \$1,600,000 maximum aggregate principal amount, to partially fund the Project, which is a permitted purpose under Article 8 of the Charter, and hereby establishes that a public hearing on the matter be fixed on July 13, 2015, at 7:00 p.m., prevailing time, in the Council Chambers at the Milford City Hall located at 201 South Walnut Street, Milford, Delaware 19963.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milford as follows:

1. The City Council of the City of Milford hereby gives notice to the electors of the City that the City proposes to borrow an amount of money, not to exceed \$1,600,000 maximum aggregate principal amount, to partially fund the Project.
2. Pursuant to Article 8.03 of the Charter:

Amount of Borrowing: Total maximum aggregate principal amount not to exceed \$1,600,000.

Rate(s) of Interest: The interest rate for the first partial loan of \$600,000 shall not exceed 2.375% and the interest rate for the second partial loan of \$1,000,000 shall not exceed 2.125%.

Manner of Securing the Same: The City will borrow the funds through the issuance of a general obligation bond or bonds of the City to partially finance the Project and the full faith and credit of the City will be pledged to pay the principal of and interest on the Bonds.

Manner of Paying or Funding: The Bonds shall be paid or funded from sewer impact fees, sewer fund operating revenues and tax revenues of the City in the order of priority as stated.

Purpose for Borrowing: The City Council hereby finds that the Project constitutes the following, which is a permitted purpose for which money may be borrowed under Article 8 of the Charter:

Finance the construction costs associated with the City's approved improvements, rehabilitations, upgrades and repairs to its sewer system, including the addition of a sewer SCADA system instrumentation, pump stations upgrades and removal of external inflow and infiltration sources.

Such costs, including the costs of issuance of the Bonds, are estimated not to exceed \$4,000,000 and are expected to be paid for by the loan and grant from the Department and a direct contribution from the City.

The City Council hereby establishes that a public hearing upon the Resolution and the proposed borrowing described herein shall be held on July 13, 2015, at 7:00 p.m., prevailing time, in the Council Chambers at the Milford City Hall located at 201 South Walnut Street, Milford, Delaware 19963, and hereby directs that notice of such hearing be published and posted as required by Article 8.04 of the Charter, by:

- (i) publication in one (1) issue of a newspaper published in the City at least one week before the time set for the public hearing; and
- (ii) posting copies thereof in five (5) public places throughout the City at least one week before the time set for the public hearing.

3. The City Council hereby directs that this matter be placed on the agenda for the regular meeting of the City Council on July 13, 2015 at the Milford City Hall to determine whether to proceed with the proposed borrowing described herein.

ADOPTED AND RESOLVED this 8th day of June, 2015.

By: Mayor Bryan W. Shupe

Motion carried.

Resolution 2015-05/Sewer System Improvements/Reimbursement of Prior Expenditure from Funds

Mr. Medlarz explained that any outstanding legal or other eligible expense incurred beyond the \$400,000 contribution, can be later recovered and even if it occurs in a different fiscal year. This resolution protects the city's interest and states our intent is to cover all eligible expenses not covered by the \$400,000 to prevent any other expenses from falling through the cracks.

Mr. Pikus moved to adopt Resolution 2015-05, seconded by Mr. Mergner:

City of Milford

REIMBURSEMENT RESOLUTION 2015-05

Authorizing the Reimbursement of a Prior Expenditure of Funds from the Proceeds of a Tax-exempt Bond or Bonds to Be Issued for the Financing of Certain Capital Projects

Recitals

WHEREAS, the City of Milford, Delaware (the "Issuer") has determined to undertake a capital project with a scope approved by City Council consisting of improvements, rehabilitations, upgrades and repairs to its sewer system, including the addition of a sewer supervisory control and data acquisition (SCADA) system instrumentation, pump stations upgrades and removal of external inflow and infiltration sources (the "Project"); and

WHEREAS, the Issuer intends to finance the costs of the Project by the issuance of its general obligation bond or bonds (collectively, the "Bonds"); and

WHEREAS, the Issuer intends to use a portion of the proceeds of the Bonds to reimburse itself for original expenditures made with respect to the Project and paid prior to the date of issuance of the Bonds; and

WHEREAS, no portion of the Project has yet been placed in service; and

WHEREAS, this Resolution is intended to constitute a statement of "Official Intent" pursuant to Treasury Regulations §1.150-2, T.D. 8476 (the "Treasury Regulations").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milford that:

1. In accordance with Treasury Regulation §1.150-2, the Issuer hereby states its intentions that a portion of the proceeds of the Bonds will be used to reimburse itself for expenditures paid prior to the date of issuance of the Bonds. All

capitalized terms used herein and not otherwise defined have the same meaning as ascribed to them in Treasury Regulation §1.150-2.

- a. All original expenditures to be reimbursed will be capital expenditures (as defined in Treas. Reg. Sec. 1.150-1(b)) and other amounts permitted to be reimbursed pursuant to Treasury Regulation Sec. 1.150-2(d)(3) and (f).
 - b. The Issuer intends to reimburse its original expenditures through the incurrence of debt to be evidenced by the Bonds.
 - c. The description of the type and use of the property for which the original expenditure to be fully or partially reimbursed is to be paid is: costs relating to the Project as defined in the recitals to this Resolution.
 - d. The maximum aggregate principal amount of the Bonds to be issued to reimburse the costs of the Project paid prior to its issuance and to complete the Project is \$1,600,000, including the costs of issuance of the Bonds.
2. Once the Bonds are issued, the Issuer shall allocate Bond proceeds to reimburse a prior expenditure by making the allocation on its books and records maintained with respect to the Bonds; provided that such costs to be reimbursed were paid not more than 60 days prior to the date hereof. Such allocation shall specifically identify the actual original expenditure to be reimbursed. Such allocation shall occur not later than 18 months after the later of (i) the date on which the original expenditure is paid, or (ii) the date the Project is placed in service or abandoned, but in no event more than 3 years after the original expenditure is paid; provided, however, that if the Bonds satisfy the provisions of Section 148(f)(4)(D)(i)(I) through (IV) of the Internal Revenue Code of 1986, as amended (relating to the small issuer exception from rebate), then the reimbursement allocation shall occur not later than 3 years after the later of (i) the date on which the original expenditure is paid, or (ii) the date on which the Project is placed in service. If the Bonds are issued before the expiration of the period prescribed in the preceding sentence, then the reimbursement allocation shall occur not later than the date the Bonds are issued.
 3. The Bond proceeds used to reimburse the Issuer for original expenditures will not be used within 1 year after the allocation in a manner that results in the creation of replacement proceeds (as defined in Treas. Reg. §1.148-1) for the Bonds or for other bonds.
 4. The Issuer will not use the proceeds of the Bonds to reimburse, refinance or refund an original expenditure paid by another obligation (either tax-exempt or taxable).
 5. This Resolution is effective immediately.
 6. All resolutions heretofore adopted to the extent the same are inconsistent herewith are hereby repealed.

Motion carried.

*Resolution 2015-06/DFIT (DeLea Founders Insurance Trust) Membership
DFIT Trust Agreement*

Mr. Medlarz informed council that DFIT is the first statewide group consortium providing workers compensation insurance exclusively for Delaware municipalities and counties. It is a self-insured body sponsored by Delaware League of Local Government. Its purpose is to create a long-term insurance option to enable stabilization of insurance costs and allow better budget planning.

The fees are collected up front and unexpended revenues distributed if they are not needed. We will be asked to fund the expenses over a fourteen-month period because it begins September 1st, meaning two months will need to be covered from last year.

One of the membership requirements is attendance at board meetings; the resolution establishes the city manager as the city's representative and finance director as the alternate. In addition, the representative must also attend the safety meetings.

Mr. Morrow expressed concern stating that safety issues are typically a human resource duty. Mr. Medlarz reported that we have more than one employee stretched to the limit and HR Manager Lisa Carmean clearly indicated she did not have time to handle this. As a result, Mr. Medlarz volunteered.

Mr. Morrow said he is very pleased we are becoming a member noting this has been discussed for several years.

Mr. Medlarz said we joined due to the latest quote received from our current carrier which was \$80,000 higher than DFIT.

Mr. Morrow moved to approve the DFIT Trust Agreement and adopt Resolution 2015-06, seconded by Mr. Pikus:

DELEA FOUNDERS INSURANCE TRUST RESOLUTION TO JOIN TRUST

WHEREAS, a number of local units have joined together to form the DeLea Founders Insurance Fund ("TRUST"), a joint insurance fund, as permitted by 18 Del.C. §401, et seq.; and

WHEREAS, the statutes and regulations governing the creation and operation of joint insurance funds contain elaborate restrictions and safeguards concerning the safe and efficient administration of such funds; and

WHEREAS, the City of Milford ("LOCAL UNIT") has determined that membership in the TRUST is in the best interest of the LOCAL UNIT.

WHEREAS, the LOCAL UNIT agrees to be a member of the TRUST effective July 1, 2015; and

WHEREAS, the LOCAL UNIT has never defaulted on claims, if self-insured, and has not been canceled for non-payment of insurance premiums for at least seven (7) years prior to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City of Milford does hereby agree to join the DeLea Founders Insurance Fund subject only to the right of approval of the LOCAL UNIT's initial assessment when the same is received from the TRUST following processing of the applications; and

BE IT FURTHER RESOLVED that the LOCAL UNIT is applying to the FUND for Workers' Compensation coverage;

BE IT FURTHER RESOLVED that City Manager Hans Medlarz is hereby appointed as the LOCAL UNIT's Trust Commissioner and is authorized to execute the application for membership and the accompanying certification on behalf of the LOCAL UNIT;

BE IT FURTHER RESOLVED that Finance Director Jeffrey Portmann is hereby appointed as the Alternate Trust Commissioner for the LOCAL UNIT;

AND BE IT FURTHER RESOLVED that the LOCAL UNIT's Trust Commissioner is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying the membership in the TRUST as required by the TRUST'S Bylaws and to deliver same to the Administrator of the TRUST with the express reservation that said documents shall become effective only upon the LOCAL UNIT's admissions to the TRUST following approval of the TRUST by the Delaware Department of Insurance.

Motion carried.

FY 2014-2015 Budget Adjustment/Police Department/Legal Fees

The city manager explained the city continues to proceed with the unfair labor practice defense. Prior to the June 16th hearing, the city hired a team of lawyers. That occurred because the city's labor attorney, appointed by council, was not

Delaware Board certified.

Mr. Morrow stated for the record, that this attorney handles similar cases throughout the country. Mr. Medlarz explained that Labor Attorney Gary Simpler is the one that brought it to the city's attention. In the past, the city never had to appear at a quasi judicial hearing.

Solicitor Rutt reported that the Rules of Professional Conduct under the Delaware Supreme Court requires any attorney appearing before a Delaware Tribunal to have been admitted to the Delaware Bar. They can be admitted through the bar process or they can be moved by pro hac vice by a Delaware Licensed Attorney. That means the Delaware attorney has to be present with the out-of-state counsel in order to appear at a tribunal. That is the reason for the two attorneys which the solicitor says is a situation that occurs across the country.

Mr. Medlarz explained we have ongoing expenses that cannot be paid out of any other budget. Chief Hudson has already transferred more than \$8,000 within his budget to cover these legal fees. As a result, the finance director is recommending that the additional fees be transferred from the realty transfer taxes.

Mr. Pikus moved to authorize \$20,000 be transferred from the realty transfer tax fund to the police legal expense line item, seconded by Mr. Morrow. Motion carried.

MONTHLY FINANCE REPORT

Finance Chairman Pikus reminded council that budget hearings are scheduled for the next two nights beginning at 5:30 p.m. and encouraged all members of council to attend.

Through the tenth month of Fiscal Year 2014-2015 with 83% of the fiscal year having passed, 86% of revenues have been received and 80% of the operating budget expended.

He reported that additional funds were added to the general fund capital reserves which is back up to \$1 million again though solid waste reserves continue to decline.

Mr. Mergner moved to accept the April 2015 finance report, seconded by Mr. Grier. Motion carried.

ADJOURN

Before adjourning, Mayor Shupe wanted to reference an earlier comment that it appears we have done a lot wrong in the past. He feels there are a lot of good things happening now and a lot of officials at the state level are taking notice.

Mr. Brooks agrees and pointed out that over the years council only approved was presented and recommended. It appears a lot of that is now having to be corrected.

Mayor Shupe stated that decisions that were made this past year prove that Milford is becoming a much stronger and healthier city. He feels council made some important decisions the few past months which will move us in a positive direction into the future.

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

Mayor Shupe adjourned the meeting at 10:10 p.m.

Respectfully submitted,



Terri K. Hudson, MMC
City Clerk/Recorder