

# City of Milford



## AGENDA

Monthly Council Meeting

September 12, 2011

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

**7:00 p.m.**

PUBLIC HEARING----POSTPONED

Borrow Funds to Demolish and Reconstruct the Washington Street Water Plant and Office Building  
Adoption of Resolution 2011-12/Final Authorization-Proposed Borrowing/Referendum

### COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition - Proclamation 2011-14/Prostate Cancer Awareness Month/David Sauls

Monthly Police Report

City Manager's Report

Committee Reports

Communications

Unfinished Business -

Maroulas Northwest Front Street Condemnation Update  
FY 2011-2012 Budget/Transfer of Municipal Street Aid Funds\*\*\*  
Release of Liability/C&J Agreement\*\*

New Business -

Bid Award/Chaney-Wilmington Mispillion Greenway Phases 15 & 16  
Scheduling of Fall Clean-up Week  
Adoption of Resolution 2011-14/Establishing Dates/Halloween Events  
Introduction of Ordinance 2011-22/Building Construction/Chapter 88\*  
Introduction of Ordinance 2011-23/Property Maintenance/Chapter 174\*  
Introduction of Ordinance 2011-24/Outdoor Burning Code/Chapter 92\*  
FY 2011-2012 Budget/Transfer of Funds/Electric Department\*\*\*\*

Monthly Finance Report

\*Executive Session - 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.

Adjourn

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

**SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT  
NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED  
OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.**



**DELAWARE HEALTH  
AND SOCIAL SERVICES**

DIVISION OF PUBLIC HEALTH

September 1, 2011

David Baird  
City Manager  
City of Milford  
201 S Walnut Street  
Milford, DE 19963

RE: DWSRF Project

Dear David,

Thank you for submitting a full application for the Washington Street Water Treatment Facility Rehabilitation and SCADA Improvements Project for DWSRF funding consideration.

The DWSRF program reviewed and ranked the project as submitted with the pre-application. The full application will be reviewed by the Capacity Development Program and the Office of Engineering in the next few months. The preliminary financial review indicates that the City meets the DWSRF disadvantaged criteria, therefore, the program can offer the following loan terms:

*Loan Total: \$4,000,000*  
*Interest Rate: 1%*  
*Principal Forgiveness: 35%*  
*1% Origination Fee due at closing: waived*

We appreciate the City's interest in the DWSRF program to meet your drinking water infrastructure financing needs and look forward to working with you.

Please don't hesitate to contact me with question or concerns.

Sincerely,

A handwritten signature in cursive script that reads "Heather Warren".

Heather Warren  
DWSRF Program Administrator  
Division of Public Health

Cc: Erik Retzlaff, P.E., Davis, Bowen & Friedel

# City of Milford



## PROCLAMATION

2011-14

### PROSTATE CANCER AWARENESS MONTH

*WHEREAS, among men, prostate cancer is the most commonly diagnosed non-skin cancer and the second leading cause of cancer-related deaths; and*

*WHEREAS, each day, countless physicians and researchers devote themselves to treating patients and finding a cure. Educating the public about the risks and treatment of prostate cancer is one of the strongest tools they have to increase early detection and save lives; and*

*WHEREAS, with early detection and treatment, prostate cancer can be cured and many deaths can be avoided; and*

*WHEREAS, the 2011 observance of National Prostate Cancer Awareness Month provides a unique opportunity for citizens throughout the City of Milford and the nation to join together to raise public awareness of the symptoms, prevention, and treatment of prostate cancer.*

*NOW, THEREFORE, I, Joseph Ronnie Rogers, by virtue of the authority vested in me as Mayor of the City of Milford, Delaware, do hereby proclaim the month of September as*

### **NATIONAL PROSTATE CANCER AWARENESS MONTH**

*IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 12th day of September in the Year of our Lord Two Thousand and Eleven.*

---

*Mayor Joseph Ronnie Rogers*

Attest \_\_\_\_\_

# CITY OF MILFORD

DELAWARE



OFFICE OF THE CHIEF OF POLICE  
E. KEITH HUDSON

“THE GARDEN CITY OF TWIN COUNTIES”

400 N.E. FRONT STREET  
MILFORD, DELAWARE 19963  
(302)422-8081 FAX (302)424-2330

## MEMORANDUM

TO: Mayor and Members of City Council

FROM: E. Keith Hudson, Chief of Police

DATE: September 6, 2011

RE: Activity Report/August 2011

=====

### **Monthly Stats:**

A total of 814 arrests were made by the Milford Police Department during August 2011. Of these arrests, 155 were for criminal offenses and 659 for traffic violations. Criminal offenses consisted of 47 felonies and 108 misdemeanors. Traffic violations consisted of 295 Special Duty Radar, 3 Drunk-Driving charges, and 361 other.

Police officers investigated 48 accidents during the month (7 personal injury, and 41 property damage) and issued 166 written reprimands. In addition, they responded to 1476 various complaints including city requests and other agency assistance.

A total of \$13,699.72 was collected in fines during August.

No False Alarm Violation Invoices were issued during the month of August.

### **Monthly Activities:**

C.A.D (Computer-Aided Dispatch) Update: New CAD MAP is completed. New World Systems plans to arrange a time in the very near future to remote in and install it for us, in order to upgrade the software. Soon after, New World will couple us with Sus Com and Kent Com for the ability to transfer calls back and forth, alleviating phone transfers and missed details.

The department has obtained a HUMVEE, Armored Doors, and Weapons Storage Lockers from the Defense Re-utilization Program valued at approximately \$59,300 at no cost to the city. We

will be acquiring additional equipment within the next two weeks that includes a portable generator and laser sights for our long guns.

The Community Policing Division planned and presented another successful National Night Out. They also attended and assisted with Night Out in Milton and Harrington. They also participated in the Law Dogs auction held at the Carlisle Fire Company. We also assisted with the Brightway Commons Picnic last month.

After meeting with DelDot for over two years and many discussions, Senator Simpson arranged a meeting on August 25<sup>th</sup> to address the Cedar Neck-Wilkins Road/Route 1 intersection following the last fatality. During that time, local legislators along with fire company, school district officials and myself and members of the department suggested several options though all were shot down. With pressure from Senator Simpson and Representative Kenton, DelDot agreed to close the intersection though Carlisle Fire Company continues to have some reservations with regard to their response time to emergencies east of Route 1. Unfortunately, there are just no other options at this time when considering the number of serious and fatal accidents that have occurred there.

Pfc. Melvin, Milford School Resource Officer, has been meeting with interested elementary teachers to discuss the "Eddie Eagle" Gun Safety Program. The program curriculum is provided free to Pfc. Melvin by the National Rifle Association. The course takes approximately one week for him to instruct. He hopes to begin his first class by October.

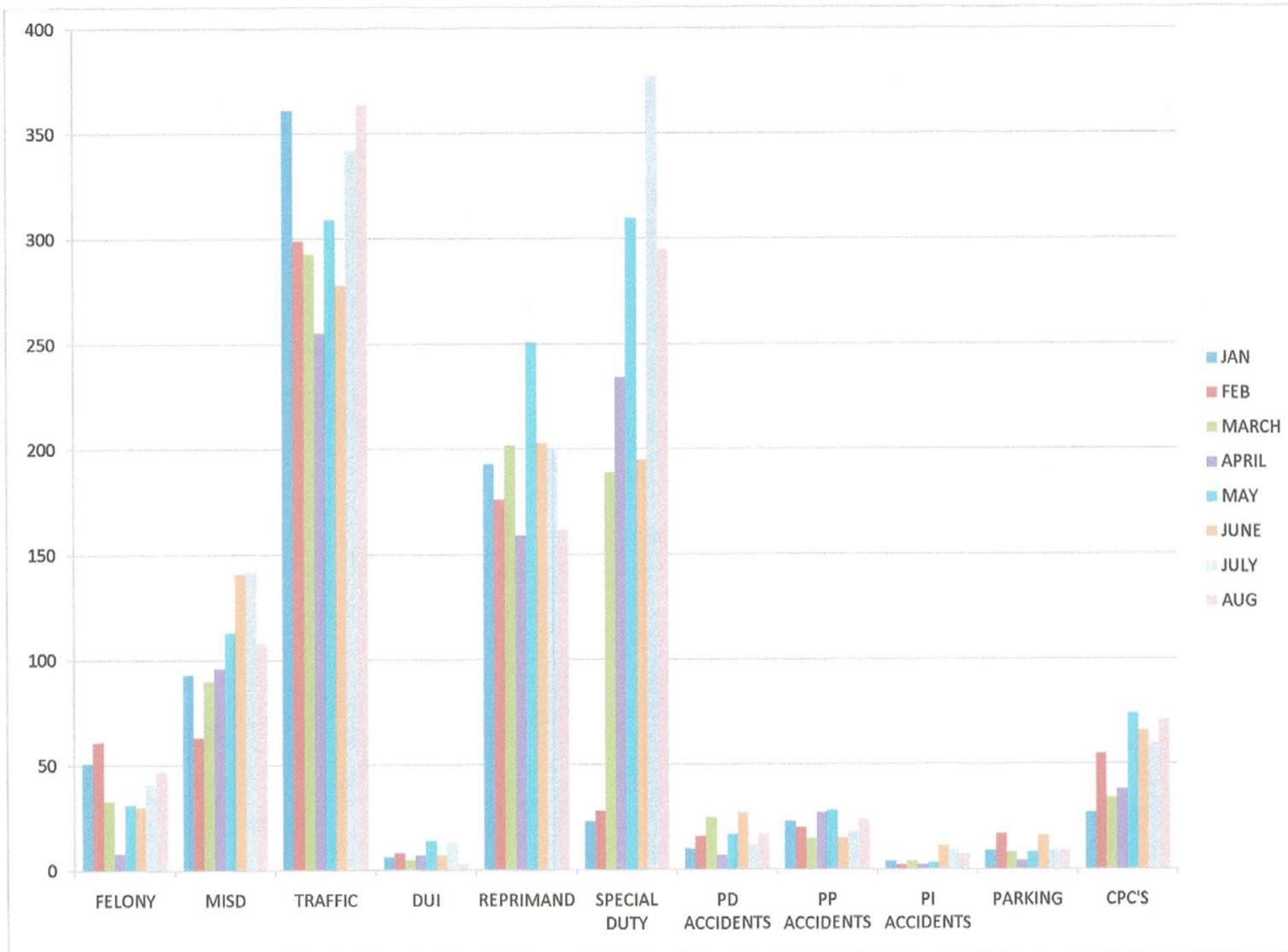
During the month, several officers attended seminars. The Criminal Investigative Division attended a two-day seminar regarding Internet Crimes Against Children and the Special Operations Group attended a week-long in service training. The School Resource Officer attended a two-day seminar at the 911 Center in Georgetown related to Comprehensive School Safety Plans. Our firearm instructors attended a three-day seminar concerning AR-15 (Patrol Rifle) Armorer.

EKH

vrk

## AUGUST ACTIVITY REPORT

	<u>AUG 2010</u>	<u>TOTAL 2010</u>	<u>AUG 2011</u>	<u>TOTAL 2011</u>
<u>Complaints</u>	1071	9150	<b>1476</b>	<b>10336</b>
<u>Criminal Arrests</u>	119	1105	<b>155</b>	<b>1151</b>
Felonies	37	313	<b>47</b>	<b>298</b>
Misdemeanors	82	792	<b>108</b>	<b>837</b>
<u>Traffic Arrests</u>	228	2270	<b>659</b>	<b>3853</b>
Special Duty Radar	58	472	<b>295</b>	<b>1662</b>
D.W.I.	6	61	<b>3</b>	<b>60</b>
Other	141	1569	<b>361</b>	<b>2033</b>
<u>Reprimands</u>	99	1022	<b>166</b>	<b>1550</b>
<u>Accidents</u>	38	337	<b>48</b>	<b>337</b>
Personal Injury	8	56	<b>7</b>	<b>41</b>
Property Damage	30	290	<b>41</b>	<b>296</b>
Fatal (included in PI)	1	2	<b>0</b>	<b>0</b>
<u>Parking Summons</u>	3	58	<b>9</b>	<b>79</b>
<u>Crime Prevention Checks</u>	29	324	<b>71</b>	<b>422</b>
<u>Fines Received</u>	\$10,593.81	\$75,221.25	<b>\$13,699.72</b>	<b>\$89,517.81</b>



## City Manager's Report September 12, 2011

- **Solid Waste & Recycling**

In 2010, SB234 was signed into law and part of the legislation establishes diversion rates of 50% by January 1, 2015 for Municipal Solid Waste being disposed of at the landfill. The tables below compare the City's diversion rate by month with the same period of the previous year as well as year to date and annual totals.

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
July 2010	393.17	38.65	42.77	0	475.59	17.2%
July 2011	337.47	36.29	29.03	20.02	422.81	20.2%

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
2009	4,684.38	442.44	545.68	-	5,672.50	17.4%
2010	4,630.47	450.12	505.82	37.49	5,632.39	17.6%
2011(YTD)	2,365.56	271.81	272.21	189.37	3,098.95	23.7%

- **Impact Fee Waivers**

Since the waiver of impact fees was implemented in June 2010, the City has waived \$260,013 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$15,111,366 (based on building permit values) during the months of June 2010 through August 2011.

- **Hurricane Irene**

I want to extend my thanks to all City employees for their hard work before, during and after Hurricane Irene passed through Milford. The City was spared any major damage although we did have minor power outages and a number of fallen trees. The electric crews worked hard through the past week addressing lingering power issues remaining from the storm while the Streets and Grounds Department continues to remove excess yard waste placed for collection by residents. The City's water system made out fine while the sewer system was taxed with excessive flows. Much of this cost will be seen in the City's August sewer bill from Kent County. A public works call center was established during this storm to handle public works related calls so the police dispatchers could focus on 911 emergency calls. Early indications are the PW call center was successful and we will work on building from that in future storm and emergency situations. I would also like to thank our citizens and businesses for their cooperation during the storm. The people of Milford were extremely helpful in preparing for the storm, informing us of issues during and after the storm, as well as helpful and patient as we handle the clean-up from the storm.

- **S. Walnut Street Sinkhole**

A sinkhole developed on S. Washington Street in the downtown area on Tuesday, August 30, 2011 as the result of a washout created by a ruptured sewer line under the roadway. Public Works crews responded immediately and have temporarily fixed the problem while further investigatory work is conducted so a permanent solution can be designed. Contractors will

be starting work on the City's I&I project in the coming weeks so we will have contractors in town to assist if necessary.

- **SR1/SR30 Crossover Temporary Improvements**

Following a meeting between the City, DelDOT, Carlisle Fire Co., Senator Simpson and Rep. Kenton, DelDOT has announced temporary traffic improvements in the vicinity of SR1/SR30 in an effort to reduced traffic accidents in this area (see attached letter from DelDOT) The improvements include, closing the Wilkens Road/SR1 Crossover, Modifications to the Johnson Road/SR1 Crossover, Removing the existing crossover just north of Wilkens Road, and Signage improvements in the area. These improvements are scheduled to be made between now and the end of October.

- **I&I Construction Work to Begin**

Construction work is scheduled to begin on the I&I project beginning the week of September 12. The construction work will be staggered with the first contract (Open cut and replacement) beginning the week of Sept. 12 followed by Contract II (trenchless rehabilitation of the laterals) in late September and then Contract III (trenchless rehabilitation of mains) in mid-October.

- **10<sup>th</sup> Street Water Tower Cleaning and Painting**

The City and Southern Corrosion (tower contractor) are working on addressing lease obligations regarding the relocation of equipment with the communication companies that are leasing space on the water tower. This should be completed in the coming weeks and work is expected to begin on the cleaning and painting of the 10<sup>th</sup> street water tower in late October.

- **Community Transportation Funding-Street Paving**

I would like to thank Senator Simpson and Representative Kenton for each providing \$100,000 and Representative Peterman for providing \$25,000 in Community Transportation Funds that will support the City's street paving program. Mr. Mallamo is in the process of preparing bid documents for street paving, sidewalk and curbing work that will cover the City's street paving needs through December 31, 2012.

- **Electric Rate Comparison**

See attached rate comparison chart as prepared by DEMEC as of Sept. 1, 2011.

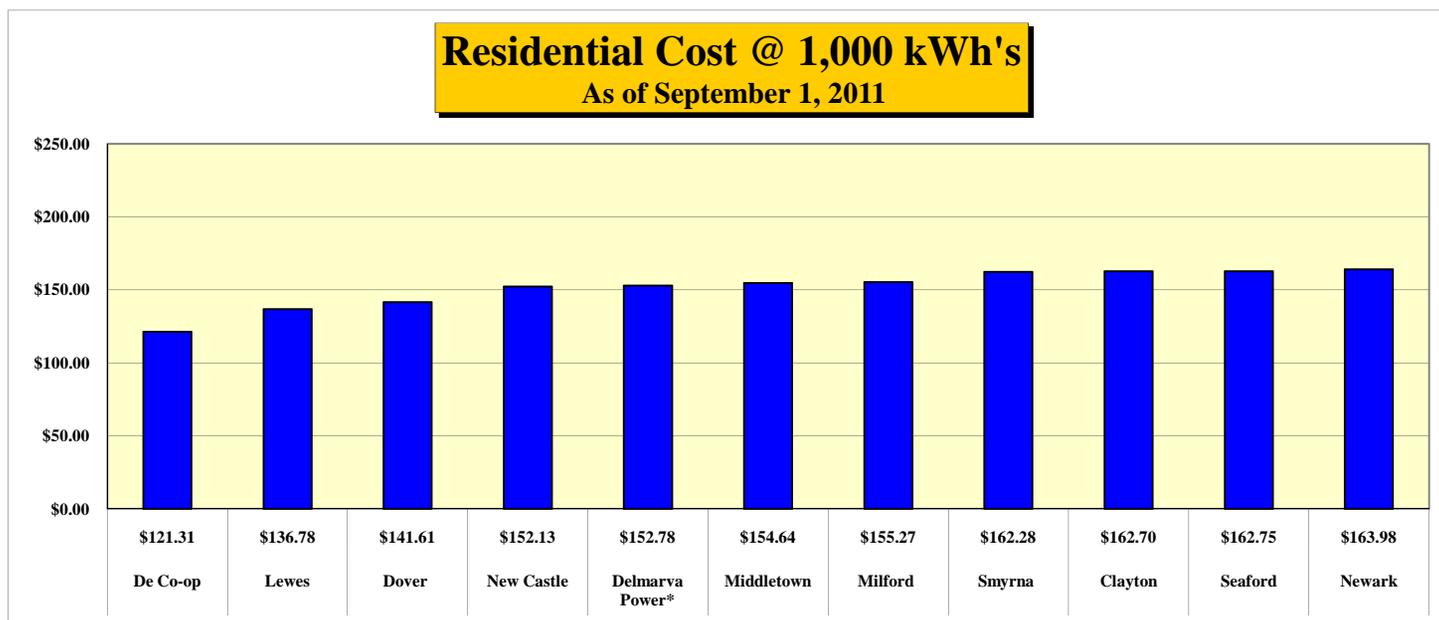
## Selected Area Utilities

Summer (June - Sept.)

# RESIDENTIAL RATE COMPARISON @ 1,000 kWh

		<u>% Difference</u>	<u>% Difference</u>
<u>De Co-op</u>	\$121.31	0%	-21%
<u>Lewes</u>	\$136.78	13%	-10%
<u>Dover</u>	\$141.61	17%	-7%
<u>New Castle</u>	\$152.13	25%	0%
<u>Delmarva Power*</u>	\$152.78	26%	0%
<u>Middletown</u>	\$154.64	27%	1%
<u>Milford</u>	\$155.27	28%	2%
<u>Smyrna</u>	\$162.28	34%	6%
<u>Clayton</u>	\$162.70	34%	6%
<u>Seaford</u>	\$162.75	34%	7%
<u>Newark</u>	\$163.98	35%	7%

\* Approximate. DP&L's new transmission capacity charge is based on each individual's Peak Load Contribution (PLC) to the overall transmission load. Each customer has a unique PLC that changes every January.





# DELAWARE SOLID WASTE AUTHORITY

Pasquale S. Canzano, P.E., BCEE  
Chief Executive Officer

Richard P. Watson, P.E., BCEE  
Chief Operating Officer

**Board of Directors**  
Richard V. Pryor  
Chairman  
Ronald G. McCabe  
Vice Chairman  
Theodore W. Ryan  
Timothy P. Sheldon  
Tonda L. Parks  
Gerard L. Esposito  
Gregory V. Moore, P.E.

August 15, 2011

Mr. David Baird  
City of Milford  
P.O. Box 159  
Milford, DE 19963

Dear David:

Enclosed please find the City of Milford's numbers for the month of July 2011.

**July 2011  
Weight in Pounds**

**MARSHALL STREET**

<b>SINGLE-STREAM TOTAL</b>	<b>OIL GALLONS</b>
31,117	600

**MILFORD MIDDLE SCHOOL**

8,078	
-------	--

**MILFORD COMMONS**

18,850	
--------	--

Sincerely,

Rich Von Stetten  
Sr. Manager of Statewide Recycling

C:\RVST\RD correspondence\cityofmilford.doc  
Attachments: City of Milford Curbside Totals

1128 S. Bradford Street, P.O. Box 455, Dover, Delaware 19903-0455  
Phone: (302) 739-5361 Fax: (302) 739-4287

CITIZENS' RESPONSE LINE: 1-800-404-7080 [www.dswa.com](http://www.dswa.com)

Printed on Recycled Paper

**CITY OF MILFORD CURBSIDE  
JULY 2011**

Date Out	Trans Num	MT Label	DT Label	Bill Acct Name	Net TN
7/8/2011	763346	2550-Single Stream R	100-Inventory	City of Milford	6.15
7/8/2011	763351	2550-Single Stream R	100-Inventory	City of Milford	6.01
7/14/2011	764138	2550-Single Stream R	100-Inventory	City of Milford	5.42
7/21/2011	764858	2550-Single Stream R	100-Inventory	City of Milford	6.46
7/21/2011	764859	2550-Single Stream R	100-Inventory	City of Milford	6.97
7/29/2011	765607	2550-Single Stream R	100-Inventory	City of Milford	5.28
				<b>TOTAL</b>	<b>36.29</b>



STATE OF DELAWARE  
**DEPARTMENT OF TRANSPORTATION**  
800 BAY ROAD  
P.O. Box 778  
DOVER, DELAWARE 19903

SHAILEN P. BHATT  
SECRETARY

September 1, 2011

Dear Senator F. Gary Simpson; Representative Harvey Kenton; David Baird, Manager, City of Milford; E. Keith Hudson, Chief, Milford Police Dept.; Lt. Steven Rust, Milford Police Dept.; Robert Stuart, Sussex County EMS; William Carpenter, Carlisle Fire Dept.:

This correspondence is to document the discussion that occurred at a meeting that was held on August 25<sup>th</sup>, 2011 to discuss the intersection of SR 1 and SR 30. A listing of all who attended the meeting is attached.

The attendees were briefed on the status of plans and the current schedule for the grade separation (overpass) project for the intersection of SR 1 and SR 30. An overview of the project was provided to the group. At this time, the construction plans are nearly finished and the right-of-way is being acquired. It was noted that construction should begin on the project by next summer and should be completed in approximately two years.

Due to recent fatalities at the intersection, interim improvements for the intersection were discussed. Interim improvements can be constructed much sooner than the overpass and provide a safer condition for motorists in the very near future. Attendees discussed and agreed to move forward with implementing the following interim improvements:

- **Closure of the SR 1/ Wilkins Road Crossover:** The crossover at Wilkins Rd (CR 206) will be closed. The existing pavement will be removed, thus prohibiting traffic from utilizing the crossover. Motorists will be able to make right turns from Wilkins and Cedar Neck Roads onto and off of SR 1. Motorists will not be able to make left turns from Wilkins or Cedar Neck Road onto and off of SR 1. Motorists will also not be able to go straight across SR 1 eastbound or westbound. A concept plan showing these improvements is attached.
- **Johnson Road Crossover:** In order not to relocate the current safety issue to another intersection, the crossover at Johnson Road will be modified. Motorists will be able to make right turns from Johnson Road onto and off of SR 1. Motorists will be able to make left turns from northbound SR 1 onto westbound Johnson Rd. Motorists will not be able to make left turns from eastbound Johnson Rd onto northbound SR 1. These interim modifications will be made permanent during the construction of the grade separation project. A concept plan for these improvements is attached.
- **Other:** The first crossover to the north of Wilkins Road is only a partial crossover and is not adequate to accommodate northbound vehicles wishing to make a u-turn. This crossover will be removed. Northbound traffic wishing to make a u-turn will need to use the existing crossover near Beaver Dam Road and Bucks Road.



- **Signage:** Signs will be placed along northbound SR 30 and along northbound Rehoboth Blvd. to encourage motorists to continue north along Rehoboth Boulevard and turn right onto SR 36 (Cedar Beach Road) to access northbound SR 1 via the existing overpass.

The following are responses to questions that were asked during the meeting but needed follow-up before responding:

**Question:** Can the crossover to the south of Wilkins Road be modified to better accommodate fire trucks wishing to make a u-turn?

**Answer:** Turning template information for the fire trucks (ladder trucks) was provided to the Department by Mr. Duane Fox, who is with the Office of the State Fire Marshall. This information was utilized to determine if the fire trucks could negotiate a u-turn at this location. Based on the information provided to us by the fire department, the fire trucks can successfully make a u-turn at this location from the southbound left turn lane if they utilize the northbound shoulder. However, the Department recognizes the need for fire trucks to be able to make this movement as easily as possible. Therefore, the crossover will be modified to better accommodate fire trucks wishing to make u-turns. The northbound shoulder in this area will be widened four feet for an approximate length of seventy five feet.

**Question:** Is the strength of the bridge on SR 36 adequate to accommodate the additional truck traffic that will result from the newly signed route?

**Answer:** There are no weight limit restrictions on the bridge in question. The strength of the bridge is adequate to accommodate the increase in truck traffic.

**Question:** Could the newly proposed signage for traffic attempting to get to northbound SR 1 be modified to direct traffic further north along Rehoboth Boulevard to U.S. 113 and to use the northern most overpass to access northbound SR 1?

**Answer:** The Department of Transportation is not opposed to the idea of changing the signing plan to divert traffic, including trucks, further north and through town. However, most business owners and property owners in towns are typically opposed to such recommendations. We believe this would be the case in Milford as well. Therefore, the Department recommends diverting traffic from SR 30 to SR 36 to keep all of the additional diverted traffic, including trucks, out of town.

**Question:** With regards to the future overpass project, will the intersection of Wilkins Road and SR 30 (currently a four way stop condition) be signalized, and if so, when will the signal be activated?

**Answer:** The newly designed and constructed intersection of Wilkins Road and SR 30 will be signalized and the traffic signal will be activated and operational as soon as that portion of newly constructed roadway is completed.

Senator Simpson, et.al  
Page 3  
September 1, 2011

We sincerely appreciate your support for the above referenced interim changes in the interest of public safety. We are currently identifying an existing construction project to add this interim work to. Although an exact implementation date has not been determined, we expect that the work will be completed within the next two months. We will notify you once a better schedule is determined.

If there are any further questions regarding the grade separation project or the interim improvements, then please feel free to contact the Project Manager, John Gaines, at (302)760-2370.

Sincerely,



Natalie Barnhart, P.E.  
Chief Engineer

NB:nbs  
Attachments

cc: Attendees



The Board of Directors of  
Delaware Municipal Electric Corporation  
Cordially invite you to their  
**Seventeenth Annual**  
**Dinner Meeting**

Annual Update  
Electric Industry Trends & Challenges  
Future Expectations

Patrick E. McCullar, President and CEO  
Delaware Municipal Electric Corporation

Wednesday, September 21, 2011

Social Hour	5:30pm
Dinner	6:30pm

Dover Downs Hotel  
1131 North DuPont Highway  
Dover, Delaware 19901

*R.S.V.P. (302) 653-2733 by September 12, 2011*

**DELAWARE LEAGUE OF LOCAL GOVERNMENTS  
ANNUAL CONFERENCE**

September 25, 2011

*SHERATON DOVER HOTEL*

*1570 North DuPont Highway*

*Dover, Delaware*

---

The Delaware League of Local Government's Annual Conference will be held on **Sunday, September 25, 2011 at the Sheraton Conference Center in Dover, Delaware.** Secretary of Transportation will make a presentation to our members.

We will also be honoring our *Police Chief, Police Officer, City Manager and City Clerk* of the year and distributing the 2011-2012 DLLG Municipal Directory.

**Program Agenda:**

**2:00 - 3:00 pm** Registration  
**3:00 - 4:00 pm** Presentation by Secretary Shailen P. Bhatt  
**4:00 - 5:00 pm** Social Hour  
**5:00 - 6:00pm** Dinner  
**6:00 - 7:00 pm** League Business Meeting and Presentation of Awards  
Please bring your Spouse, State Senator, State Representative as your guest.

NEXT MEETING: November 17, 2011

---

---

*Special diets can be accommodated with 24 hour notice.*

**WE MUST HAVE YOUR RESERVATION NO LATER THAN September 16, 2011.**

Mail to: Delaware League of Local Governments

P.O. Box 484 Dover, DE 19903

Telephone: 302-678-0991

Fax: 302-678-4777

Email: gwright@udel.edu

\_\_\_\_\_ will have \_\_\_\_\_ attendees  
(Municipality/County/Agency)

PLEASE LIST THE NAMES OF THOSE ATTENDING:

Name

Name

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

- ( ) Check enclosed for ( ) dinners @ \$25.00 each
- ( ) Please direct bill the Municipality/County/Agency
- ( ) Payment will be made at the door
- ( ) Enclosed for ( ) dinners @ 25.00 each

# Chamber of Commerce for Greater Milford



& Central Delaware Chamber of Commerce



Invite you to  
**Delmarva Broadcasting**



for an

## **END OF SUMMER BEACH PARTY, BBQ & AFTER HOURS BUSINESS MIXER**

Bring a friend, network,  
win  
a door prize!

*Complimentary  
food & beverages*



**WEDNESDAY, AUGUST 31, 2011  
5:00 PM - 7:00 PM**

*Directions:* 1666 Blair's Pond Road, Milford, DE 19963 ~ Take Rt. 14 (Milford-Harrington Hwy) towards Harrington about 3.1 miles. Turn left onto Blair's Pond Rd and about .2 miles and Delmarva Broadcasting Company will be on the left side.

*Reservation Deadline is Monday, August 29th, 2011*

RSVP by fax 302-422-7503, email [milford@milfordchamber.com](mailto:milford@milfordchamber.com) or call 302-422-3344

Business \_\_\_\_\_

Individuals \_\_\_\_\_

E-mail Addresses \_\_\_\_\_

\_\_\_\_\_ Yes, I will bring a donation for the door prize drawing!



The Delaware Economic Development Council is proud to Invite You to a luncheon with Shailen Bhatt, Secretary of Transportation, State of Delaware Wednesday September 14, 2011 At Dover Downs

Secretary Bhatt recently served as Associate Administrator for FHWA in Washington where he was responsible for setting policy and building relationships with members of Congress.

Please join us by participating in a forum to hear from Secretary Bhatt regarding his vision and objectives for DelDOT.

Some topics that will be covered are the Transportation Trust Fund, current and future road improvement projects, and improved communications for the agency.

LOCATION

The luncheon will be held at Dover Downs on Route 13 in Dover, Delaware

PROGRAM

- Registration & Networking at 11:30 am
- Lunch will be served promptly at 12:00 pm
  - Program will start at 12:30 pm

COST

Cost is \$37.00 Per Person

Pre-registration is required.

**To register for the DEDC luncheon on Wednesday September 14, 2011 @ 11:30 am.  
Please complete and fax this form to Carleton E. Carey Sr. at 302-736-7002.  
Please RSVP by Tuesday September 6, 2011**

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Inquiries may be directed to Dan Wolfensberger at 302-678-1300 or Mayor Carleton E. Carey Sr. at 302-736-7004.

September 2, 2011

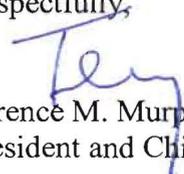
Mr. David Baird  
City Manager  
City of Milford  
201 S. Walnut St.  
Milford, DE 19963

Dear Mr. Baird:

I'm writing to thank you for your support during Hurricane Irene last week/weekend.

I sincerely appreciated your efforts in reaching out and communicating with Bayhealth – Milford Memorial Hospital prior to the arrival of Irene to see if we needed anything and to ensure us that the City of Milford stood ready to support us during the storm should your help be needed. It was reassuring to us during the hurricane, and I thank you this level of leadership.

Respectfully,

  
Terence M. Murphy, FACHE  
President and Chief Executive Officer

Cc: Mayor Joseph Rogers, City of Milford  
Michael Metzger, Bayhealth Director of Plant Operations

TMM/kjk

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

SPYROS MAROULAS, INC., :  
 : C.A. No: K10A-12-003(RBY)  
 Petitioner, :  
 :  
 v. :  
 :  
 CITY OF MILFORD BOARD OF :  
 APPEALS, :  
 :  
 Respondent. :

Submitted: May 18, 2011

Decided: August 22, 2011

*Upon Consideration of Petitioner's*

*Writ of Certiorari*

**GRANTED**

**ORDER AND OPINION**

Basil C. Kollias, Esq., Cooch and Taylor, P.A., Wilmington, Delaware for Petitioner.

Timothy G. Willard, Esq., Fuqua, Yori & Willard, P.A., Georgetown, Delaware for Respondent.

Young, J.

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

### SUMMARY

The Petitioner, Spyros Maroulas Inc. (“Spyros”) appeals from the City of Milford Board of Appeals (the “Board”) decision to condemn its properties. This action was initiated by Spyros, pursuant to the filing of a writ of *certiorari* challenging the Board’s decision to condemn Spyros’ property. The Board filed a Motion to Dismiss, arguing that the Court has no jurisdiction because Spyros was late in filing its petition. This Court denied the Respondent’s Motion to Dismiss in a January 20, 2011 Order. Before the Court now is the writ of *certiorari*. The lower tribunal, while not exceeding its jurisdiction committing errors of law, did proceed irregularly. Hence, the Plaintiff’s Writ for *certiorari* is **GRANTED**.

### FACTS

Spyros is the owner of two properties, 205 and 207 Northwest Front Street, Milford, Delaware. On November 17, 2010, the Board confirmed a city building inspector’s order of condemnation and demolition for 205 and 207 Northwest Front Street. Spyros petitioned this Court for judicial review by writ of *certiorari*.

This cause of action began in 2006, when the Board condemned adjoining properties to Spyros’ properties. On November 26, 2006, the rear wall of 201 Northwest Front Street (“201 property”) collapsed. As a result the building was declared unsafe and condemned by the City of Milford (“City”). A notice was sent to the owner of the 201 property, Ms. Starr Fiocca (“Fiocca”), who also owned 203 Northwest Front Street (“203 property”). On December 1, an engineer’s report indicated that the 201 property should be demolished, and that the 203 property could be repaired.

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

On February 6, 2007, a second notice of condemnation was sent to Fiocca, stating that the property building must be demolished. In March, an engineer was retained by the City, who recommended that the 201 Property be demolished, and the 203 property be repaired. This was consistent with the previous engineer's report. Subsequently, Fiocca negotiated the sale and transfer of the 201 and 203 properties. Both properties were sold to Downtown Properties, LLC ("Downtown").

On December 28, 2007, Downtown received a permit to demolish the 201 property. During the course of the demolition, the rear wall of the 203 property was damaged, which caused a partial collapse of the 203 property. As a result, in January, 2008, Downtown informed the City that both properties needed to be demolished. On January 28, 2008, the City informed Mr. Dan Bond ("Bond"), of Downtown Properties, that an engineer's report was required prior to the demolition of the 203 property.

The City was concerned about the partition wall between the 203 property and 205 Northwest Front Street (the "205 Property"), which is owned by Spyros. In order to obtain the necessary permit for the 203 property, Bond was required to have an engineer's report executed. On February 5, 2008, Bond wrote Spyros requesting his engineer be permitted to examine the 205 and 207 property. Spyros provided an engineer's report on March 14, 2008, which indicated that the party wall was not structurally sound.

As of May 1, 2008, Downtown had not yet submitted an engineer's report to the City, as required. This delay, the plaintiff contends, added to the further deterioration of the properties. On May 16, 2008, the City sent another letter to

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

Downtown, which inquired about Downtown's intentions with regard to the demolition of the 201 and 203 properties. The City also requested action because of the unsafe conditions of the buildings. In May, Downtown and Spyros both acquired engineers to determine the extent of the damage caused by the 201 demolition.

On October 10, 2008, the City sent a letter to Downtown, citing alleged violations of the 2006 International Property Maintenance Code, which mandated that the work be completed, as required by the the code official's order. On October 28, 2008, Bond send an e-mail to the City, acknowledging his intent to rebuild the party wall that was damaged between the 203 and 205 properties. On November 3, after it received the stamped drawings from Downtown, the City issued a permit for the repair of the wall between the two properties. The permit was not picked up from the City, nor paid for by Downtown.

On March 19, 2009, Downtown contacted the City and indicated that further funding was needed before moving forward with the demolition and rebuilding of the party wall. On May 5, 2009, the City sent another notice to Downtown, indicating that the structure was unsafe, stating that Downtown had forty-five days to begin the repair of the party wall between the 203 and the 205 properties, and the demolition of the 201 and 203 properties.

Subsequently, Downtown met with the City, and indicated that it could not make the repairs, due to safety concerns. Downtown requested the City to condemn the 205 property. Thereafter, on June 19, 2009, the City had another engineer's report commissioned. The report indicated that: the 203 property should be demolished; the party wall between the 203 and 205 properties should be replaced,

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

or; both the 205 and 207 should demolished, based upon the financial considerations of the situation.

A meeting was called for on September 9, 2009, for all interested parties to discuss moving forward. On September 25, 2009, the City called for another meeting of the property owners to discuss how to proceed cooperatively.

On January 12, 2010, an engineer's report was provided to the City, which indicated the unsafe conditions of the properties. Specifically, the condition of the 205 and 207 properties was described as follows:

severely deteriorated floor joists...significant moisture and fungal damage...brick masonry in poor condition..excessive deflection of the floor framing...pigeons living in the third floor framing...pigeons living in the third floor...live bird droppings, nesting material eggs and dead birds inside the building. As to the condition of 207 the engineer reported that the roof appeared to be in poor condition...numerous severely deteriorated floor joists...structural members have been improperly reinforced...significant moisture and fungal damage...standing water in the basement...brick masonry in poor condition...timber post are without adequate support...settlement of the foundations and excessive deflection of the floor framing at the 1<sup>st</sup> and 2<sup>nd</sup> floors.

On January 20, 2010, the first condemnation notice was sent to Spyros, indicating that the 205 and 207 properties were condemned. On January 21, 2010, the condemnation was appealed, by Spyros, to the City Manager, Mr. David Baird. On January 22, 2010, Bond wrote the City that he would attempt to work with Spyros, to arrange a single contractor, to perform the demolitions. Spyros had its engineer inspect the 205 and 207 properties. A report was issued on February 8.

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

On March 4, 2010, the City Manager held a hearing to review the Code Official's decision to condemn the 205 and 207 properties. On April 28, 2010, the City issued a decision affirming the City Official's decision to condemn the properties. Spyros' engineer prepared a report, which was submitted in response to the order affirming condemnation.

Thereafter, the City of Board of Appeals was convened to review the condemnation. The Board is designed to be comprised of three people: an appointed architect and an appointed contractor, as "permanent" members, and the City Manager, referred to as a "standing member." This July 15, 2010 hearing was before the Board, but it consisted of just two members. The third member, the City Manager, had rendered the April 28, 2010 decision. As a result, the City Manager recused himself, because of his decision below. The hearing proceeded with a quorum of the Board, without any objection. Testimony and documentation was presented to the Board at that hearing.

There was testimony from both Downtown and Spyros, regarding their affected properties. During Bond's testimony for Downtown, he testified that he would pay to reconstruct the party wall and to demolish the 201 and 203 properties. Bond requested that the City complete the repairs; and, in return, secure a lien on Downtown's properties for payment of the bill to demolish. Board member French, the architect, requested that a site visit be scheduled. That visit occurred on July 27, 2010, as reflected by the record. The two Board members, engineers from both parties, the City clerk, the City Solicitor, Spyros and counsel were all present at the site visit. Minutes were taken at the visit. The City Solicitor instructed everyone

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

only to observe without any comments.

On August 4, 2010, the Board considered comments from all parties, Petitioner, and counsel. On August 17, 2010, the Board reconvened, where additional evidence was added to the record. Mr. French read into the record the relevant law, and then the findings and decision of the Board. The record was then closed, with no objection. A motion to approve the Board's resolution was made by a Board member, and approved. The Board decided it would affirm the condemnation, and was to reconvene again in ninety days, as part of its decision to affirm. The Board allowed the Petitioner to provide information pursuant to IPMC 115.5, that the cost of restoration does not exceed 50% of the value of the building. This condition did not make the decision to condemn conditional, according to the Board. However, it made the remedy to demolition conditional on a cost/benefit analysis.

In November, 2010, the Board reconvened. After testimony, the Board concluded that Spyros did not comply with the August 17<sup>th</sup> condition. The Petitioner could not demonstrate that the value to repair did not exceed fifty percent of the value of the properties. On November 19<sup>th</sup>, based on the Board's decision, the City Code Official sent the Notice of Condemnation/Demolition.

In December, the City sent Spyros a notice indicating that the 205 and 207 properties were to be demolished on January 3, 2011. Immediately thereafter, Spyros filed for judicial review by writ of *certiorari*. On December 23, Spyros filed for a Temporary Restraining Order to halt the January 3 demolition. The demolition was approved on December 30, 2010.

*Spyros Maroulas, Inc. v. City of Milford*  
K10A-12-003 (RBY)  
August 22, 2011

### STANDARD OF REVIEW

The Delaware Supreme Court has held:

A writ of certiorari invokes one of the oldest common law writs, and its origins are obscure in the history of medieval England...The purpose of the writ is to permit a higher court to review the conduct of a lower tribunal of record. Review on certiorari is not the same as review on appeal because review on certiorari is on the record and the reviewing court may not weigh evidence or review the lower tribunal's factual findings. The reviewing court does not consider the case on its merits; rather, it considers the record to determine whether the lower tribunal exceeded its jurisdiction, committed errors of law, or proceeded irregularly. A decision will be reversed on jurisdiction grounds only if the record fails to show that the matter was within the lower tribunal's personal and subject matter jurisdiction. A decision will be reversed for an error of law committed by the lower tribunal when the record affirmatively shows that the lower tribunal has proceeded illegally or manifestly contrary to law.<sup>1</sup>

Narrow standards exist for reversing a lower tribunal's decision based on error of law, irregularity of the proceedings, or a tribunal's exceeding its jurisdiction.<sup>2</sup> The Delaware Supreme Court held that a lower court's record in a common law writ of certiorari "is nothing more than the initial papers, limited to the complaint initiating the proceedings, the answer or response (if required), and the docket entries."<sup>3</sup>

---

<sup>1</sup> *Christiana Town Center, LLC v. New Castle County*, 865 A.2d 521 (Del. 2004).

<sup>2</sup> *Id.*

<sup>3</sup> *Maddrey v. Justice of the Peace Court 13*, 956 A.2d 1204, 1216 (Del. 2008).

### **PARTIES CONTENTIONS**

The Petitioner raises three arguments, each of which it contends is based on errors of law, as to why the Board's decision should be reversed. Spyros asserts that: (1) the Board erred by not convening a full panel of three members to hear its appeal; (2) the Board erred by affirming the condemnation; and (3) the Board erred by not timely demolishing and condemning the properties adjoining 205 and 207 Northwest Front Street.

Specifically, Spyros contends that the Board exceeded its jurisdiction because it did not base the decision to condemn Spyros's property on the record, or make a finding necessitating the condemnation. Furthermore, the Board did not make a final judgment on the record. Therefore, Spyros contends, the Board proceeded irregularly.

The Respondent contends that a quorum of the Board was present satisfying the requirement of a three member Board, as mandated under the Rules. Second, the Board contends that the Board's final resolution was read into the record, during the hearing. Third, the Board contends that it proceeded in accordance with the Rules, condemning property that was unsafe to the public.

First, the Court will address the Petitioner's contention that the Board exceeded its jurisdiction and did not create an adequate record. Next, the Court will address, the issue of whether the Board proceeded irregularly with two members.

### **DISCUSSION**

#### **A. The Record and the Board's Jurisdiction**

Spyros contends that the City of Milford issued a condemnation order for 205

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

and 207, without inspecting the properties, without providing an adequate record, and by exceeding its jurisdiction. Spyros contends this was a violation of Section 108.1 of the City of Milford building Code, constituting an unconstitutional taking. That, Spyros argues, is beyond the Board's jurisdiction.

Reversal on jurisdictional grounds is appropriate "only if the record fails to show that the matter was within the lower tribunal's personal and subject matter jurisdiction."<sup>4</sup> Reversal for irregularities of proceedings occurs "if the lower tribunal failed to create an adequate record for review."<sup>5</sup> Neither of the above situations exists in this case.

Under the facts of this case, it does not appear that the Board proceeded illegally or contrary to law. It appears that a sufficient record exists, and, that the Board acted within its jurisdiction. The Board and the City have authority, jurisdiction, and an obligation to condemn properties when appropriate.<sup>6</sup>

The City of Milford Code provides for general condemnation authority both for public safety and for public use.<sup>7</sup> The Board was within its jurisdiction. On July 27, 2010, there was a site visit as reflected by the record, which does in fact exist. The Board issued its final resolution on August 17, 2010. Spyros received notice of the site visit and the Board's final decision.

---

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> International Property Maintenance Code §108.1.1 (2006).

<sup>7</sup> International Property Maintenance Code §110.1 (2006).

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

Accordingly, Petitioner's assertions for reversal, based on allegations of deficient condemnation decision making and failure to provide proper record, are not well taken and fail.

#### **B. The Number of Board Members**

The Building Code of the City of Milford governs the Board of Appeals. It requires that the Board of Appeals is to consist of three members: the City manager, a design professional, and a member from the contracting industry. The statute creates a definitive number of members to hear an appeal. The issue here is whether the Board can proceed, and conduct business, with two members.

The City of Milford has adopted the 2006 International Property Maintenance Code ("IPMC"). The Respondent contends that Chapter 88 of the Milford Code provides minor revisions to the IPMC. Section 1112 of Chapter 88A(4) reads as follows:

**R112.5 Application for appeal.** Any person shall have the right to appeal a decision of the Code Enforcement Official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not apply or that an equivalent form of construction is to be used. The hearing fee shall be \$300.

**R112.6 Membership of Board.** The Board of Appeals shall consist of three members: the City Manager or his designate, a design professional (architect or engineer), and a representative of the contracting industry. The City Manager or his designate will be a standing member of the Board of Appeals. The initial term of the design professional shall be two years and the initial terms of the representative of the contracting

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

industry shall be for one year. The term of all subsequent appointment shall be two years.

**R112.7 Alternate Members.** The chief appointing authority shall appoint an individual of his choice to be an alternate during those times where one of the permanent members is unable to attend an appeals hearing or in cases where a conflict of interest may exist. Said appointment shall be made for a two-year term and shall not extend beyond the political term limit of the appointing authority.

In this case, the Board convened with two members, Mr. French (an architect), and Mr. Johnson (a Contractor), who were appointed by City Council as permanent members of the Board of Appeals. Mr. Wheedleton (an Architect) was appointed as an alternate, pursuant to R112.7. The third member, the City Manager, rendered the April 28, 2010 decision. As a result, the City Manager recused himself, because the issue confronting the Board was the propriety of his decision below. The hearing proceeded with a quorum of the board, without any objection. Various testimony and documentation was presented to the Board, and no objection was raised to the Board proceeding with two members.

The Respondent contends that the City Manager is distinguishable from the two permanent board members, who convened to make the decision. The City Manager may be replaced by his designee, whereas the permanent members require an alternate to be chosen by counsel if a conflict arises. Furthermore, the Respondent contends, that the lack of objection to the process, the presence of a quorum, and the reasonable interpretation of distinguishing the standing member from the permanent member, establish that the Board did not proceed irregularly.

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

The Court cannot agree. Pursuant to the Building Code, three members will comprise the Board. The Code does not literally specify whether the “standing member” is also a “permanent member.” However, pursuant to 112.7, if a conflict of interest is present, then a replacement will need to be appointed. Rule 112.7 states that where “one of the permanent members is unable to attend an appeals hearing *or* in cases where a conflict of interest may exist,” an alternate would need to be appointed.

In this case, the City Manager was a standing member. He was not replaced when the conflict of interest arose. The Code requires that the Board be comprised of three members. When a permanent member is presented with a conflict of interest, the code requires a replacement be appointed. Superficially, it might seem to make a difference that an alternate was not appointed, because the Board functions by way of majority vote. Yes, in a panel of three, one dissenter could have substantial input on at least one of the original members, changing the total voting consideration by the Board.

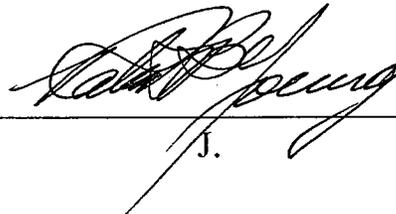
Moreover, while the Code indicates that the City Manager is a “standing member,” it does not indicate which members are encompassed within the language of “permanent members.” At the least, it certainly does not suggest that the City Manager is not to be considered a “permanent member.” It appears that the only function of the modifier, “permanent,” is to distinguish those members from *ad hoc* members. That is, the evident intent of the City was to have a Board considering condemnations to be one with some consistency. One-third (the City Manager) would have the “institutional memory” of how decisions were made over a, usually,

*Spyros Maroulas, Inc. v. City of Milford*  
*K10A-12-003 (RBY)*  
*August 22, 2011*

prolonged period of time. The other two-thirds would be replaced in a fashion that, normally, neither was new to the process for any determination. Thus, each consideration would be expected to have had the benefit of experienced people in the process as a majority of those makeup the determination. When one-third, and in this case the typically most experienced, is missing without replacement, the intent of the process providing for the make-up of the Board is violated. In this case, because the conflicted Board member, the City Manager, was not replaced, I'm constrained to find that the Board proceeded irregularly.

**CONCLUSION**

For the foregoing reasons, the Petitioner's writ of certiorari is **GRANTED**.  
**SO ORDERED.**



Robert J. Peung  
J.

RBY/sal  
cc: Opinion Distribution  
File

Request:

\$18,367 from Municipal Street Aid  
Account#123-9010-431-70-45

**SETTLEMENT AGREEMENT AND MUTUAL RELEASE**

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2011 by and between C & J PAVING, INC., a Delaware Corporation, (“C&J”) and THE CITY OF MILFORD, a political subdivision of the State of Delaware (“Milford”).

WITNESSETH

WHEREAS, C & J and Milford entered into a series of contracts for the repaving and repair of certain streets within the City of Milford, namely Foster Street, Evans Street, Masten Circle, and NE 10<sup>th</sup> Street (hereinafter “ the Project”); and

WHEREAS, a dispute arose regarding work performed, or to be performed, by C&J; and;

WHEREAS, C&J filed a claim against the City of Milford in the Superior Court of the State of Delaware, captioned C & J Paving vs. City of Milford, C.A. No.: S11C-05-020 THG (“the Civil Action”); and

WHEREAS, C & J’s claim against Milford asserted a sum certain of money due C&J from Milford; and

WHEREAS, Milford filed a counterclaim against C&J claiming the paving work was defective; and

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants contained herein, and intending to be legally bound, the parties do hereby agree as follows:

**1. Payment by Milford**

In consideration of the mutual covenants contained herein, Milford shall pay to C& J the sum of Fifty Eight Thousand Three Hundred Fifty Eight Dollars and 15/100 cents (\$58,358.15).

## **Releases**

2.1 C & J, its officers, directors, employees, agents, predecessors, successors and assigns, hereby remises, releases and forever discharges Milford, its officers, directors, employees, agents, predecessors, successors and assigns, of and from any and all claims, debts, demands and liabilities, causes of action (whether at law, equity or arbitration) and/or damages (whether direct, indirect, consequential or incidental), whether or not now known, arising out of any cause, matter or thing whatsoever in connection with the Project, including but not limited to any claim for profit or work on the remaining contract for Church Street, now has or may have against Milford its officers, directors, employees, agents, predecessors, successors and assigns, which arise out of or relate in anyway to the Project.

2.2 Milford, its Mayor and Council, directors, predecessors, successors and assigns, hereby remises, releases and forever discharges C & J, its officers, directors, employees, agents, predecessors, successors and assigns, of and from any and all claims, debts, demands and liabilities, causes of action (whether at law, equity or arbitration) and/or damages (whether direct, indirect, consequential or incidental), whether or not now known, arising out of any cause, matter or thing whatsoever in connection with the Project, which it has had, now has or may have against C & J, its officers, directors, employees, agents, predecessors successors and assigns which arise out of or relate in any way to the Project.

2.3 The City of Milford hereby acknowledges that all “punch list” items previously communicated by Milford to C&J have been corrected to the satisfaction of Milford.

### **3. Dismissal of the Litigation Matter**

3.1 Immediately upon payment of the amounts due hereunder, counsel for C & J and counsel for Milford shall file a Stipulation of Dismissal to dismiss the action captioned as C & J Paving

v. City of Milford, all claims and counterclaims, with prejudice.

**4. Miscellaneous Provisions**

4.1 This Agreement shall inure only to the benefit of the parties and their respective successors and assigns, and shall provide no rights in any third party.

4.2 This Agreement shall be construed, enforced and interpreted under the laws of the State of Delaware.

4.3 It is understood and agreed by and among all parties that this settlement is the compromise of disputed claims and that the payments made are not to be construed as an admission of liability on the part of any of the released parties.

4.4 This Agreement represents the complete agreement among the parties with respect to the subject matter as set forth therein and shall not be modified except by a writing duly executed by all parties.

4.5 The person executing this Agreement on behalf of each party warrants and represents that he or she is authorized to do so.

4.6 This Agreement may be signed in counterpart by the parties hereto with the same force and effect as if the above parties hereto have signed the same original of this Agreement.

4.7 This Agreement has been negotiated and drafted jointly by Milford and C & J, and no inferences or presumptions regarding the interpretation of this document shall be drawn or made by or against either party as the author of this Agreement.

**5. Execution of Release**

All parties have consulted with their respective attorneys regarding the terms and conditions of this Settlement Agreement, have carefully read this Settlement Agreement, and

know and understand the contents hereof. The parties expressly acknowledge and agree that each party has executed this Settlement Agreement of their own free will and without duress.

**6. Effective Date**

This Settlement Agreement shall be effective when the last party shall have executed, dated and provided original signatures to all other parties.

**7. Warrant and Representation**

Except as otherwise referenced herein, the parties hereto represent and warrant that they have not sold, assigned or transferred any claims, in whole or in part, which are the subject of this Settlement Agreement and Release.

IN WITNESS WHEREOF, the parties have each executed this Agreement as of the day and year above written.

**C & J Paving Inc.**

Witness: \_\_\_\_\_

**By:** \_\_\_\_\_

Date: \_\_\_\_\_

**Title:** \_\_\_\_\_

**City of Milford**

Witness: \_\_\_\_\_

**By:** \_\_\_\_\_

Date: \_\_\_\_\_

**Title:** \_\_\_\_\_

Public Notice

Public Notice

**ADVERTISEMENT FOR BIDS**

Sealed bids for the Chaney/Wilmington, Mispillion Greenway Phase #15 & #16 site work, floating dock, pier, vinyl sheet pile retaining wall and landscaping, located in Milford, Delaware, will be received by the **City of Milford, Department of Parks & Recreation, at the City Hall Council Room 201 South Walnut Street, Milford, Delaware, 19963, until 11:00 a.m. Monday August 22, 2011.**

A mandatory pre-bid meeting will be held at the Milford Parks & Recreation Building, 207 Franklin Street, Milford, Delaware at 2:00 p.m. Wednesday August 10th, 2011, for the purpose of establishing the listings of subcontractors and to answer question. **Attendance of this meeting is mandatory for bidding on this contract.**

3 copies of the sealed bids shall be addressed to the City of Milford, Department of Parks & Recreation, Attn: Mr. Gary Emory, Director and **delivered to the City of Milford, City Hall, 201 South Walnut St., Milford, DE 19963**

The outer envelope should be clearly labeled: "Sealed Bids Chaney / Wilmington Mispillion Greenway, Phase #15 & #16 do not open". Prevailing wage rates as described by Delaware Law, must be adhered to where applicable.

Contract Documents may be obtained from the Landscape Architect upon receipt of a non refundable \$75. per set, plus \$20. non refundable mailing charge, if a contractor requested them to be mailed. Checks should be made out to Landscape Architectural Services, LLC and the Landscape Architect can be reached at 302-284-4578. The documents will be made available starting Monday August 1st. at noon

Each bid must be accompanied by a bid security equivalent to ten percent of the bid amount and all additive alternates. A 100% Performance Labor & Materials Payment Bond shall be submitted by the successful bidder. The City of Milford reserves the right to reject any and all bids and to waive any informalities therein. The City of Milford may extend the time and place for the opening of the bids from that described in the advertisement, of not less than five calendar days notice by certified mail, facsimile or email to those bidders receiving plans.

393824 DSN 8/1,8/2011

Delaware State News, Monday, August 1, 2011

Addendum #1  
Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway  
Date Issued 8-15-2011

NOTICE:

Attach this addendum to the project manual for this project. It modifies and becomes a part of the contract documents. Work or materials not specifically mentioned here are to be as described in the main body of the specifications and as shown on the drawings. Acknowledge receipt of this addendum in the space provided on the Bid Form.

This addendum consists of 29 pages including 17 sketches dated 8/15/11.

**GENERAL:** a mandatory pre-bid meeting was held on Wednesday August 10, at 2:00, in Milford, Delaware at the Parks & Recreation Office, 207 Franklin St.

Those in Attendance were:

**City of Milford**  
Milford Parks & Recreation  
207 Franklin St.  
Milford, DE 19963  
Gary Emory, Director  
P – 302-422-1104 F – 302-422-0409  
Garyemory@hotmail.com

**Matthew T. Spong, R.L.A., A.S.L.A.,  
Principal**  
**Trisha Sawacki, A.S.L.A.**  
Landscape Architectural Services, LLC  
P.O. box 293  
Dover DE 19903  
P-302-284-4578 F – 302-284-0301  
[Matt@las-llc.net](mailto:Matt@las-llc.net)  
[trishas@las-llc.net](mailto:trishas@las-llc.net)

**Thompson & Son's Contracting LLC**  
5367 Big Stone Beach Rd.  
Milford DE 19963  
Attn: Casey Thompson  
P – 302-393-6314 or 302-335-3404  
office  
F – 302-335-3422  
[thompsonsonslc@aol.com](mailto:thompsonsonslc@aol.com)

**Conventional Builders Inc.**  
P.O. Box 47  
Houston DE 19954  
Attn: Mr. Pierce Thompson Jr.  
P – 302-422-2429 F – 302-422-2135  
[conventionalbuilders@comcast.net](mailto:conventionalbuilders@comcast.net)

**EPB Associates Inc.**  
107 W. Sutton Pl.  
Wilmington, DE 19810  
Attn: Ed Bush  
P – 302-475-7301 F – 302-475-7302  
[epbush@aol.com](mailto:epbush@aol.com)

**Hi – Tide Marine Construction, Inc.**  
4505 Public Landing Wharf Rd.  
Snow Hill MD 21863  
Attn: Denny Sharp  
P – 410-632-1426 F – 410-632-3807  
[dsharp@hitidemarine.com](mailto:dsharp@hitidemarine.com)

**First State Crane Service**  
13326 S. DuPont Highway  
Felton, DE 19943  
Attn: Mr. Jim Hauer  
P - 302-284-3100 F – 302-284-9114  
[jim@firststatecrane.com](mailto:jim@firststatecrane.com)

Addendum #1  
Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway  
Date Issued 8-15-2011

**Clean Cut Interlocking Pavers**  
16192 Coastal Highway  
Lewes, DE 19958  
Attn: Tony Smith  
P – 302-381-7766 F – 302-644-1366  
[Debbie@cleancutpavers.com](mailto:Debbie@cleancutpavers.com)

**George & Lynch**  
150 Lafferty Lane  
Dover, DE 19901  
Attn: Mr. Jeff Norman  
P – 302-736-3031 ext. 206  
F – 302-734-9743  
[jnorman@geolyn.com](mailto:jnorman@geolyn.com)

**JJID, Inc.**  
100 Julian Lane  
Bear DE 19701  
Attn: Garnel Crawford  
P – 302-836-0414  
F – 302-836-4275  
[gcrawford@jji.com](mailto:gcrawford@jji.com)

**Dixie Construction Co.**  
22237 Lewes – Georgetown Highway  
Georgetown DE 19947  
Attn: Ed Brown  
P – 302-858-5007 F – 302-858-5023  
[ebrown@dixieconst.com](mailto:ebrown@dixieconst.com)

**Shea Concrete LTD**  
P.O. Box 264  
Milford DE 19963  
Attn: Mike Shea  
P – 302-422-7221 F – 302-422-1261  
No – e-mail

**Melvin L. Joseph**  
25136 duPont Blvd.  
Georgetown DE 19947  
Attn: Lee Venables  
P – 302-856-7396 F – 302-856-1725  
[lvenables@melvinjoseph.com](mailto:lvenables@melvinjoseph.com)

**A. P. Croll & Son**  
22997 Lewes Georgetown Highway  
Georgetown, DE 19947  
Attn: Edwin Johns  
P – 302-856-6177 F – 302-856-3482  
[ejohns@apcroll.com](mailto:ejohns@apcroll.com)

Plan Holders that did not attend the pre-bid meeting.

**City of Milford**  
201 South Walnut St.  
Milford, DE 19963  
Attn: Ms. Terri Hudson  
P – 302-422-6616 F – 302-424-3558  
[Thudson@milford-de.org](mailto:Thudson@milford-de.org)

**Corman Marine Construction, Inc.**  
12001 Guilford Rd.  
Annapolis Junction MD 20701  
Attn: Bonnie  
P – 301-953-0900  
F - 301-953-2611  
[bhulme@cormanconstruction.com](mailto:bhulme@cormanconstruction.com)

**Construction Data Co.**  
One Oakbrook Terrace Suite 510  
Oak Brook Terrace IL 60181  
Attn: Ariel Smith  
P – 512-634-5985  
F – 866-714-9554  
[plans@cdcnews.com](mailto:plans@cdcnews.com)

Addendum #1

Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway

Date Issued 8-15-2011

**Vendor/Consultant Plan Holders**

**CMI/Gator Dock**

4501 Circle 75 Parkway Suite "E"

5370 Atlanta GA 30339

Attn: Mike Napior

P – 770-933-8166 ext 1121

F – 770-933-8363

[mnapior@cmilc.com](mailto:mnapior@cmilc.com)

**Everlasting Synthetic Products**

1000 Wyndgate Parkway suite 100

Woodstock GA 30189

Attn: Brad Lund

P – 800-687-0036

F – 800-687-0048

[lund@everlastseawalls.com](mailto:lund@everlastseawalls.com)

**Baker Ingram Associates**

1050 S. State St.

Dover DE 19901

Attn: Frank Young

P – 302-734-7400

F – 302-734-7592

[fyoung@bakeringram.com](mailto:fyoung@bakeringram.com)

**Boyce Associates**

P.O. Box 885

Trexlerstown PA 18087-0885

Attn: Bill Boyce

P - 800-441-9400

F 610-289-4803

[bill@boyce4playgrounds.com](mailto:bill@boyce4playgrounds.com)

**GENERAL: The following items were discussed at the pre-bid meeting:**

- a) a. (3) copies of the bid form with completed non-collusion statement, subcontractors list, unit price list and the 10% bid bond are to be addressed to the City of Milford Parks & Recreation and delivered to the City Hall Council Room, 201 South Walnut Street, Milford DE 19963 by 11:00 a.m. Monday August 22, 2011.
- b) Mispillion Greenway Phase #15 and 16 Generally consists of:  
Grading and Drainage, sediment ponds remain with modified outlet structure, approximately 500 lf vinyl sheetpile wall, approximately 8400 sf exposed aggregate concrete walk, 8x16 pier, 8x40 floating dock, seeding and landscaping, benches and trash receptacles. Each Contractor is responsible for verifying all quantities, scope of work, and existing site conditions as described in the Contract documents.
- c) Questions to be answered in Addendum #1 must be received in writing from prospective bidders by 12 p.m. (noon) on Monday August 15, 2011.
- d) Manufacturer's are listed in Specifications. Requests for approved equals must be submitted in writing per Section 01600-3 by noon on Monday August 15, 2011.
- e) The Unit Price List is part of the Bid Documents and must be submitted with the Bid. The Bid is a Lump Sum Bid with a Base Bid and two Add Alternates (see section 01151 Unit Prices of project manual.
- f) The completion date is December 15<sup>th</sup>, 2011. This is somewhat flexible for materials or weather delays but intend to complete this season. However, there are no liquidated damages or bonuses. The contract will be awarded after September 12<sup>th</sup> City Council Mtg. Assuming bids are within budget estimate.
- g) Layout must be by done by a Delaware-licensed Professional Surveyor.
- h) USACE, DNREC and Sussex Conservation District permits have been obtained. Contractor must submit required start / end forms and schedule a preconstruction meeting and inspections with the Conservation District.
- i) Contractor will be responsible for debris cleanup and dumping fees.

Addendum #1

Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway

Date Issued 8-15-2011

- j) Cost for demolition of the chainlink fence from the corner of Mispillion St. to the corner of the existing building is with add alt #1. Demolition of the chainlink fence from the corner of the existing building to the River is with the Base Bid.
- k) Alternate #2 includes connector sidewalk and asphalt parking lot (see Sketch 10).
- l) Vinyls Sheetpile Wall returns 16" each end.
- m) At Floating Dock, some rip rap will need to be removed to drive piles and then reset.
- n) Three test piles are required. These can be part of work. Criteria for bearing is in geotech report page 7.
- o) Staging area will be at the existing bus storage area on Fisher Ave.
- p) Contractor shall coordinate with City Electrical Department for installation of conduit for future lighting provided and installed by the City.
- q) The General Contractor must perform 50% of the work.

**CLARIFICATION:**

A performance bond for 100% of the contract amount and a labor and materials payment bond for 100% of the contract amount as well as certificates of insurance in the amounts noted in the Supplementary Conditions of the contract will be required from the successful bidder prior to execution of the contract.

All contractors and sub-contractors working on this project will be required to submit copies of their current State of Delaware and City of Milford Business License.

**Questions for Addendum #2 (as needed) must be submitted in writing by 12:00 noon on August 16th. Submit to [matt@las-llc.net](mailto:matt@las-llc.net)**

**REVISIONS TO THE PROJECT MANUAL**

Revise Bid Form, (page 2 of 2) and replace it with the attached page 2 Bid Form, page 9 and 10 of this Addendum #1.

Subcontractor listing; use revised subcontractor list page 00431-1 and 00431-2 attached, to include Professional Land Surveyor, and pile driving inspector name and address. Use revised subcontractor list page 11 & 12 of this addendum #1 (attached).

Section 02360-1 Driven Timber Piles: Item 1.04 A revise to read

"A. Unless otherwise noted, piles shall be 7 ton allowable axial capacity for typical pier piling. Delete reference to bridge piles.

B. The anticipated pile embedments shall be 20' for pier & dock piling. Each pile is expected ....."

Section 02495-2 Site & Landscape Accessories: Part 2.01 revise to read

"2. Trash receptacle: Model LR 200D 22 gallon in-ground mount with Dome Lid Model #DT 100 and Liner Model LR 210 Color Black. Manufactured by Wabash Valley Dist. By Boyce Associates 800-441-9400 (or approved equal)"

Section 02495-2 Site & Landscape Accessories: Part 2.01 revise to read

3. "...An acceptable supplier of the vinyl sheetpiling is also Crane Materials International, 4501 Circle 71 Parkway, Suite E-5370, Atlanta , GA, 770-933-8166

### **Physical Characteristics**

Sheet piling supplied for the project shall meet or exceed all required physical characteristics as defined below:

#### **Sheet Pile Material**

All sheet piling shall be manufactured entirely from a rigid, high impact, UV-inhibited, weatherable vinyl compound. All exposed surfaces of the sheet piling shall be UV resistant, and comprised of virgin material with a minimum ASTM D4216 Cell Classification of 1-42443-33 to ensure reliable performance and color consistency. If mono-extrusion technology is used, the entire sheet pile must be comprised of virgin material with a minimum ASTM D4216 Cell Classification of 1-42443-33.

#### **Section Modulus**

The section modulus of the sheet piling shall be no less than **16.4** in<sup>3</sup> per linear foot of wall.

#### **Moment of Inertia**

The moment of inertia of the sheet piling shall be no less than **74** in<sup>4</sup> per linear foot of wall.

#### **Thickness**

The sheet piling must have a minimum thickness of .28 inches.

#### **Depth**

The sheet piling must have a maximum section depth of 9 inches to prevent web buckling.

#### **Coverage & Interlocks**

The sheet piling must have a minimum width of 24 inches per sheet resulting in a maximum of (1) interlocks per liner foot of wall.

#### **Locking System**

All male interlocks must incorporate I-Beam Lock reinforcement to resist lock separation and decrease seepage.

#### **Surface Finish/Appearance**

The sheet piling must be **Clay** in color. Color samples to be approved by the engineer.

Part 2.01: Add to read

3. An acceptable equal supplier of the vinyl sheet piling is Product Model # C-Loc-9000 Mfg. Construction Materials International 800-256-8857 Attn. Mike Napior x 1121

4. Aluminum Dock

Clarification – Proposed floating dock shall be as per 1.2.1.1 Full Float

Approved Equal: DH&MF Hock Hardware & Metal Fabrication  
10607 Highway 707, Murrells Inlet SC 29576  
P. 860.283.2268 F. 843.650.4434 Attn: Matthew Stevenson

## 6. Sign Post:

Shall be 2" square, hot dipped galvanized per ASTM prior to coating with 10-14 mils **Black** vinyl coating applied by fusion bonding. Posts shall have a finial cap and be manufactured by **Anchor Fence, Inc.** (or Approved Equal).

## 7. Accessible Parking Signs:

Graphics shall be exact reproductions of graphics on drawings and meet A.D.A. Standards. Sign panels shall conform to the U.S. Standards of manual for Uniform Traffic Control Devices, 18" x 24" x 1/4" sheet Aluminum.

Section 06100 Rough Carpentry:

Part 2.01 A

Revise to read: "All wood exposed to the environment, wood bolted to concrete, sheerpiling wood cap and wale and wood designated 'trtd' shall be #1 southern pine or better, (joists, stringers and beams shall be #2 or better) pressure impregnated with ammoniacal copper quaternary ammonium (ACQ) in accordance with American Wood Preservers Association (AWPA) standard C2 with a minimum retention of 0.40 lbs. Per cubic foot of wood. The minimum depth of penetration shall be 2.5" or 85% of the sapwood."

Part 2.01 B

Delete all

Part 2.01 C

Revise to read: "Wood for nailers, blocking, furring, sleepers, joists, stringers and beams shall be #2 southern yellow pine ..."

Revise to delete #2, 3, and 5.

Part 2.02 Wood Treatment Application

Revise to read: "Wood exposed to the environment, wood bolted to concrete, sheerpiling wood cap and wale and wood designated 'trtd' shall be #1 southern pine or better, (joists, stringers and beams shall be #2 or better) pressure impregnated with ammoniacal copper quaternary ammonium (ACQ) in accordance with American Wood Preservers Association (AWPA) standard C2 with a minimum retention of 0.40 lbs. Per cubic foot of wood. The minimum depth of penetration shall be 2.5" or 85% of the sapwood."

## REVISIONS TO THE DRAWINGS

1. Sheet 1 Cover and Demolition Plan: Clarification – Existing Chainlink Fence from corner of Columbia and Mispillion Sts. to the corner of existing building shall be removed as part of Add Alternate #1. Existing chainlink fence from the corner of the building to the water shall be removed as part of the Base Bid. 1 existing Maple is to be removed as shown on sheet #1 of the drawings.

2. Sheet 3 Sediment & Erosion Control Plan: Add Wet Seeding Notes.  
The attached sketch #1 page 13 of 29 Addendum #1 revises Sheet #3 of the contract documents and provides the Wet Seeding Notes.
3. Sheet 5 & 6: Grading Plans: Revise label to read “EXISTING SEDIMENT POND TO BE MODIFIED” and clarify proposed contours. See sketch #2 “Grading Clarifications page 14 of 29, also plan scale is 1” = 10’-0”.
4. Sheets 7 & 8 Layout & Materials Plan: Revise stationing 3 locations.  
The attached sketch #3 page 15 of 29 Addendum #1 revises Sheets 7 & 8 of the contract documents and revises the stationing 3 locations. NOTE: scale on layout plans sheet 7 & 8 is 1”=10’-0”.
5. Sheet 8 Layout & Materials Plan: Revise detail layout Plan Floating Dock & Gangway  
The attached sketch #4 page 16 of 29 Addendum #1 revises Sheet 8 of the contract documents and revises the detail layout Plan Floating Dock & Gangway, and revises the dock pilings to be coated with CMI uv resistant polymer standard colors.
6. Sheet 8 Layout & Materials Plan: Add Trash Receptacle location.  
The attached sketch #5 page 17 of 29 Addendum #1 revises Sheet 8 of the contract documents and adds a Trash Receptacle location.
7. Sheet 9 Details Sheetwall & Site Amenities: Revise Detail A - Driven Vinyl Sheeppile  
The attached sketch #6 page 18 of 29 Addendum #1 revises Sheet 9 of the contract documents and revises Detail A - Driven Vinyl Sheeppile,
8. Sheet 9 Details Sheetwall & Site Amenities: Revises Detail A notes.  
The attached sketch #7 page 19 of 29 Addendum #1 revises Sheet 9 of the contract documents and revises Detail A – notes.
9. Sheet 9 Details Sheetwall & Site Amenities: Revise Detail D.  
The attached sketch #8 page 20 of 29 Addendum #1 revises Sheet 9 of the contract documents and revises Detail D Trash Receptacle Model #.
10. Sheet 10 Details Boat Dock: Revise Detail G.  
The attached sketch #9 page 21 of 29 Addendum #1 revises Sheet 10 of the contract documents and revises Detail G Wood Pier w/ Polymer Decking.
11. Sheet 10 Details Boat Dock: Revise Detail G.  
The attached sketch #10 page 22 of 29 Addendum #1 revises Sheet 10 of the contract documents and revises Detail G Wood Pier w/ Polymer Decking.
12. Sheet 10 Sketch 11, page 23 of 29, pier & walk clarifications and pile location closest to existing, see wall.
13. The attached sketch #12 page 25 of 29 Addendum #1 revises Sheet 13 of the contract documents and adds an ADA Parking Sign Detail.

Addendum #1

Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway

Date Issued 8-15-2011

14. Sheet 13 Add Alternate 1 & 2 Sketch 13 Page 25 of 29 clarifies connector walk is part of Add Alternate #2.

15. Sketch 14 page 26 of 29 revises sheet #10 of the drawings detail F-Drainage Outlet Structure.

16. Sketches 15, 16, 17 pages 27, 28, & 19 of addendum #1 revise sheets 3 & 4 of the drawings.

**ANSWERS TO BIDDERS QUESTIONS**

Received in writing by 12 p.m. (noon) 8/15/2011

1. If hidden debris is encountered while driving vinyl sheet piling, an additional cost will be negotiated and a change order will be executed.
2. There is no water available on site. Contractor must use water truck.
3. Cost of demolition of the chain link fence from the corner of Columbia Street and Mispillion Street to the corner of the existing building should be included in the Add Alternate #1 price. Cost of demolition of the chain link fence from the corner of the building to the water should be included in the Base Bid. Cost for cleaning at area of pilings and sidewalk should be included in the Base Bid.
4. The vinyl sheetpiling is 10' lengths.
5. ADA Parking Signs are required for Add Alternate #2 Parking Lot construction ( See Sketch #11.
6. Reinforced silt fencing is required on the west side of the project (See Sketch 15, 16 & 17) and is identified as 'SF' at the Limit of Disturbance (LOD) line.
7. Vibratory hammers and jetting of Piles and Sheetpiling is not permitted.
8. Pile drilling monitoring and testing shall be by a registered Geotechnical Engineer or experienced pile driving Inspector. Three (3) references for experienced pile driving Inspector must be provided and approved by the Landscape Architect prior to start of construction.
9. The floating dock will not rest on the existing rip-rap at low tide. The spot elevations shown at the edge of the existing rip rap are negative elevations.

Addendum #1  
 Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway  
 Date Issued 8-15-2011

**Unit Price List**  
**Chaney / Wilmont Greenway Milford, Delaware Page 1 of 1**

<b>Unit</b>	<b>Qty</b>	<b>Description</b>	<b>Add</b>	<b>Deduct</b>
<b>Site Construction / Amenities</b>				
LS		General Conditions		
LF		Silt Fence		
EA		Stabilized Construction Entrance		
EA		Inlet Protection		
LS		Demolition		
SF		Grading		
CY		Fill (balance)		
EA		Drainage Structure		
LF		15" Drain Pipe		
SF		Exposed Aggregate Concrete Walk		
SF		Exposed Aggregate Concrete Walk Columbia to Mispillion		
SF		River Pier		
EA		Floating Dock		
SF		Vinyl Sheetpile Seawall		
LF		Wood Cap		
EA		6' Bench		
EA		Trash Receptacle		
<b>Site Landscaping</b>				
EA		Carolina Beauty Crepe Myrtle		
EA		Shanendoah Switchgrass		
EA		Sweetbay Magnolia		
EA		Willow Oak		
EA		Blue Flag		
EA		Lizard Tail		
SF		Seeding Wetland Mix		
SF		Seeding Lawn Mix		
<b>Total Lump Sum Base Bid</b>				
<b>Add Alternate 1 - Vinyl Privacy Fence</b>				
<b>Unit</b>	<b>Qty</b>	<b>Description</b>	<b>Add</b>	<b>Deduct</b>
LF		84" Concave Lakeland Vinyl Fence		
<b>Add Alternate 2 - Asphalt Parking Lot</b>				
<b>Unit</b>	<b>Qty</b>	<b>Description</b>	<b>Add</b>	<b>Deduct</b>
SF		Concrete Walk		
SF		Asphalt Paving		
EA		ADA Parking Signs		
EA		Bumper Blocks		

## **Unit Prices**

### **Part 1 General**

#### **1.01**

A. The General Provisions of the Contract, including the Conditions of the Contract (General, Supplementary and other Conditions, if any) and Division 1 as appropriate, apply to the Work specified in this Section.

B. Refer to provisions in AIA Document A201: General Conditions of the Contract, for requirements in addition to those specified in Division 1.

C. For work being constructed under separate prime contracts, provisions of this Section apply to each contract being bid.

#### **1.02 Base Bid**

The Base Bid consists of all work shown or specified in the Contract Documents, including all unit prices at the quantity shown on the Bid Form.

B. At the Owner's option, the Base Bid may be increased or decreased by changing the quantity associated with each unit price.

#### **1.03 Unit Prices**

A. State in the Bid Form the amount to be added to or subtracted from the Base Bid per unit of measurement for each Unit Price specified. State this amount to include all overhead and profit. No surcharge in addition to the Unit Price listed will be permitted.

B. Refer to Section 00101 Instructions to Bidders, for related information.

C. For listing of **Unit Prices see Bid Form page 3**. Detailed requirements for materials and execution are shown on the drawings and specified in the Project Manual.

End of Section

01151-1

**Subcontractor Listing**

If awarded this contract, we,

----- (name of bidder)  
will award subcontracts to the following subcontractors. Where we intend to perform the work with our own forces, our name is listed as subcontractor.

**General Contractor:**

Name:-----

Address:-----

**Site Contractor:**

Name: -----

Address: -----

**File Driving Contractor:**

Name: -----

Address:-----

**Vinyl Sheet Pile Contractor:**

Name: -----

Address:-----

**Carpentry Contractor:**

Name: -----

Address:-----

**Concrete Contractor:**

Name -----

Address-----

**Landscape Contractor:**

Name -----

Address-----

Addendum #1  
Mispillion Greenway Phase # 15 & 16 - Chaney Wilmont Greenway  
Date Issued 8-15-2011

**Delaware Licensed Professional Land Surveyor:**

Name -----

Address-----

**Geotechnical Engineer or Experienced Pile Inspector:**

Name -----

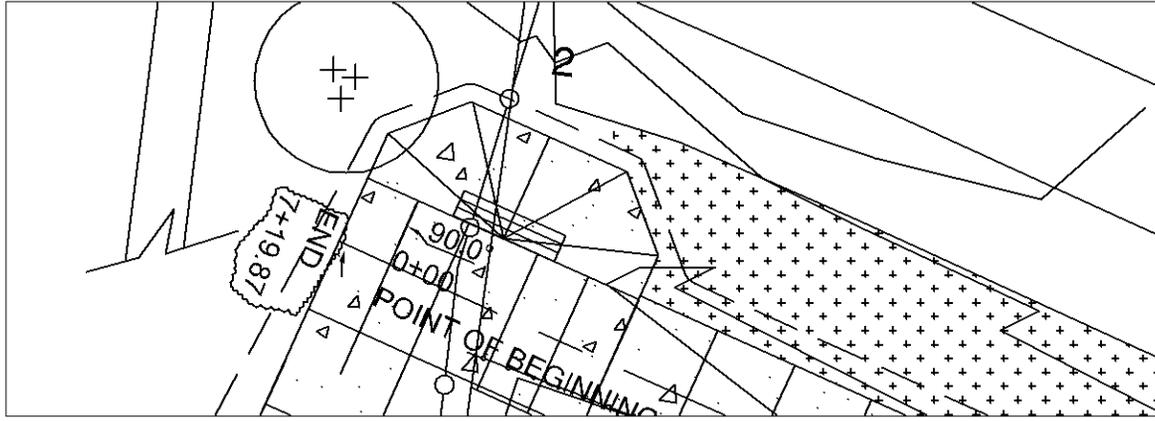
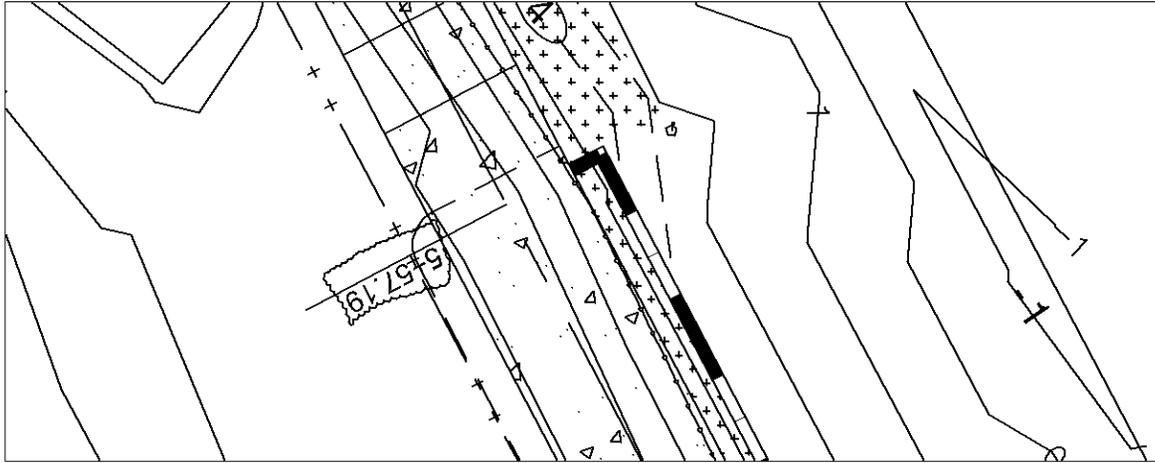
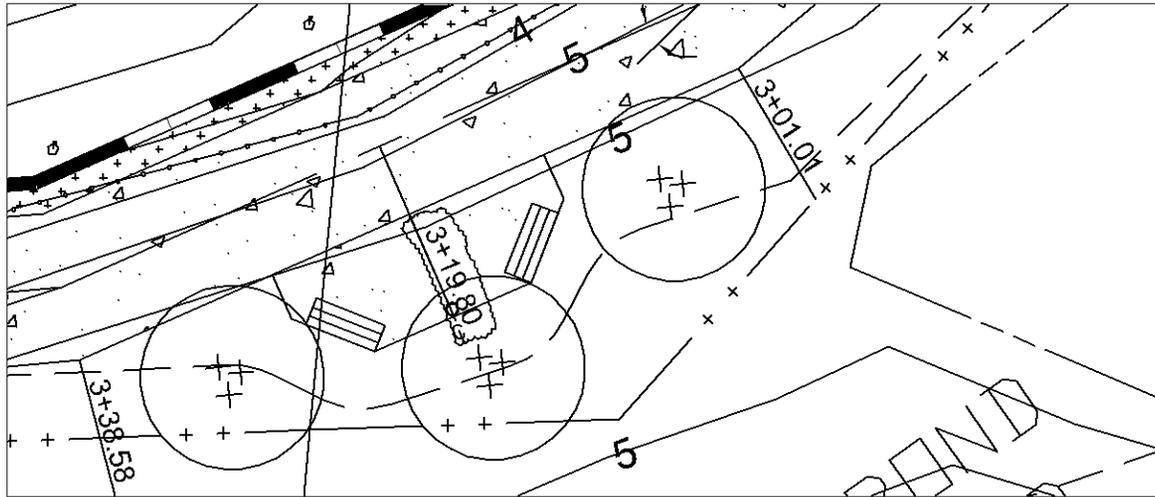
Address -----

End of Section

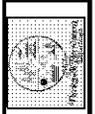
00431-2





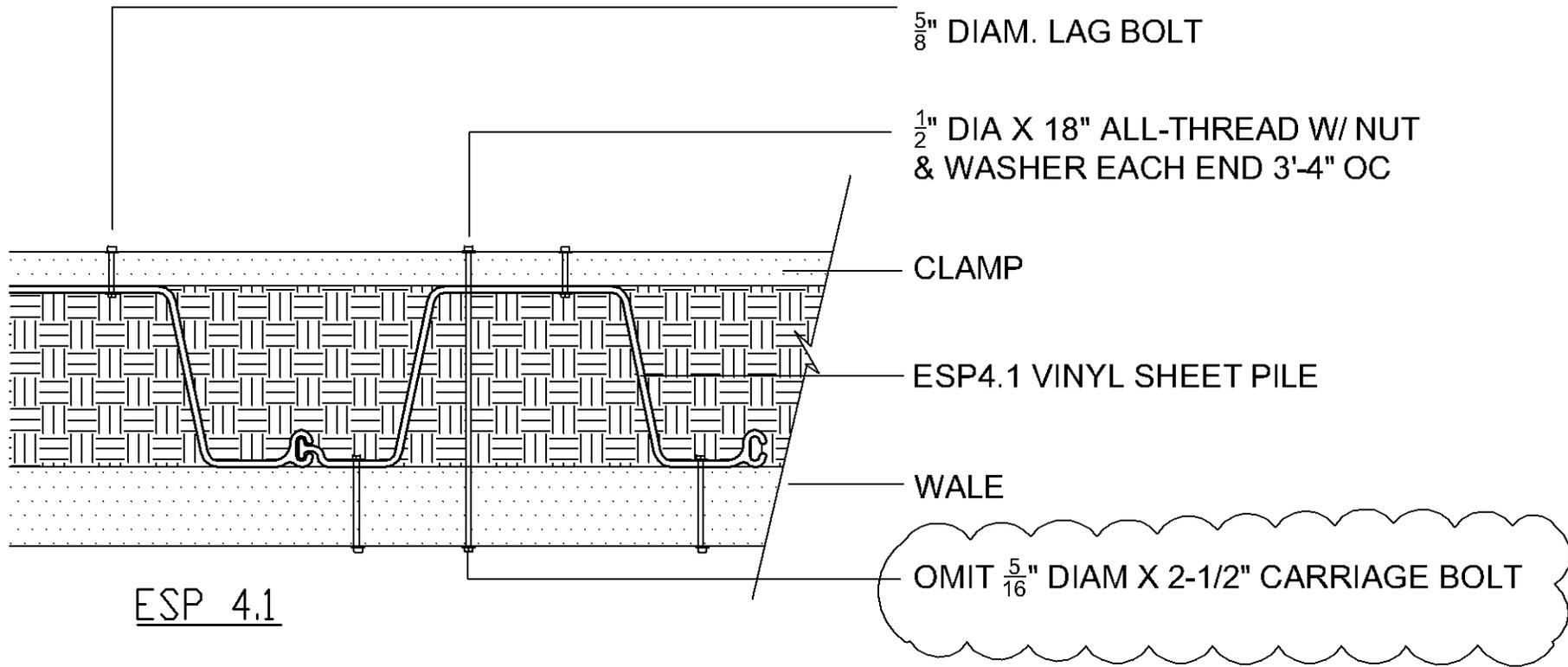


Revise stationing at 3 locations as shown.









ESP 4.1

5/8" DIAM. LAG BOLT

1/2" DIA X 18" ALL-THREAD W/ NUT & WASHER EACH END 3'-4" OC

CLAMP

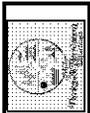
ESP4.1 VINYL SHEET PILE

WALE

OMIT 5/16" DIAM X 2-1/2" CARRIAGE BOLT

A  
7,8

STANDARD PLAN  
DRIVEN VINYL SHEETPILE



City of Milford  
Department of  
Parks & Recreation  
Mr. Gary Emory, Dr.



ADDENDUM #1  
SKETCH #6: Sheetpile

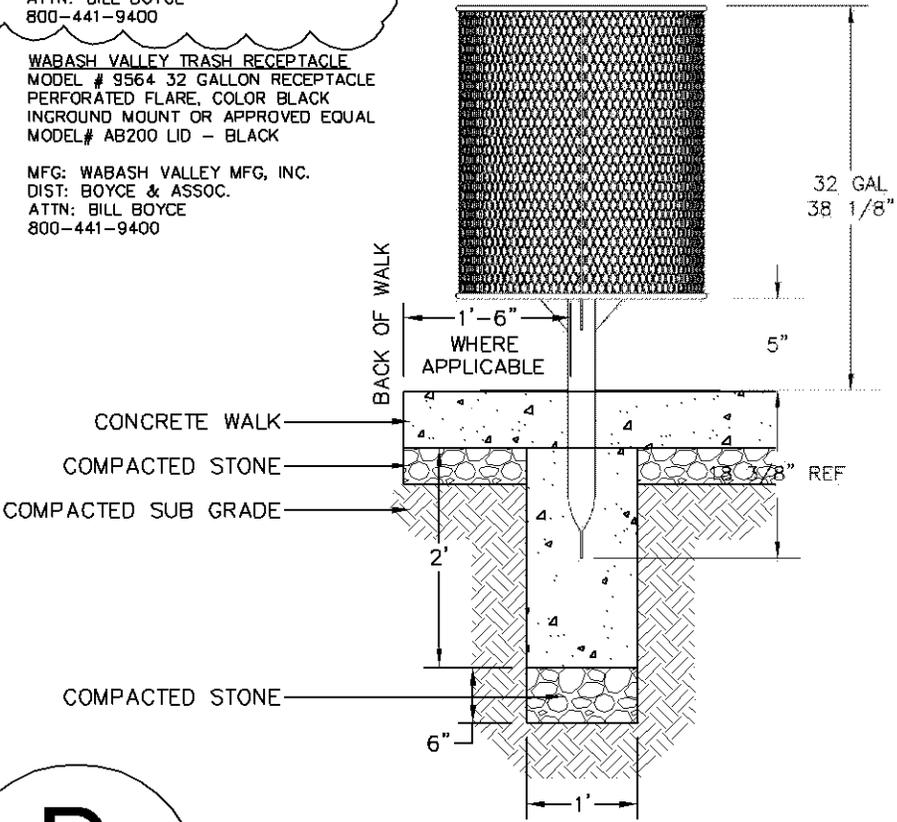
MILLINGTON GREENWAY  
CHANEY WILMONT GREENWAY  
MARSHALL ST & COLUMBIA ST  
MILFORD, DELAWARE

PROJECT # 2010-03 COMM #1389  
DATE: 08-15-2011  
Page 18 of 29



**WABASH VALLEY TRASH RECEPTACLE**  
 MODEL # LR 200D 22 GALLON  
 RECEPTACLE  
 DIAMOND PATTERN, COLOR BLACK  
 INGROUND MOUNT OR APPROVED EQUAL  
 MODEL# DT100 DOME LID - BLACK  
  
 MFG: WABASH VALLEY MFG, INC.  
 DIST: BOYCE & ASSOC.  
 ATTN: BILL BOYCE  
 800-441-9400

**WABASH VALLEY TRASH RECEPTACLE**  
 MODEL # 9564 32 GALLON RECEPTACLE  
 PERFORATED FLARE, COLOR BLACK  
 INGROUND MOUNT OR APPROVED EQUAL  
 MODEL# AB200 LID - BLACK  
  
 MFG: WABASH VALLEY MFG, INC.  
 DIST: BOYCE & ASSOC.  
 ATTN: BILL BOYCE  
 800-441-9400



D  


---

7

**STANDARD DETAIL**  
**TRASH RECEPTACLE**



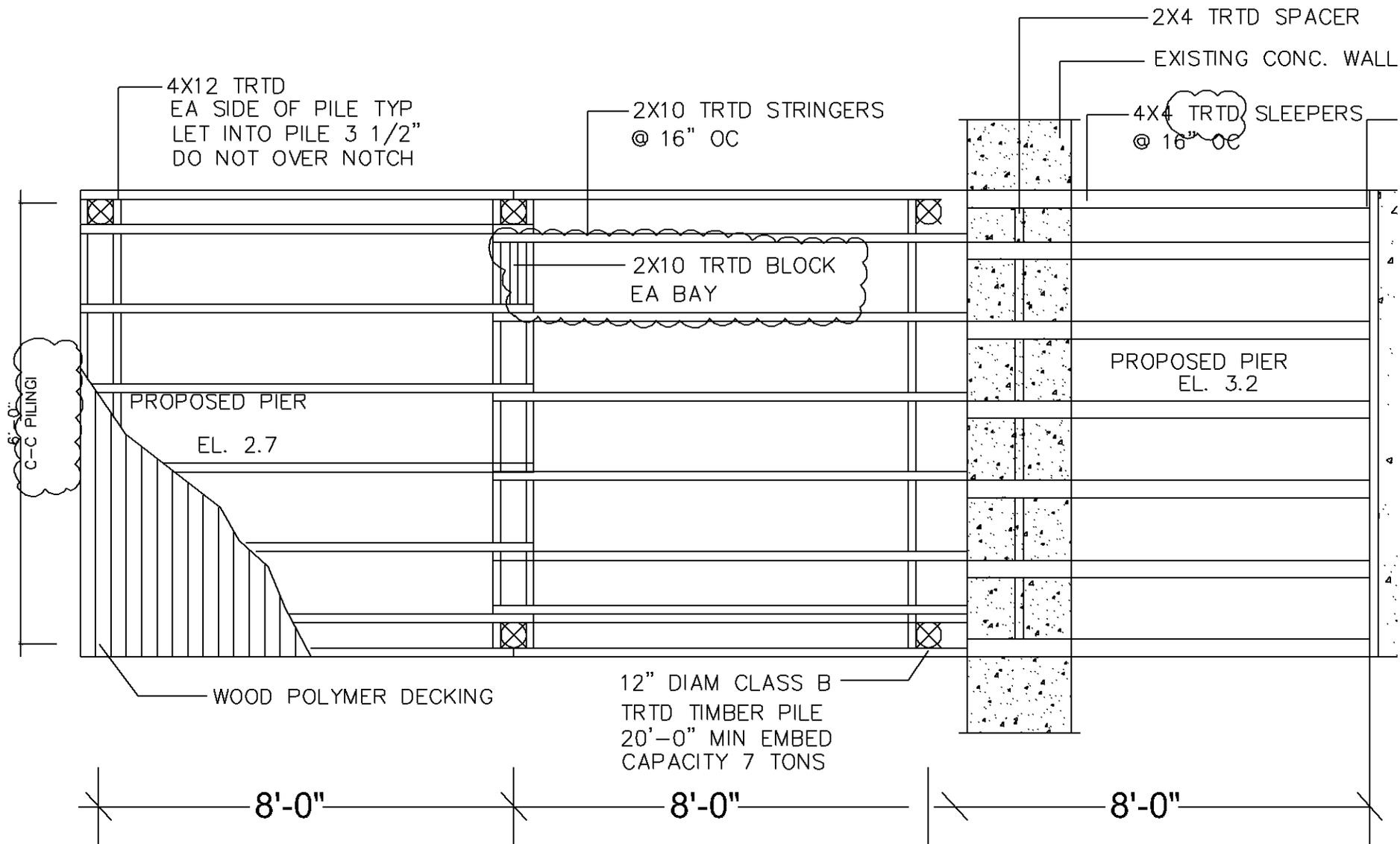
City of Milford  
 Department of  
 Parks & Recreation  
 Mr. Gary Emory, Dir.



ADDENDUM #1  
 SKETCH #8: Trash Receptacle

MISPELLION GREENWAY  
 CHANEY WILMONT GREENWAY  
 MARSHALL ST & COLUMBIA ST  
 MILFORD, DELAWARE

PROJECT # 2010-03 COMM #1389  
 DATE: 08-15-2011  
 Page 20 of 29

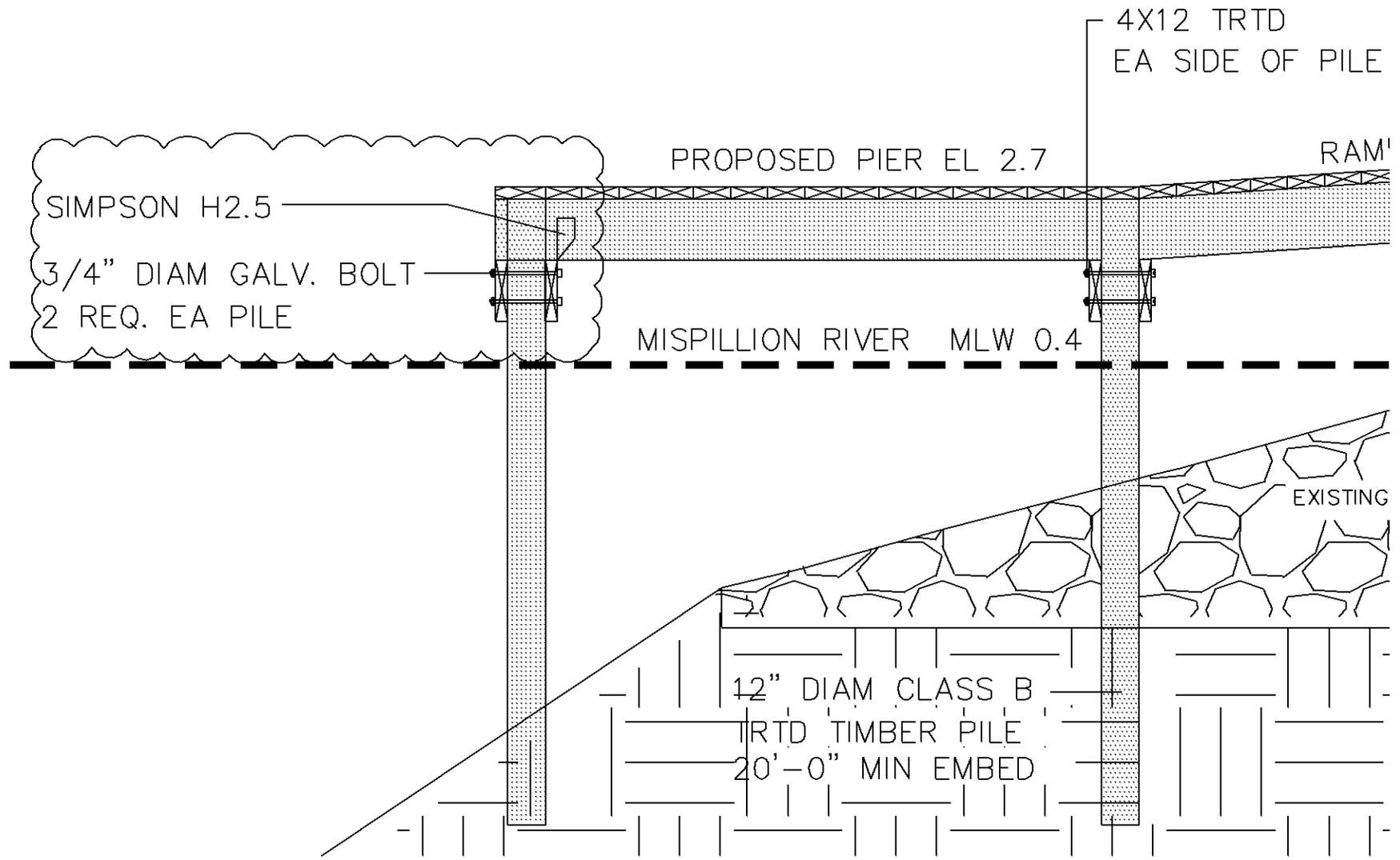


8 G

SECTION / ELEVATION  
WOOD PIER W POLYMER DECKING NTS

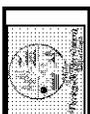
PIER PLAN  
NOT TO SCALE

 City of Milford Department of Parks & Recreation Mr. Gary Emory, Dir.
 LANDSCAPE ARCHITECTURAL SERVICES, L.L.C. 1000 N. STATE ST. SUITE 200 MILFORD, DE 19967 TEL: 302.438.1111 FAX: 302.438.1112
ADDENDUM #1 SKETCH #9: Wood Pier
MISPELLION GREENWAY CHANEY WILMONT GREENWAY MARSHALL ST & COLUMBIA ST MILFORD, DELAWARE
PROJECT # 2010-03 COMM #1389 DATE: 08-15-2011 Page 21 of 29



8 G

SECTION / ELEVATION  
WOOD PIER W POLYMER DECKING NTS



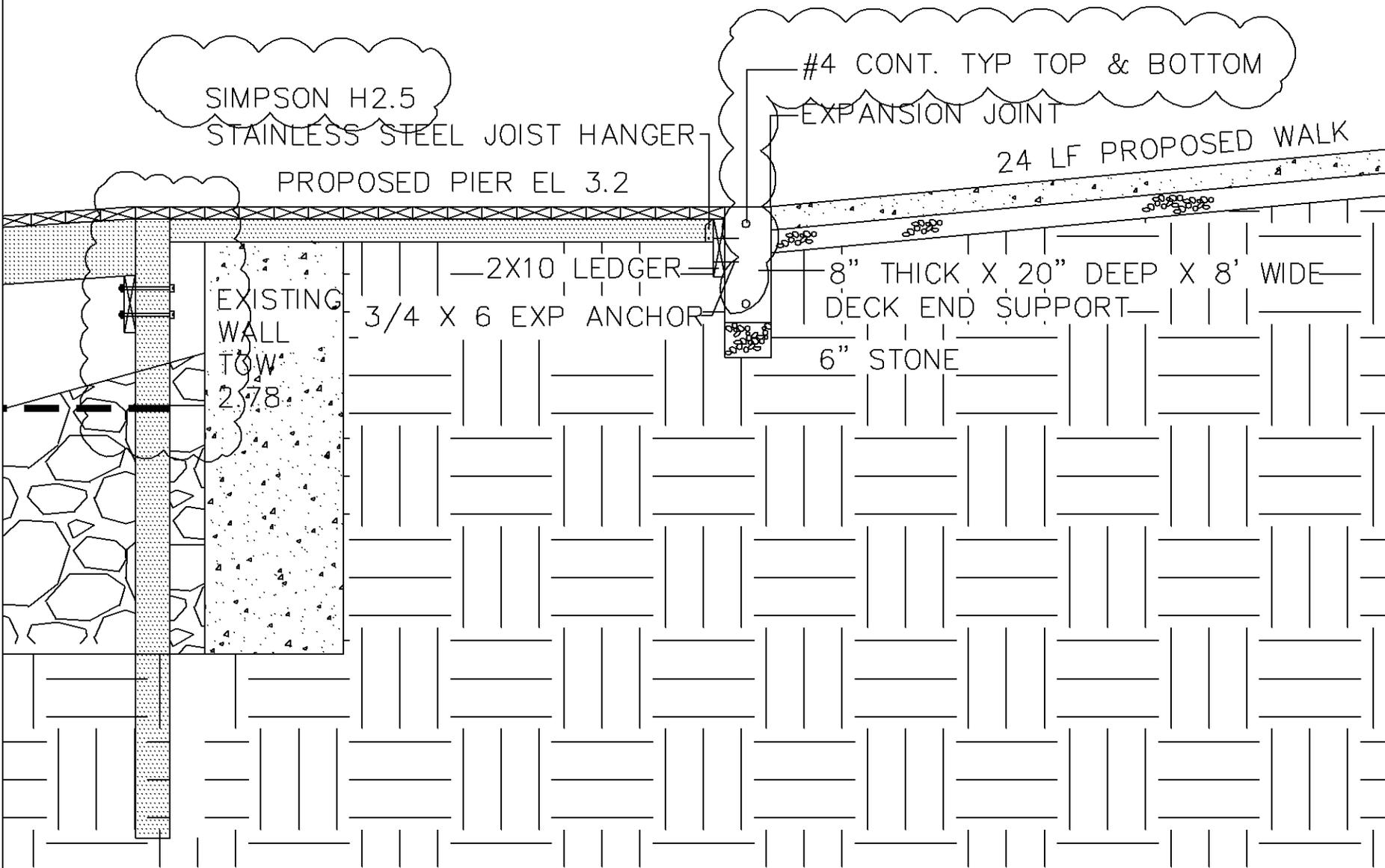
City of Milford  
Department of  
Parks & Recreation  
Mr. Gary Emory, Dr.



ADDENDUM #1  
SKETCH #10: Pier

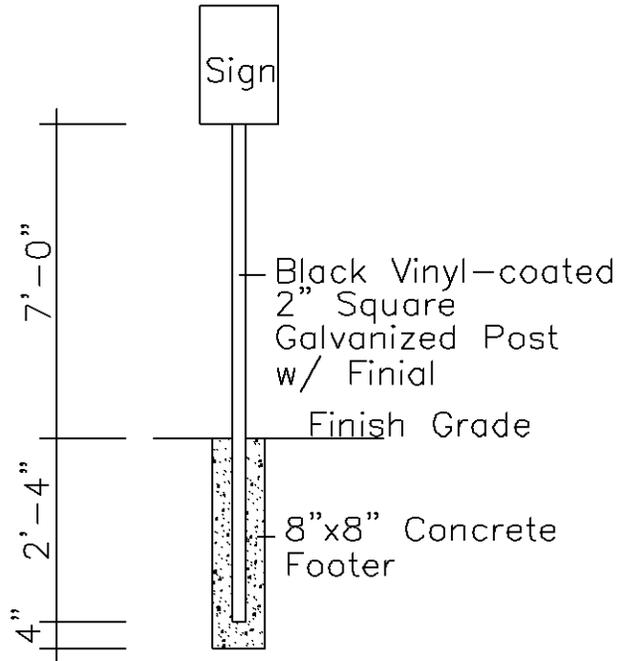
MISPILLION GREENWAY  
CHANEY WILMONT GREENWAY  
MARSHALL ST & COLUMBIA ST  
MILFORD, DELAWARE

PROJECT # 2010-03 COMM #1389  
DATE: 08-15-2011  
Page 22 of 29

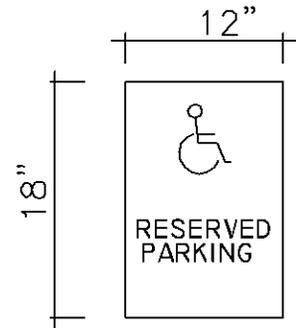


8  
G

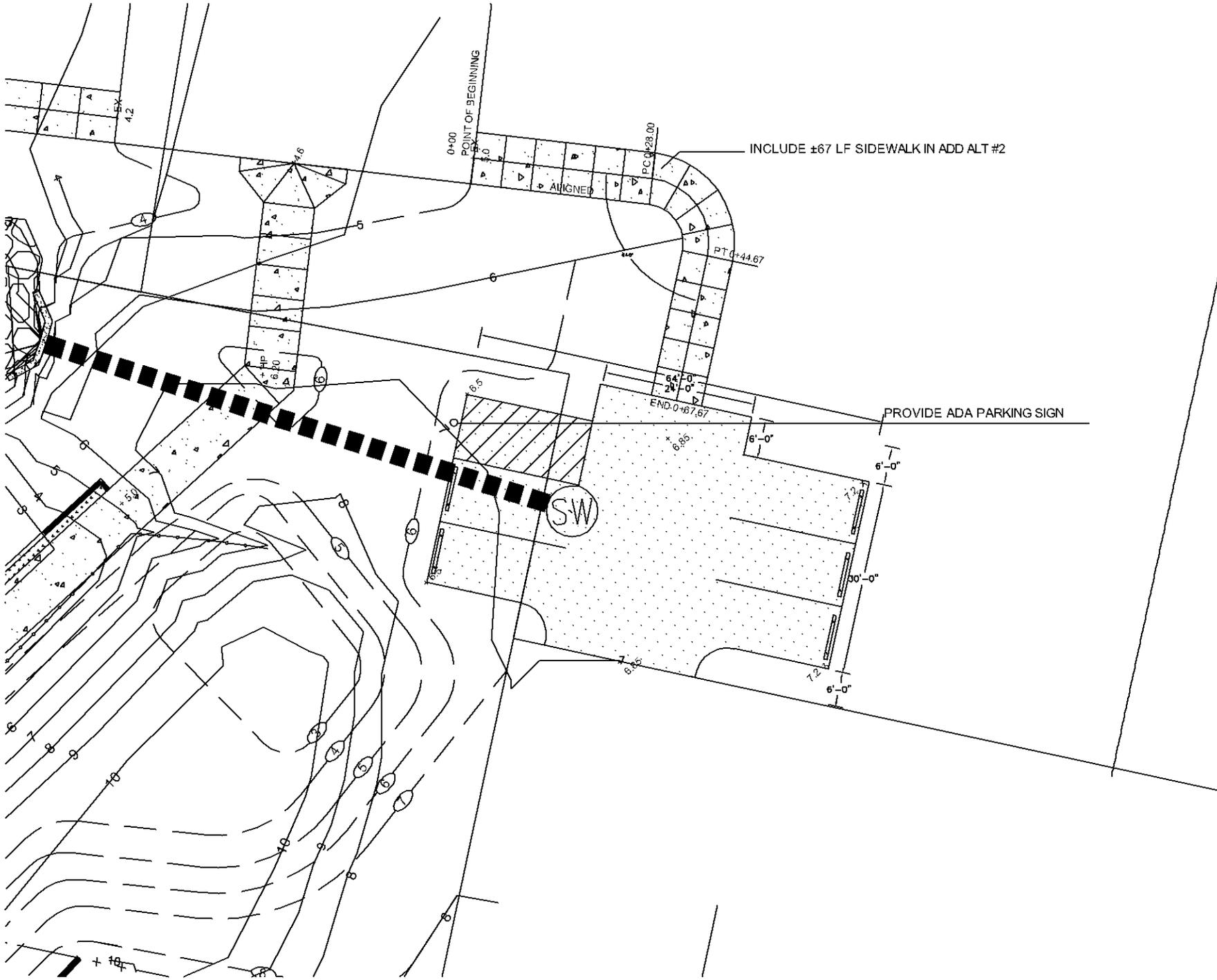
SECTION / ELEVATION  
WOOD PIER W POLYMER DECKING NTS



NOTE: ALL SIGNS SHALL BE ON POST NO LESS THAN 7' FROM GROUND TO BOTTOM OF SIGN. ALL SIGNS SHALL FOLLOW DELDOT STANDARDS.



NOTE: Sign shall use the International Symbol of Accessibility.

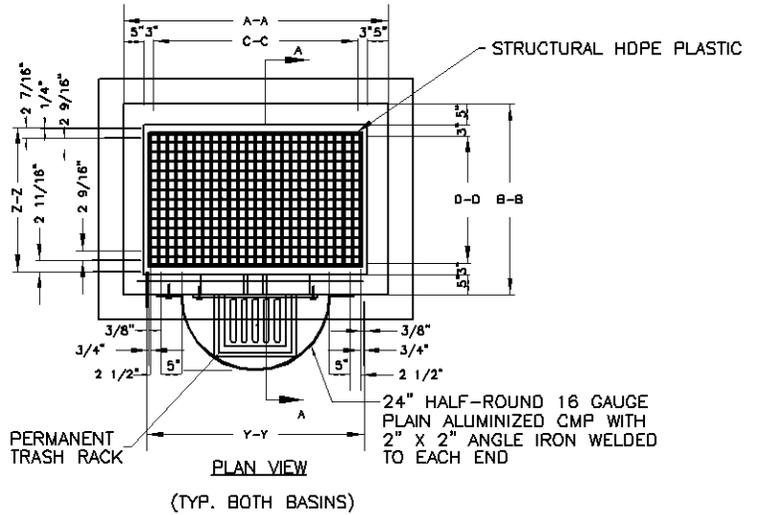


OUTLET STRUCTURE AND GRATE DATA

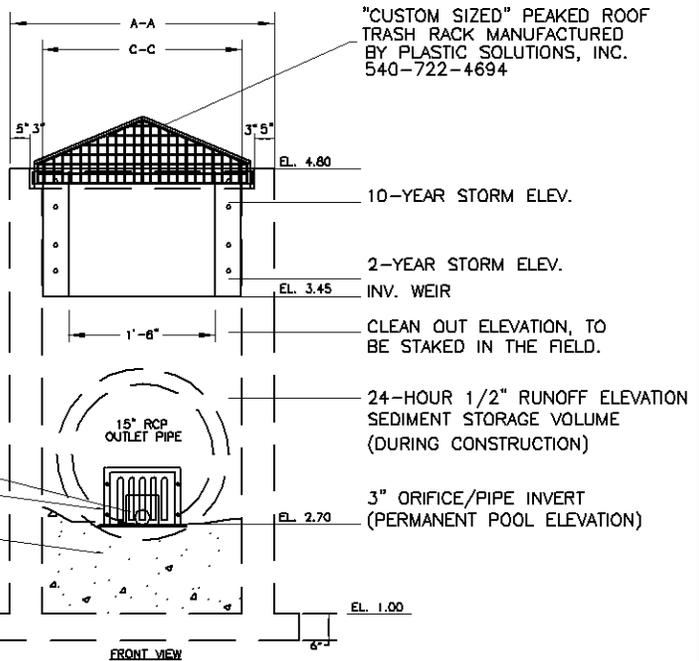
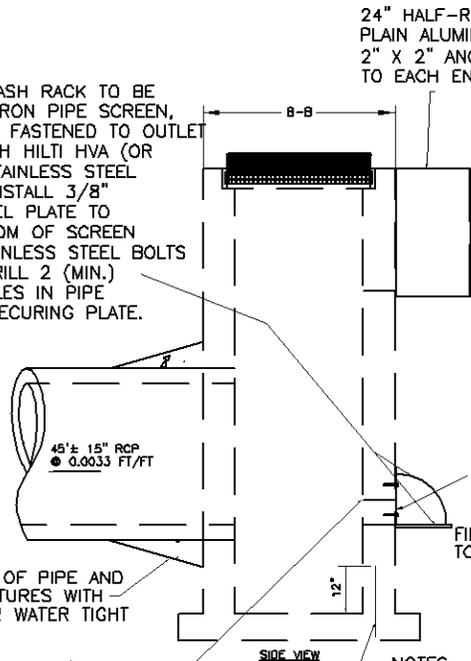
LARGEST PIPE SIZE		CATCH BASIN DATA				GRATING DATA				
A-A	B-B	WALL THICK	A-OUTSIDE	B-OUTSIDE	C-INSIDE	D-INSIDE	BEARING BAR SIZES	Y-Y	Z-Z	GRATING OVERLAP
36"	24"	8"	5'-1/4"	3'-1/2"	3'-1/4"	2'-1/2"	4 x 1/2"	4'-1/4"	3'-1/8"	

WALL REINFORCEMENT SCHEDULE

INTERIOR WALL DIMENSION	AREA OF HORIZONTAL REINFORCEMENT PER FOOT	AREA OF HORIZONTAL REINFORCEMENT PER FOOT
	IN <sup>2</sup> (mm <sup>2</sup> )	IN <sup>2</sup> (mm <sup>2</sup> )
LESS THAN 4'	0.132 (85)	0.132 (85)



PERMANENT TRASH RACK TO BE NEENAH CAST IRON PIPE SCREEN, NO. R-7512-A FASTENED TO OUTLET STRUCTURE WITH HILTI HVA (OR EQUIVALENT) STAINLESS STEEL FASTENERS. INSTALL 3/8" STAINLESS STEEL PLATE TO EXPOSED BOTTOM OF SCREEN WITH 5/8" STAINLESS STEEL BOLTS AND NUTS. DRILL 2 (MIN.) ADDITIONAL HOLES IN PIPE SCREEN FOR SECURING PLATE.

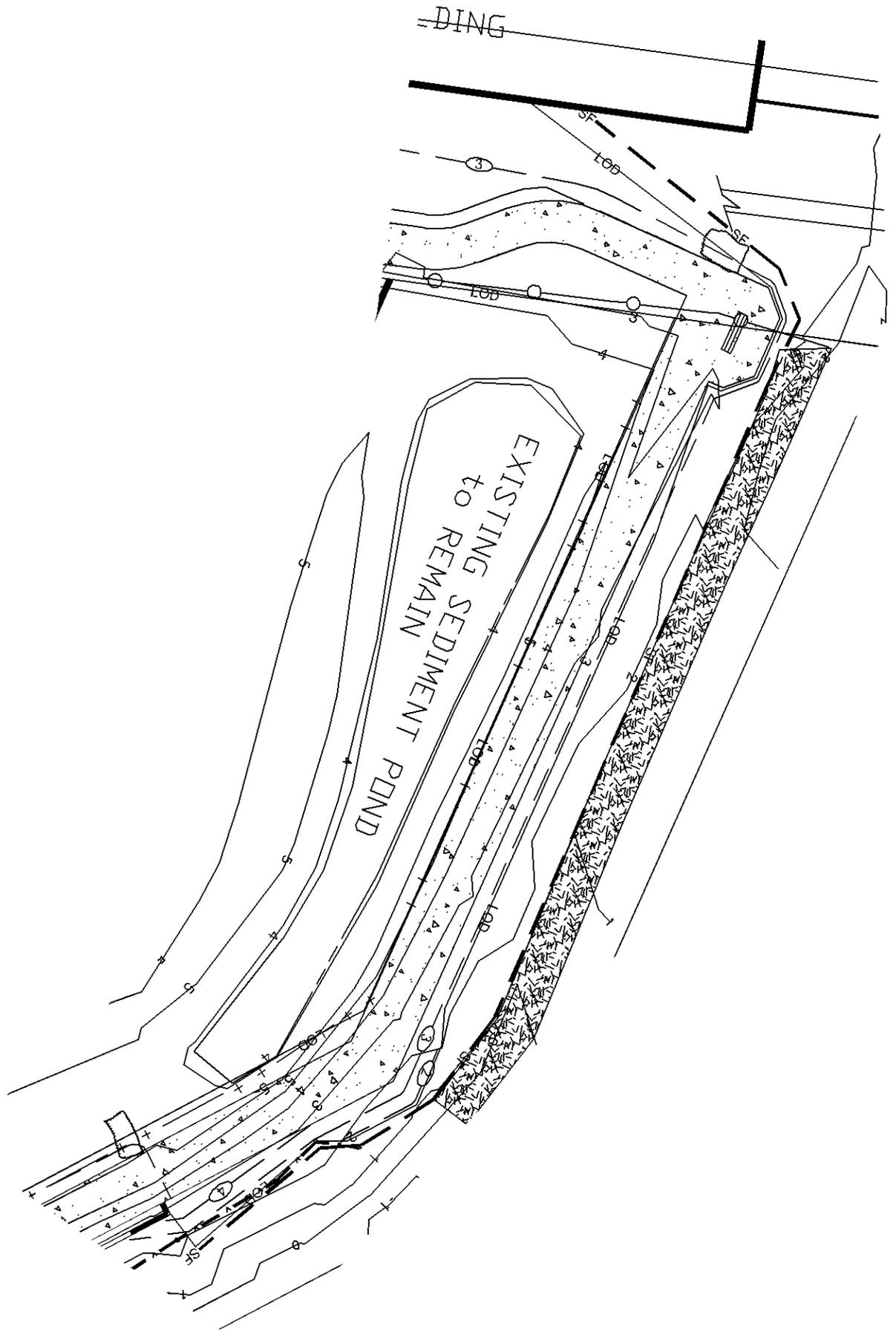


NOTES:

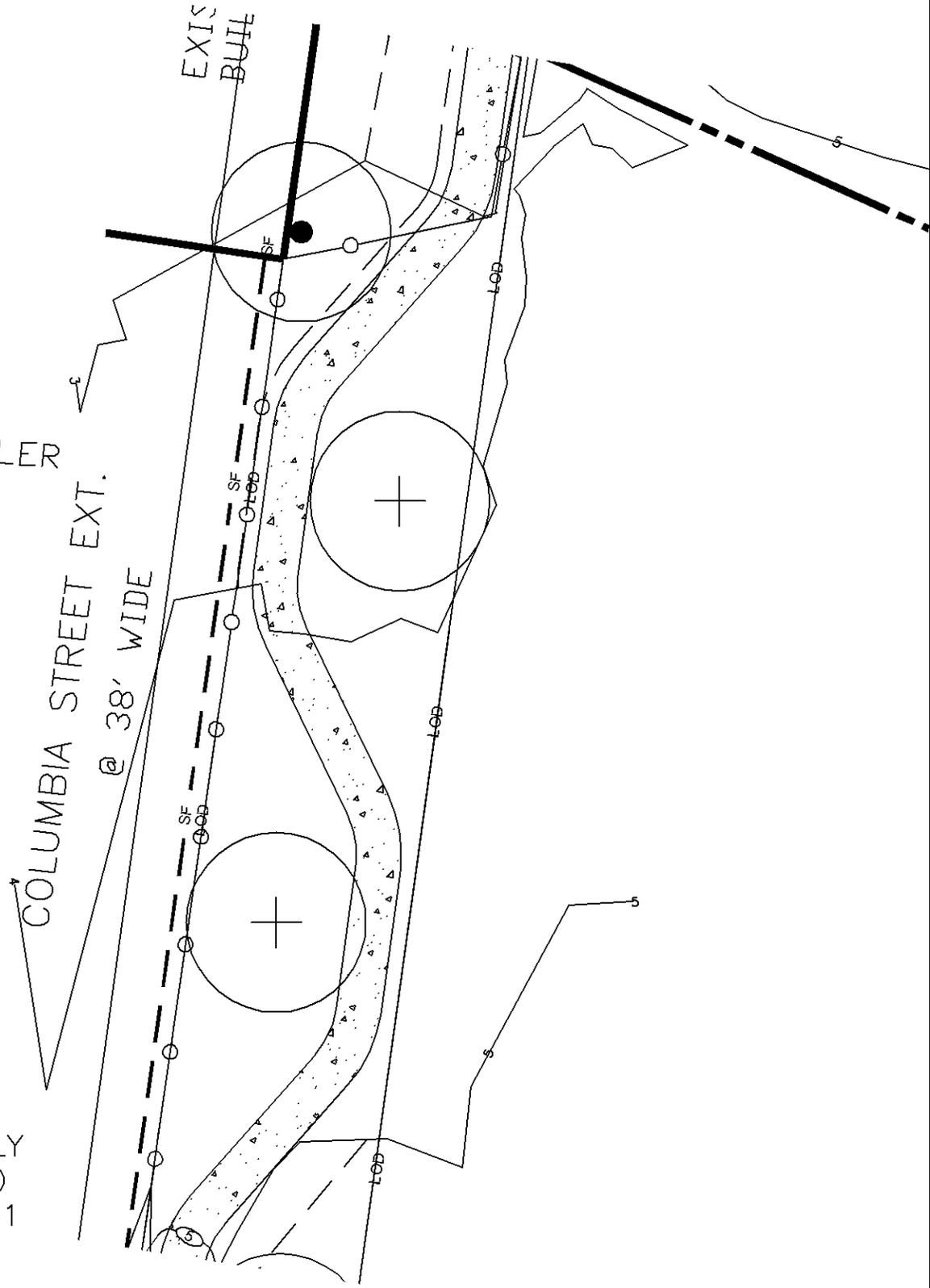
1. STRUCTURE TO BE PRECAST OR CAST IN PLACE CONCRETE.
2. GRATING TO BE STRUCTURAL HDPE PLASTIC.
3. CONCRETE IN OUTLET STRUCTURE, INCLUDING FOUNDATION, TO BE CLASS B, (3000 PSI @28 DAYS).

TIE RISER STRUCTURE TO FOUNDATION WITH #5 HOOKED REBAR @ 8" OR EQUIVALENT. CONTRACTOR TO SUBMIT METHOD OF RISER TIE TO CONSTRUCTION MANAGER FOR APPROVAL.

STORM WATER MANAGEMENT BASIN OUTLET STRUCTURE P.W.B.D.-2 (MODIFIED)  
W/ "CUSTOM SIZED" PEAKED ROOF TRASH RACK  
STORMWATER MANAGEMENT BASIN #2  
NOT TO SCALE



F. J. SUDLER  
ARCHITECT  
LUX



NOW OR FORMERLY  
CITY OF MILFORD  
17 11.01

MATCH LINE SHEET 29





**LANDSCAPE  
ARCHITECTURAL  
SERVICES, L.L.C.**

Matthew T. Spong, R.L.A., ASLA  
Trisha Sawicki, ASLA

NOTICE: attached this addendum to the project manual for this project. It modifies and becomes a part of the contract documents. Work or materials not specifically mentioned here are to be as described in the main body of the specifications and as shown on the drawings. Acknowledge receipt of this addendum in the space provided on the Bid Form.

This addendum consists of 9 pages including 4 sketches dated 8/17/11.

**GENERAL:**

(3) copies of the bid form with completed non-collusion statement, subcontractors list, unit price list and the 10% bid bond are to be addressed to the City of Milford, Parks & Recreation and delivered to the City Hall Council Room, 201, South Walnut Street, Milford, DE 19963, by 11:00 a.m. Monday August 22, 2011.

**Revisions to Addendum #1**

1. Revise item q. to read “the general contractor must perform at least 20% of the base bid contract amount”.

**Revisions/Clarifications to the project manual**

2. Replace the Unit Price List with the attached Unit Price List page 5 of 9 of this Addendum #2. The revised Unit Price List clarified that the Add/Deduct columns of the Unit Price List are for the Unit Price of the items listed, total quantities of each item listed under site construction/amenities and site landscaping will be multiplied by the quantity of the item and totaled to equal the base bid amount. The same is true with Add Alternates #1 & #2.

The Base Bid amount and Add Alternate totals from the Unit Price List should be entered in the appropriate blanks on the revised Bid Forms page 1. see page 3 of 9 of this addendum #2 (attached).

3. Replace Bid Forms pages #1 & #2 from the project manual with the Bid Forms pages 3 & 4 of 9 of this addendum #2 (attached).

4. The vinyl sheet retaining wall does NOT have tie backs to piles. Page 4 of Geotechnical report, paragraph “C” states that “cantilevered walls are designed to resist equivalent flood weight of 40 pcf provided that the bank fills meet the requirements specified in this report.”

5. Driven piles for the proposed pier and dock shown on page 7 of the geotechnical report by John D. Hynes and Associates Inc. is revised by the drawings sheet #10,

and page 22 of 29, Sketch #10, of Addendum #1, noting that piles are 12" diameter class "B", treated timber piles 20'-0" embedment, 7-ton bearing capacity.

6. Bulkhead sheet piles vertical capacity chart for boring B-3 and B-4 on pages #7 & #8 of the geotechnical engineering report by John D. Hynes and Associates Inc. are deleted and not applicable to this project.

7. Clarifications & Revision to Section 02495 Site Accessories and Addendum #1 part 2.01 item 4 **Aluminum Dock & Decking Full Float.**

a. Aluminum Deck / full float dock mfg by Gator Dock, 2880 Mellonville Ave. Sanford FL and supplied by Crane Materials International, Attn: Mr. Mike Napior , 1-800-256-8857 ext. 1121 Fax 770-933-8363 (or approved equal). See sketch 1 & 2 of pages 6 & 7 of 9 this Addendum #2.

b. Approved Equal: DH&MF Hock Hardware & Metal Fabrication  
10607 Highway 707, Murrells Inlet SC 29576  
P 860-283-2268 or 1-800-735-0960, F 843-650-4434  
Attn: Matthew Stevens

Per drawing by Mfg for Chaney Wilmont Greenway dated 8/15/11 and named 8'X20' aluminum courtesy dock with aluminum decking full float. See sketches 3 & 4 of pages 8 & 9 of 9 for DH&MF full float dock.

8. Clarifications & Revision to Section 02495 Site Accessories 2.01 Materials  
Change to read

#1 6' Bench with back: Model #PP411D **Diamond Pattern**

9. Revise grading clarification page 14 of 29 of Addendum #1, to read "sketch #2 as described in the revisions to the drawings item #3, page 7 of 29 of Addendum #1.

### **Revisions/Clarifications to the Drawings**

1. Sheet 11 Floating Dock & Gangway Details

Detail H: Elevation DR2 Tpdecked Poly Aluminum Gangway  
Revise length dimension to read "**288**" (24') "

2. Vinyl Sheet Pile Wall, does NOT have tie back or piles. Per the standard section driven vinyl sheet pile sheet #9 of the Construction Documents dated "revised 7/26/11 for bids". This detail has been approved by our structural and geotech engineering consultants. It has also been approved by both vinyl sheet pile mfgs. Specified in the project manuals and the addendums.

**Letterhead of Bidder**

**BID FORM**

City of Milford  
Department of Parks & Recreation  
207 Franklin St.  
Milford, DE 19963  
Attn: Mr. Gary Emory, Director

\*\*\* BIDS DUE 8/22/11\*\*\*\*

**RE: MISPILLION GREENWAY – PHASE 15 & 16 – Wilmont / Chaney**  
Milford DE DLWTF Project #DTF 11-2176W LAS-LLC Project 2010-03-1389

We, \_\_\_\_\_ (name of bidder) have received the Bidding Documents on the subject project, including the Landscape Plans, dated “revised 7-25-11 For Bid”.

The undersigned, representing that he has read and understands the Bidding Documents and that this bid is made in accordance therewith, that he has visited the site and has familiarized himself with the local conditions under which the Work is to be performed, and that his bid is based upon the materials, systems and equipment described in the Bidding Documents without exception, hereby proposes and agrees to provide all labor, materials, plant, equipment, supplies, transport and other facilities required to execute the work described by the aforesaid documents for the lump sum itemized below:

We have also received addendums(s) \_\_\_\_\_ and have included for their provisions in our bid.

Base Bid Lump Sum: site work, floating dock, pier, vinyl sheeting retaining wall and landscaping:

\_\_\_\_\_ \$ \_\_\_\_\_

**Add Alternate #1: 84” vinyl privacy fence.**

Add to base bid: \_\_\_\_\_ \$ \_\_\_\_\_

**Add Alternate #2: Asphalt parking lot & curved connector.**

Add to base bid: \_\_\_\_\_ \$ \_\_\_\_\_

Attachments: subcontractors list  
Non-collusion statement  
Bid-security

**MISPILLION GREENWAY – PHASE 15 & 16 – Wilmont / Chaney**

In submitting this bid we agree:

1. To hold our bid open for 60 days after bid opening.
2. To enter into and execute a contract, if awarded on the basis of this bid.
3. To accomplish the work in accordance with the Contract Documents.
4. To complete the work in accordance with schedule stipulated by the Owner.

a. Signature when Bidder is an individual:

Date: \_\_\_\_\_ Firm Name: \_\_\_\_\_

Owner: \_\_\_\_\_

b. Signature when Bidder is an individual:

Date: \_\_\_\_\_ Firm Name: \_\_\_\_\_

Owner: \_\_\_\_\_

c. Signature when Bidder is a Partnership:

Date: \_\_\_\_\_ Firm Name: \_\_\_\_\_

Signature of Partner: \_\_\_\_\_

Signature of Partner: \_\_\_\_\_

d. Signature when Bidder is a Corporation:

Date: \_\_\_\_\_ Firm Name: \_\_\_\_\_

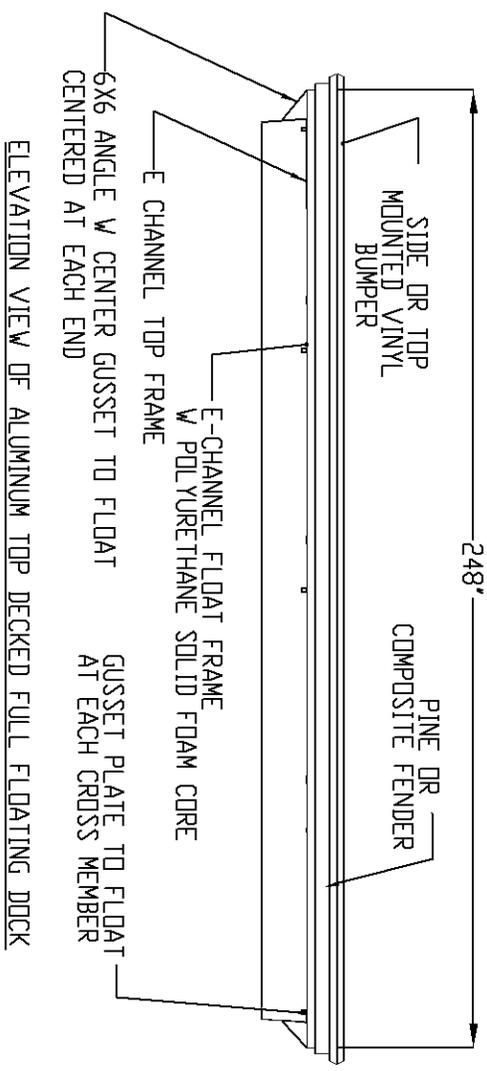
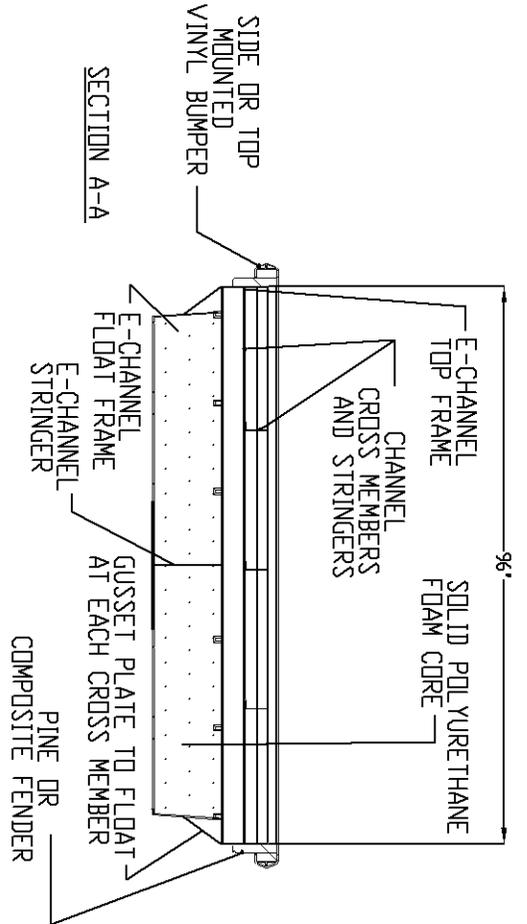
By: \_\_\_\_\_

By: \_\_\_\_\_

Corporate Seal:

**Unit Price List**

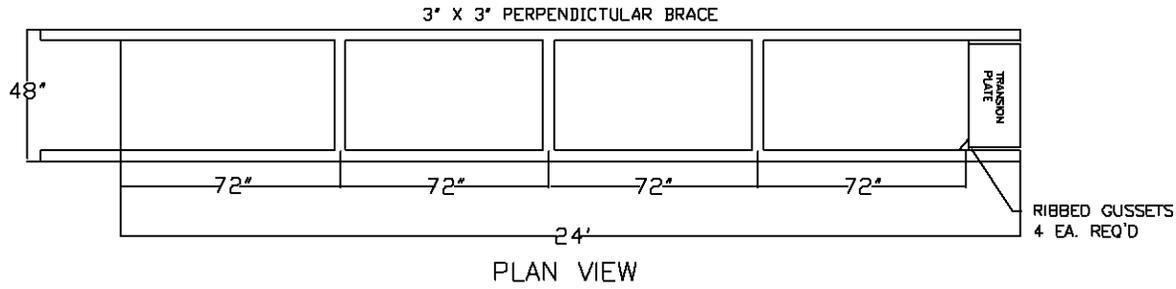
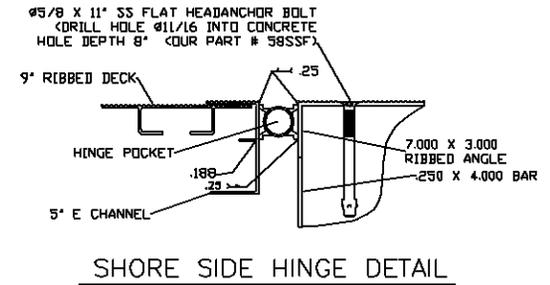
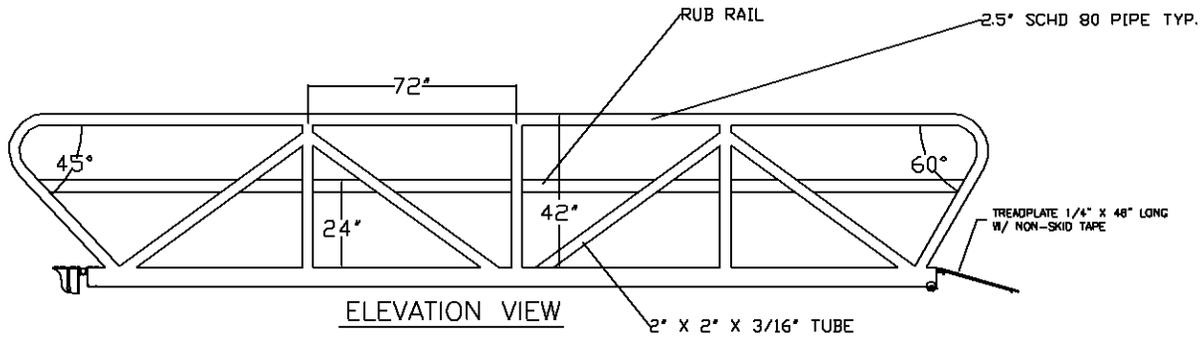
Unit	Qty	Description	Unit Price	
			Add	Deduct
<b>Site Construction / Amenities</b>				
		General Conditions		
		Silt Fence		
		Stabilized Construction Entrance		
		Inlet Protection		
		Demolition		
		Grading		
		Fill (balance)		
		Outfall Structure		
		15" Drain Pipe		
		Exposed Aggregate Concrete Walk		
		Exposed Aggregate Concrete Walk Columbia St to Mispillion St		
		River Pier		
		Floating Dock & Gangway		
		Vinyl Sheetpile Seawall		
		Wood Cap		
		6' Bench		
		Trash Receptacle		
<b>Site Landscaping</b>				
		Carolina Beauty Crepe Myrtle		
		Shanendoah Switchgrass		
		Sweetbay Magnolia		
		Willow Oak		
		Blue Flag		
		Lizard Tail		
		Seeding Wetland Mix		
		Seeding Lawn Mix		
<b>Total Lump Sum Base Bid</b>				
<b>Add Alternate 1 - Vinyl Privacy Fence</b>				
Unit	Qty	Description	Add	Deduct
		84" Concave Lakeland Vinyl Fence		
<b>Add Alternate 2 - Asphalt Parking Lot</b>				
Unit	Qty	Description	Add	Deduct
		Exposed Aggregate Concrete Walk		
		Asphalt Paving		
		ADA Parking Signs		
		Bumper Blocks		



H  
7,8

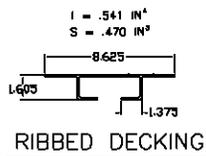
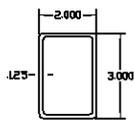
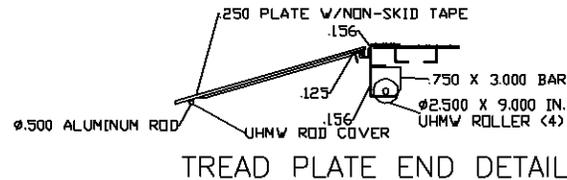
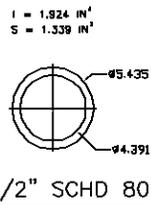
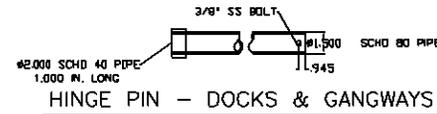
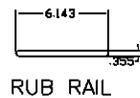
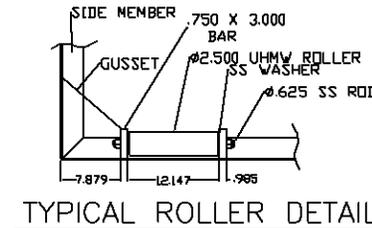
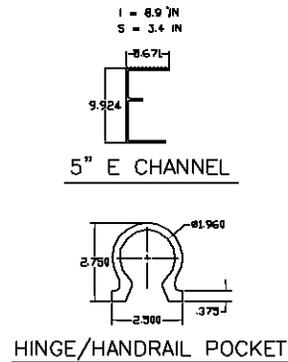
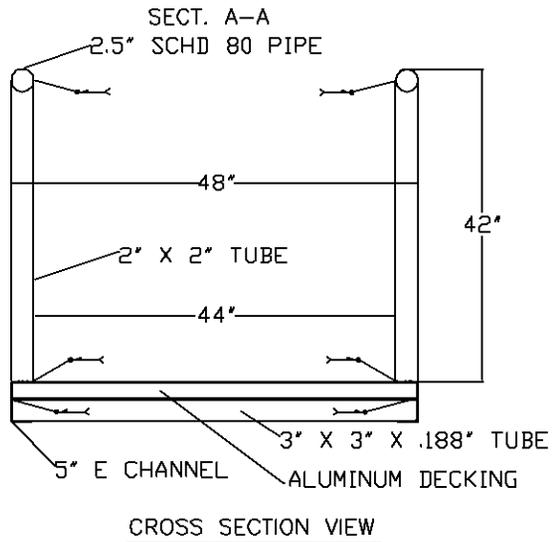
STANDARD DETAILS  
FLOATING DOCK AND GANGWAY



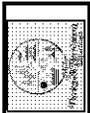


**NOTES:**

- 1: ALL ALUMINUM TO BE ALLOY 6061-T6
- 2: ALL WELDED CONSTRUCTION U.O.S. IE. 1.25" DECKING WELDED TO A .188 TOP FLANGE WILL HAVE A WELD THICKNESS OF .100" OF THE CORRECT TYPE OF WELD-ALL ALUMINUM IN CONTACT WITH ALUMINUM STRUCTURAL SHAPES WILL BE TOTALLY WELDED.
- 3: ALL HARDWARE TO BE STAINLESS STEEL, TYPE 18/8, SERIES 304.
- 4: GANGWAY DESIGNED FOR 60 PSF LIVE LOAD & DEFLECTION+ L/180
- 5: HANDRAILS DESIGNED FOR 200 POUNDS HORIZONTAL LOAD AND / OR A 50 PLF LOAD VERTICALLY ON THE TOP RAIL.



DOCK HARDWARE & MARINE FAB. 4701 ADRIAN HWY CONWAY, SC 29528 PHONE (843)-365-5567 FAX (843)-365-4434	REVISION 08/15/2011 DRAWN BY: MS APPROVED BY:	PROJECT NAME: 4' X 24' ALUMI RAMP 1 GANGWAY
FOR: CHANEY WILMONT GREENWAY	FILE: CHANEY WILMONT GREENWAY	SHEET 1 OF 1
DATE DRAWN: 8-15-2011	SCALE: AS SHOWN	



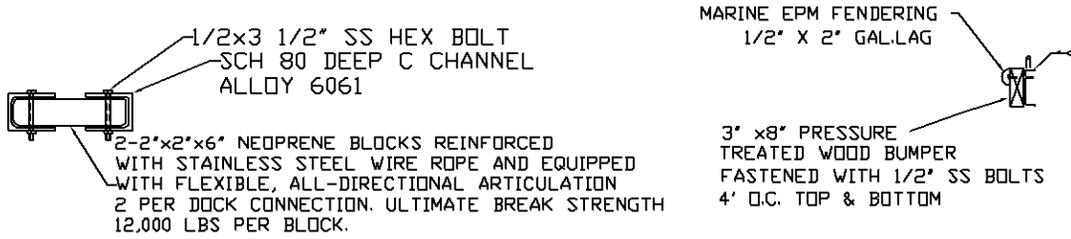
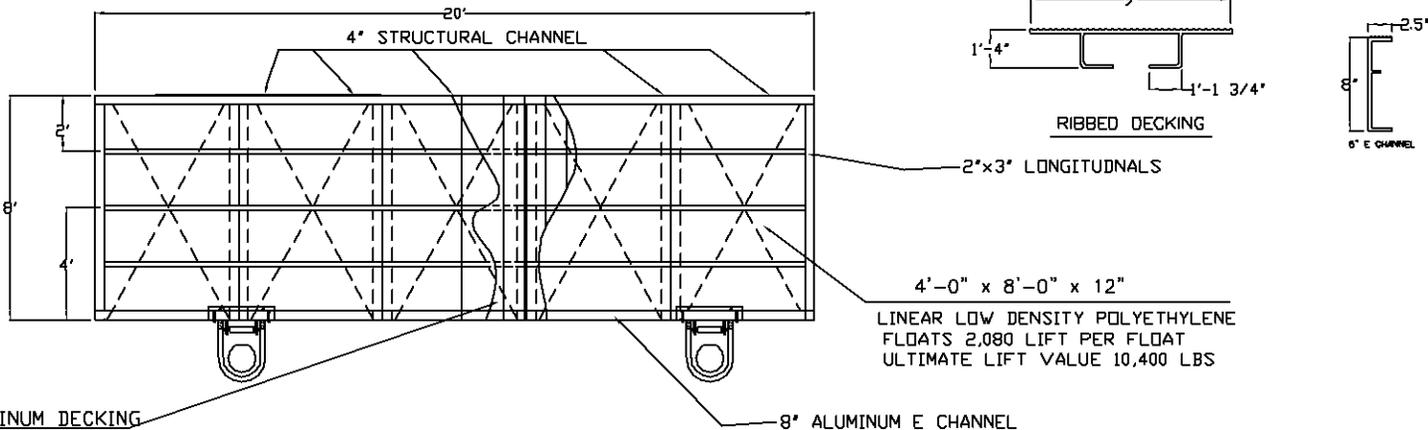
City of Milford  
Department of  
Parks & Recreation  
Mr. Gary Emory, Dr.



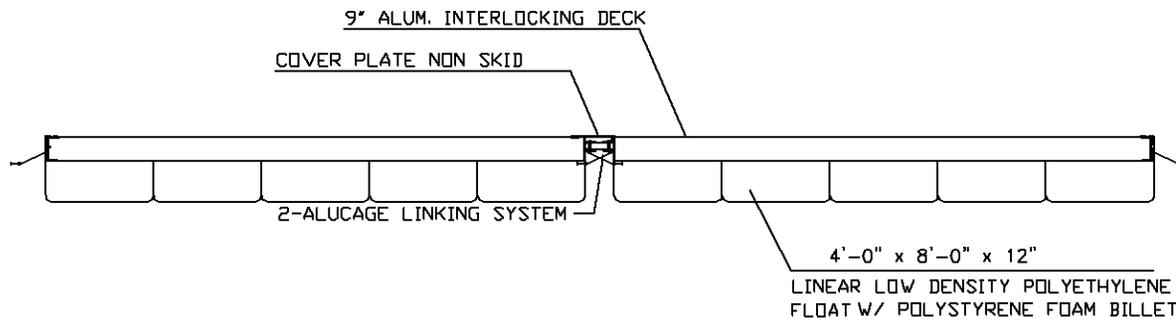
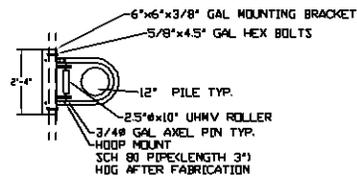
ADDENDUM #2  
SKETCH #3: Approved Equal  
Aluminum Decked Gangway

MILLINGTON GREENWAY  
CHANEY WILMONT GREENWAY  
MARSHALL ST & COLUMBIA ST  
MILFORD, DELAWARE

PROJECT # 2010-03 COMM #1389  
DATE: 08-17-2011  
Page 8 of 9



ALUCAGE LINKING SYSTEM



ELEVATION VIEW  
ALUMINUM DOCK TO DOCK CONNECTION

NOTES:

1. ALL STRUCTURAL ALUMINUM SHAPES TO BE ALLOY 6061-T6
2. ALL WELDED CONSTRUCTION UNLESS NOTED OTHERWISE. IE .100" DECKING WELDED TO A .188 TOP FLANGE WILL HAVE A WELD THICKNESS OF .100" OF THE CORRECT TYPE OF WELD-ALL ALUMINUM IN CONTACT WITH ALUMINUM STRUCTURAL SHAPES WILL BE TOTALLY WELDED
3. ALL HARDWARE TO BE STAINLESS STEEL / TYPE 18/8, SERIES 304
4. FLOATING DOCK DESIGNED FOR 45 PSF LIVE LOAD.
5. DEAD LOAD FREEBOARD : 15- 1/2"
6. A UNIFORM LIVE LOAD OF 20PSF SHALL NOT REDUCE THE FREEBOARD OF THE FLOAT TO LESS THAN 9"

	<b>DOCK HARDWARE &amp; MARINE FABRICATION</b>		REVISION
	10807 HIGHWAY 707 MURRELLS INLET SC 29576	LOCAL 843-650-4400 FAX 843-650-4434 RATTS 1-800-735-0960	DRAWN BY: AL
PROJECT NAME: <b>8'X20'_ALUMINUM_COURTESY_DOCK W/_ALUMINUM_DECKING/_/_FULL_FLOAT</b>			
FOR: CHANEY_WILMONT_GREENWAY	FILE:		
DATE DRAWN 08/18/2011	SCALE NTS	SHEET	

City of Milford Department of Parks & Recreation Mr. Gary Emory, Dir.
ADDENDUM #2 SKETCH #4: Approved Equal Aluminum Decked Full Float Dock <b>END OF ADDENDUM #2</b>
MISPELLION GREENWAY CHANEY WILMONT GREENWAY MARSHALL ST & COLUMBIA ST MILFORD, DELAWARE
PROJECT # 2010-03 COMM #1389 DATE: 08-17-2011 Page 9 of 9



**LANDSCAPE  
ARCHITECTURAL  
SERVICES, L.L.C.**

Matthew T. Spong, R.L.A., ASLA  
Trisha Sawicki, ASLA

NOTICE: attached this addendum to the project manual for this project. It modifies and becomes a part of the contract documents. Work or materials not specifically mentioned here are to be as described in the main body of the specifications and as shown on the drawings. Acknowledge receipt of this addendum in the space provided on the Bid Form.

This addendum consists of 1 page dated 8/19/11.

**GENERAL:**

(3) copies of the bid form with completed non-collusion statement, subcontractors list, unit price list and the 10% bid bond are to be addressed to the City of Milford, Parks & Recreation and delivered to the City Hall Council Room, 201, South Walnut Street, Milford, DE 19963, by 11:00 a.m. Monday August 22, 2011.

**Revisions to Answers to Bidders Questions.**

1. Revise addendum #1, answer #7 to read "Vibratory hammers and jetting of piles is not permitted. **Vibratory hammers are to be used to install vinyl sheeting.**"
2. Revise addendum #1, answer #8 to read "Pile driving monitoring and testing shall be by a registered geotechnical engineer experienced pile driving inspector...."
3. Clarification to question on bid form unit price list concerning fill. In the event that excess fill remains after grading this project according to the grading plans, excess fill material can be disposed of on a City of Milford site within 5 miles of project site.

**End of Addendum #3**

**NO ADDITIONAL ADDENDUMS WILL BE ISSUED FOR THIS BID**

City of Milford  
Dept. of Parks & Recreation  
207 Franklin St.  
Milford, DE 19963  
Attn: Mr. Gary Emory, Director

September 7, 2011

**Re: Mispillion Greenway Phase 15 and 16  
Chaney Wilmont Greenway  
Bid Results**

Dear Gary,

On 8-22-2011 bids for this project were received at City Hall from the following bidders:

1. Clean Cut Interlocking Pavers  
Lewes Delaware
 

Base Bid .....	\$258,380.35
Add Alternate #1: Fence .....	\$14,732.00
Add Alternate #2: Parking Lot .....	\$16,565.44
<b>Total Bid per bid form page #1.....</b>	<b>\$289,677.79</b>
  
2. A. P. Croll & Sons  
Georgetown, DE
 

Base Bid .....	\$271,053.00
Add Alternate #1: Fence .....	\$15,400.00
Add Alternate #2: Parking Lot .....	\$15,448.00
<b>Total Bid per bid form page #1.....</b>	<b>\$301,901.00</b>
  
3. George & Lynch  
Dover, DE
 

Base Bid .....	\$288,732.82
Add Alternate #1: Fence .....	\$17,100.00
Add Alternate #2: Parking Lot .....	\$21,886.00
<b>Total Bid per bid form page #1.....</b>	<b>\$327,718.82</b>
  
4. Conventional Builders, Inc.  
Houston, DE
 

Base Bid .....	\$295,281.00
Add Alternate #1: Fence .....	\$18,649.00
Add Alternate #2: Parking Lot .....	\$24,760.00
<b>Total Bid per bid form page #1.....</b>	<b>\$338,690.00</b>

**Re: Mispillion Greenway Phase 15 and 16  
 Chaney Wilmont Greenway  
 Bid Results  
 Page 2 of 2**

September 7, 2011

5. First State Crane Service	
Felton, DE	
Base Bid .....	\$342,541.59
Add Alternate #1: Fence .....	\$16,200.00
Add Alternate #2: Parking Lot .....	\$21,500.00
<b>Total Bid per bid form page #1.....</b>	<b>\$380,241.59</b>

All of the bids received were complete.

We received a list of references from the low bidder, Clean Cut Interlocking Pavers, and we contacted four of these that were for similar projects. All the references contacted were satisfied with the quality of the work performed and would work with Clean Cut Interlocking Pavers again.

Landscape Architectural Services, LLC estimates for this project were

Base Bid .....	\$320,250.00
Add Alternate #1: Fence .....	\$12,015.00
Add Alternate #2: Parking Lot .....	\$14,480.00
<b>Total Estimated Bid .....</b>	<b>\$347,745.00</b>

Therefore, I recommend award of the contract for the Mispillion Greenway Phase 15 and 16: Chaney Wilmont Greenway to the low bidder, Clean Cut Interlocking Pavers.

Please contact me if you need additional information and when you have made a decision so that we can proceed in assisting the City of Milford with the bid award and contract administration

With Best Regards,



Matthew T. Spong, R.L.A., A.S.L.A., Principal  
 X.C. Mr. David Baird, City Manager, Milford, DE



Matthew T. Spong  
R.L.A., A.S.L.A.  
Patricia Sawicki  
A.S.L.A.

# City of Milford



## RESOLUTION

*2011-14*

WHEREAS, it has been a custom for many years for children and adults to celebrate the Eve of All Saints Day by costuming, masquerading and fun-making; and

WHEREAS, we would like to continue the celebration in an orderly manner.

NOW, THEREFORE, BE IT RESOLVED, I, Joseph R. Rogers, Mayor of the City of Milford, do hereby request and urge the observance of this annual period as follows:

WEDNESDAY, October 19, 2011 starting at 6:30 p.m. and ending at 9:00 p.m. shall be the time for the Annual Community Parade.

SATURDAY, October 22, 2011 shall be the official date for youngsters to make their annual UNICEF collections to be completed by dark.

MONDAY, October 31, 2011 shall be the official date for youngsters to observe Halloween Trick or Treat Night.

AND, BE IT FURTHER RESOLVED THAT:

\*Only celebrants of 12 years and under will be permitted to engage in Trick or Treat between the hours of 6:00 p.m. and 8:00 p.m.

\*All celebrants are requested to refrain from committing acts of vandalism or destruction.

\*Residents are requested to indicate their willingness to welcome children by keeping their porch or exterior lights on and that youngsters call only on homes so lighted.

---

Mayor Joseph Ronnie Rogers

---

City Clerk Teresa K. Hudson

Adopted: September 12, 2011

## Ordinance 2011-22

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 88, thereof, Building Construction, for the purpose of amending the Board of Appeals.

**The City of Milford hereby ordains:**

**Chapter 88, Article I-International Residential Code, Section 2-Additions, insertions and changes.**

Section 1. Amend §88-2 A (4) by inserting the following:

*§88-2 A (4) Section R112, Board of Appeals.*

*Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, shall proceed as described in Article III of this Chapter.*

Section 2. Amend §88-2 A (4) by repealing Sections R112.1, R112.2, R112.2.1, R112.2.2, R112.3, R112.4, R112.5, R112.6, R112.7, R112.8, R112.9, R112.10, R112.11, R112.12, R112.13, R112.14, R112.15, R112.16, R112.17.

~~(DELETE) R112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The building official shall be an ex officio member of said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.~~

~~(DELETE) R112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provision of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.~~

~~(DELETE) R112.2.1 Determination of substantial improvement in areas prone to flooding. When the building official provides a finding required in Section R105.3.1.1, the board of appeals shall determine whether the value of the proposed work constitutes a substantial improvement. A substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the building or structure has sustained substantial damage, all repairs are considered substantial improvement regardless of the actual repair work performed. The term does not include:~~

- ~~1. Improvements of a building or structure required to correct existing health, sanitary or safety code violations identified by the building official and which are the minimum necessary to assure safe living conditions; or~~

2. ~~Any alteration of an historic building or structure, provided that the alteration will not preclude the continued designation as an historic building or structure. For the purpose of this exclusion, an historic building is:
  - a. ~~Listed or preliminarily determined to be eligible for listing in the National Register of Historic Places; or~~
  - b. ~~Determined by the Secretary of the U.S. Department of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined to qualify as an historic district; or~~
  - c. ~~Designated as historic under a state or local historic preservation program that is approved by the Department of Interior.~~~~

~~(DELETE) R112.2.2 Criteria for issuance of a variance for areas prone to flooding. A variance shall only be issued upon:~~

1. ~~A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards in Section R324 inappropriate.~~
2. ~~A determination that failure to grant the variance would result in exceptional hardship by rendering the lot undevelopable.~~
3. ~~A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.~~
4. ~~A determination that the variance is the minimum necessary to afford relief, considering the flood hazard.~~
5. ~~Submission to the applicant of written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.~~

~~(DELETE) R112.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.~~

~~(DELETE) R112.4 Administration. The building official shall take immediate action in accordance with the decision of the board.~~

~~(DELETE) R112.5 Application for appeal. Any person shall have the right to appeal a decision of the Code Enforcement Official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not apply or that an equivalent form of construction is to be used. The hearing fee shall be \$300.~~

~~(DELETE) R112.6 Membership of Board. The Board of Appeals shall consist of three members: the City Manager or his designate, a design professional (architect or engineer), and a representative of the contracting industry. The City Manager or his designate will be a standing~~

member of the Board of Appeals. The initial term of the design professional shall be two years and the initial term of the representative of the contracting industry shall be for one year. The term of all subsequent appointments shall be two years.

~~(DELETE) R112.7 Alternate members. The chief appointing authority shall appoint an individual of his choice to be an alternate during those times where one of the permanent members is unable to attend an appeals hearing or in cases where a conflict of interest may exist. Said appointment shall be made for a two-year term and shall not extend beyond the political term limit of the appointing authority.~~

~~(DELETE) R112.8 Compensation of members. Compensation of members shall be determined by law.~~

~~(DELETE) R112.9. Secretary. The chief administrative officer shall designate a qualified clerk or staff as Secretary to the Board. The Secretary shall file a detailed record of all proceedings with the office of the City Manager.~~

~~(DELETE) R112.10. Notice of meeting. The Board shall meet upon notice from the Chairman. The meeting date and time shall be scheduled in accordance with the state guidelines for public hearings. Surrounding property owners within 200 feet of the property or building in question shall be notified by mail.~~

~~(DELETE) R112.11. Open hearing. All hearings before the Board shall be open to the public. The appellant's representative, the Code Official and any other person or persons that may be deemed necessary as witnesses and all other persons whose interests are affected shall be given an opportunity to be heard.~~

~~(DELETE) R112.12 Postponed hearing. When there are fewer than two members of the Board available and the authorized or appointed alternate is unavailable, notification shall be given to the interested parties.~~

~~(DELETE) R112.13 Procedure. The hearing shall address only those issues or items that may be deemed relevant to the case being heard. The Board shall adopt and publish, for public information, the procedures under which the hearing will be conducted.~~

~~(DELETE) R112.14 Board decision. The Board shall modify or reverse the decision of the Code Official by means of a simple majority.~~

~~(DELETE) R112.15 Resolution. The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and the Code Official.~~

~~(DELETE) R112.16 Administration. The Code Official shall take immediate action in accordance with the decision of the Board.~~

~~(DELETE) R112.17. Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of~~

law. Application for review shall be made in the manner and time required by law, following the filing of the Board's decision in the office of the City Manager.

Section 3. Amend §88-4 A (5) by inserting the following:

**§88-4 A (5) Section 112, Board of Appeals.**

*Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, shall proceed as described in Article III of this Chapter.*

Section 4. Amend §88-4 A (5) by repealing Sections R112.1, R112.2, R112.3, R112.4, R112.5, R112.6, R112.7, R112.8, R112.9, R112.10, R112.11, R112.12, R112.13, R112.14, R112.15, R112.16.

~~(DELETE) 112.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.~~

~~(DELETE) 112.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.~~

~~(DELETE) 112.3 Qualifications. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.~~

~~(DELETE) 112.4 Application for appeal. Any person shall have the right to appeal a decision of the Code Enforcement Official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not apply or that an equivalent form of construction is to be used. The hearing fee shall be \$1,000.~~

~~(DELETE) 112.5 Membership of Board. The Board of Appeals shall consist of three members: The City Manager or his designate, a design professional (architect or engineer), and a representative of the contracting industry. The City Manager or his designate will be a standing member of the Board of Appeals. The initial term of the design professional shall be two years and the initial term of the representative of the contracting industry shall be for one year. The term of all subsequent appointments shall be two years.~~

~~(DELETE) 112.6 Alternate members. The chief appointing authority shall appoint an individual of his choice to be an alternate during those times where one of the permanent members is unable to attend an appeals hearing or in cases where a conflict of interest may exist. Said~~

~~appointment shall be made for a two-year term and shall not extend beyond the political term limit of the appointing authority.~~

~~(DELETE) 112.7 Compensation of members. Compensation of members shall be determined by law.~~

~~(DELETE) 112.8 Secretary. The chief administrative officer shall designate a qualified clerk or staff as Secretary to the Board. The Secretary shall file a detailed record of all proceedings with the office of the City Manager.~~

~~(DELETE) 112.9 Notice of meeting. The Board shall meet upon notice from the Chairman. Meeting date and time shall be scheduled in accordance with the state guidelines for public hearings. Surrounding property owners within 200 feet of the property or building in question shall be notified by mail.~~

~~(DELETE) 112.10 Open hearing. All hearings before the Board shall be open to the public. The appellant's representative, the Code Official and any other person or persons that may be deemed necessary as witnesses and all other persons whose interests are affected shall be given an opportunity to be heard.~~

~~(DELETE) 112.11 Postponed hearing. When there are fewer than two members of the Board available and the authorized or appointed alternate is unavailable, notification shall be given to the interested parties.~~

~~(DELETE) 112.12 Procedure. The hearing shall address only those issues or items that may be deemed relevant to the case being heard. The Board shall adopt and publish, for public information, the procedures under which the hearing will be conducted.~~

~~(DELETE) 112.13 Board decision. The Board shall modify or reverse the decision of the Code Official by means of a simple majority.~~

~~(DELETE) 112.14 Resolution. The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and the Code Official.~~

~~(DELETE) 112.15 Administration. The Code Official shall take immediate action in accordance with the decision of the Board.~~

~~(DELETE) 112.16 Court Review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law, following the filing of the Board's decision in the office of the City Manager.~~

**Section 5. Chapter 88 is hereby amended by adding a new Article III, Board of Appeals, to read as follows:**

*ARTICLE III-Board of Appeals*

*§88-6 General.*

*In order to hear and decide appeals of orders, decisions, or determinations made by the building or code official relative to the application and interpretation of the code, there shall be and is hereby created a board of appeals.*

*§88-7 Limitations on Authority.*

*An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code.*

*§88-8 Membership of the Board.*

*The Board of Appeals shall consist of three members: the City Manager or his designate, a design professional (architect or engineer), and a representative of the contracting industry. The City Manager or his designate will be a standing member of the Board of Appeals. City Council shall appoint the design professional and the representative from the contracting industry. The initial term of the design professional shall be two years and the initial term of the representative of the contracting industry shall be for one year. The term of all subsequent appointments shall be two years.*

*§88-8.1 Alternate Members.*

*City Council shall appoint an individual of its choice to be an alternate during those times where one of the permanent members is unable to attend an appeals hearing or in cases where a conflict of interest may exist. Said appointment shall be made for a two-year term.*

*§88-8.2 Chairman.*

*The Board shall annually select one of its members to serve as chairman.*

*§88-8.3 Disqualification of member.*

*A member shall not hear an appeal in which that member has a personal, professional or financial interest.*

*§88-8.4 Secretary.*

*The City Manager shall designate a qualified clerk or staff as Secretary to the Board. The Secretary shall file a detailed record of all proceedings with the office of the City Clerk. Secretary shall have no right to vote on matters coming before the board.*

*§88-8.5 Compensation of members.*

*Compensation of members shall be determined by ordinance of City Council.*

*§88-9 Application for appeal.*

*Any person directly affected by a decision of the Code Official or an notice or order issued under this code shall have the right to appeal a decision of the Code Enforcement and/or Building Official to the Board of Appeals provided the application is filed within twenty (20) days of the*

*day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of the code or the rules legally adopted thereunder have been incorrectly interpreted, that the provisions of this code do not apply or that an equivalent form of construction is to be used.*

*§88-9.1 Hearing fee.*

*The following fee schedule shall apply for hearings of the Board of Appeals:*

<i>International Residential Code:</i>	<i>\$ 300.00</i>
<i>International Building Code:</i>	<i>\$1,000.00</i>
<i>International Property Maintenance Code:</i>	<i>\$ 300.00</i>

*§88-10 Notice of meeting.*

*The Board shall meet upon notice from the Chairman. The meeting date and time shall be scheduled in accordance with the state guidelines for public hearings. Surrounding property owners within 200 feet of the property or building in question shall be notified by mail.*

*§88-11 Open hearing.*

*All hearings before the Board shall be open to the public. The appellant's representative, the Code Official and any other person or persons that may be deemed necessary as witnesses and all other persons whose interests are affected shall be given an opportunity to be heard.*

*§88-11.1 Procedure.*

*The hearing shall address only those issues or items that may be deemed relevant to the case being heard. The Board shall adopt and publish, for public information, the procedures under which the hearing will be conducted.*

*§88-12 Postponed hearing.*

*When there are fewer than two members of the Board available and the authorized or appointed alternate is unavailable, notification shall be given to the interested parties.*

*§88-13 Board decision.*

*The Board shall affirm, modify or reverse the decision of the Code Official by means of a simple majority.*

*§88-13.1 Records and copies.*

*The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the appropriate Building or Code Official.*

*§88-13.2 Administration.*

*The appropriate Building or Code Official shall take immediate action in accordance with the decision of the Board.*

*§88-14 Court review.*

*Any person, whether or not a previous party of the appeal, shall have the right to apply to the Superior Court of the State of Delaware in the applicable county for a writ of certiorari to*

*correct errors of law. Application for review shall be made in the manner and time required by law, following the filing of the Board's decision in the Office of the City Clerk.*

*§88-15 Stays of enforcement. Appeals of notices and orders (other than Imminent Danger Notices) shall stay the enforcement of the notice and order until the appeal is complete or the stay is lifted by the Superior Court.*

**Section 6. Dates**

Introduction Date:	September 12, 2011
Projected Adoption Date:	September 26, 2011
Projected Effective Date:	October 7, 2011

## Ordinance 2011-23

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 174, thereof, Property Maintenance, for the purpose of amending the Board of Appeals.

**The City of Milford hereby ordains:**

### **Section 1. Amend Chapter 174-2 F by repealing Section PM 111.1.**

~~(DELETE) F. Section PM 111.1. Delete in its entirety and replace with: Application for appeal. Any person directly affected by a decision of the Code Official or a notice or order issued under this code shall have the right to appeal to the City Manager at no charge. If further clarification or appeal is desired, the applicant has the right to go before the Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. A fee of \$300 (nonrefundable) is due upon the submission of the application.~~

### **Section 2. Amend Chapter 174-2 F by adding a new Section PM 111.1 to read as follows:**

*F. Section PM 111.1 Application for Appeal. Appeals of orders, decisions, or determination made by the Building and/or Code Official relative to the application and interpretation of this code, shall proceed as described in Chapter 88, Article III of the Code of the City of Milford.*

### **Section 3. Amend Chapter 174-2 F by repealing Sections PM 111.2, PM 111.2.1, PM 11.2.2, PM 111.2.3, PM 111.2.4, PM 111.2.5, PM 111.3, PM 111.4, PM 111.4.1, PM 111.5, PM 111.6, PM 111.6.1, PM 111.6.2, PM 111.7, PM 111.8.**

~~(DELETE) G. Section PM 111.2. Delete in its entirety and replace with: Membership of Board. The Board of Appeals shall be established as per Section 112.6, set forth in Chapter 88 of the City Code, adopting the International Residential and Building Codes. The Code Official shall be an ex officio member but shall have no vote on any matter before the Board.~~

~~(DELETE) PM 111.2.1 Alternate members. The chief appointing authority shall appoint two or more alternate members who shall be called by the board chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership.~~

~~(DELETE) PM 111.2.2 Chairman. The board shall annually select one of its members to serve as chairman.~~

~~(DELETE) PM 111.2.3 Disqualification of member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.~~

~~(DELETE) PM 111.2.4 Secretary. The chief administrative officer shall designate a qualified person to serve as secretary to the board. The secretary shall file a detailed record of all proceedings in the office of the chief administrative officer.~~

~~(DELETE) PM 111.2.5 Compensation of members. Compensation of members shall be determined by law.~~

~~(DELETE) PM 111.3 Notice of meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.~~

~~(DELETE) PM 111.4 Open hearing. All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interest are affected shall be given an opportunity to be heard. A quorum shall consist of not less than two-thirds of the board membership.~~

~~(DELETE) PM 111.4.1 Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.~~

~~(DELETE) PM 111.5 Postponed hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.~~

~~(DELETE) PM 111.6 Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.~~

~~(DELETE) PM 111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.~~

~~(DELETE) PM 111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.~~

~~(DELETE) PM 111.7 Court review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of the law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.~~

~~(DELETE) PM 111.8 Stays of enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.~~

#### **Section 4. Dates**

Introduction Date: September 12, 2011

Projected Adoption Date: September 26, 2011

Projected Effective Date: October 7, 2011

**ORDINANCE NO. 2011-24**

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, BY REPEALING CHAPTER 96, IN ITS ENTIRETY, AND REPLACE IT WITH A NEW CHAPTER 96 ENTITLED OUTDOOR BURNING TO PROVIDE FOR UPDATED OUTDOOR BURNING REGULATIONS**

**WHEREAS, the City of Milford has determined it necessary to update and clarify its regulations regarding outdoor burning.**

**NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:**

Section 1. The Code of the City of Milford is hereby amended by repealing Chapter 96, Burning, Outdoor.

~~§ 96 1. Authorization required.~~

~~There shall be no outdoor burning of any sort within the City of Milford unless authorized by the Delaware Department of Natural Resources and Environmental Control.~~

~~§ 96 2. Notification and permission of City Manager.~~

~~When authorization is granted from DNREC, the responsible party must then notify and obtain final permission from the City Manager.~~

~~§ 96 3. Violations and penalties.~~

~~For violation of this chapter, the penalties as set forth in Chapter 1, General Provisions, Article II, General Penalty, shall apply.~~

Section 2. The Code of the City of Milford is hereby amended by adding thereto a new Chapter 96 to be titled Outdoor Burning, to read as follows:

***§96-1 Purpose and Intent***

*It is recognized and found that smoke from leaves, grass clippings, stumps, unsplit logs, garbage, trash, waste lumber and other combustible materials is hazardous to an individual's health and may affect the health of the general public when they are involuntarily exposed to the presence of such smoke.*

***§96-2 Prohibition of Outdoor Burning***

*It shall be unlawful for any person to engage in any of the following activities:*

- (a) The burning of materials wherein products of the combustion are emitted directly into the open air, including burning in burn barrels.*
- (b) The burning of waste or garbage.*
- (c) The burning of leaves or grass clippings.*
- (d) The burning of land clearing debris.*

- (e) *The burning of waste lumber, unsplit logs or stumps.*
- (f) *The burning of any combustible material in outdoor wood burning boilers or furnaces, or any other equipment or apparatus or any part thereof, whether open or enclosed, that is designed, intended or used for the purpose of providing a component of a heating system or providing heated water to another structure even if attached to such structure.*
- (g) *The burning of plastics, rubber, fiberglass, insulation, or other materials that may contain carcinogenic compounds.*

### **§96-3 Exceptions**

*The following outdoor burning activities shall be exceptions to the outdoor burning prohibitions of this Chapter.*

- (a) *Barbeque grills, gas or charcoal, used for cooking food.*
- (b) *Campfires or fire rings less than twenty-four (24) inches in diameter.*
- (c) *Patio fire pits or chimenea, provided such fire pits or chimenea are not operated continually for more than six (6) hours.*
- (d) *Outdoor fireplaces provided such outdoor fireplaces are not operated continually for more than six (6) hours.*
- (e) *Indoor fireplaces where the smoke is discharged through a chimney or other means in accordance with the Code of the City of Milford, Chapter 88, Building Construction.*

### **§96-4 Bonfires**

*Ceremonial bonfires conducted by established groups or organizations such as schools, service clubs or churches, will be permitted provided:*

- (a) *Notification is provided to City Hall at least three (3) days in advance.*
- (b) *Advance notification is made to the Fire Board in the county the bonfire is to occur.*
- (c) *Such bonfires are not burning continually for more than six (6) hours.*

### **§96-5 Burning By Fire Department Or With Permission of State Fire Marshall**

*Nothing in this Chapter shall prohibit controlled burning of grass or brush on any lot or of any structure by the Carlisle Volunteer Fire Department or by any other fire department authorized to conduct such burns by the Delaware State Fire Marshall.*

**§96-6 Ban on Open Burning**

*Any burning ban issued by the State Fire Marshal shall supersede applicable provisions of this ordinance.*

**§96-7 Penalties for Violation:**

- (a) Failure to comply with any of the provisions of this Chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 for the first offense.*
- (b) Any subsequent offense shall be punishable by a fine of not more than \$1,000.*
- (c) Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this Chapter.*
- (d) Any fine imposed hereunder shall constitute a lien upon the real property where the violation occurred.*

**Section 3. Dates**

Introduction Date:	September 12, 2011
Projected Adoption Date:	September 26, 2011
Projected Effective Date:	October 7, 2011

# Electric Department

**To:** David Baird, City Manager; Jeff Portmann, Finance Director

**CC:** Brad Dennehy, Director of Public Works

**From:** Rick Carmean, Electric Superintendent 

**Date:** 9/12/2011

**Re:** Budget Transfer

---

Please transfer \$4,400.00 from budget line item 20550504325012-Distribution into 20550504327044-Capital Infrastructure. This transfer will cover purchase order #13828 (Perfect Finish) in the amount of \$4,400.00. This purchase order was for powder coating of poles for the lighting project funded by the Energy Grant. The invoice should have arrived before July 1, 2011 since the work was completed in FY11, however it did not arrive until August 9, 2011 and had to be processed in FY12 creating a shortage.

If you have any questions, please let me know. Thanks!

9/12/11 (Original Date of Request)

**CITY OF MILFORD  
FUND BALANCES REPORT**

Date: July 2011

Cash Balance - General Fund Bank Balance	\$1,301,340
Cash Balance - Electric Fund Bank Balance	\$3,269,958
Cash Balance - Water Fund Bank Balance	\$884,748
Cash Balance - Sewer Fund Bank Balance	\$209,239
Cash Balance - Trash Fund Bank Balance	\$544,598

	General <u>Improvement</u>	Municipal <u>Street Aid</u>	Real Estate <u>Transfer Tax</u>	Water Bond <u>Escrow</u>
Beginning Cash Balance	361,594	730,699	464,343	412,457
Deposits			60,926	
Interest Earned this Month	30	66	15,215	
Disbursements this Month			(41,667)	
Investments			1,600,000	
Ending Cash Balance	\$361,624	\$730,765	\$2,098,817	\$412,457

	GF Capital <u>Reserves</u>	Water Capital <u>Reserves</u>	Sewer Capital <u>Reserves</u>	Electric <u>Reserves</u>
Beginning Cash Balance	844,148	1,364,679	651,908	1,188,165
Deposits	1,012,600	1,100,000		2,005,000
Interest Earned this Month	5,000	5,500	3,125	13,459
Disbursements this Month	(206,112)	(6,375)	(4,440)	(8,293)
Investments		1,860,000	2,245,000	5,479,000
Ending Cash Balance	\$1,655,636	\$4,323,804	\$2,895,593	\$8,677,331

	Water <u>Impact Fee</u>	Sewer <u>Impact Fee</u>	Electric <u>Impact Fee</u>
Beginning Cash Balance	62,632	\$38,516	\$7,828
Deposits		\$625,000	
Interest Earned this Month	6,375	\$3,125	\$1,875
Disbursements this Month			
Investments	850,000		\$250,000
Ending Cash Balance	\$919,007	\$666,641	\$259,703

INTEREST THROUGH THE FIRST MONTH OF THE FISCAL YEAR:

General Fund	30	Water Fund	80
GF Capital Reserves	5,500	Water Bond Escrow	0
General Improvement Fund	30	Water Capital Reserves	5,500
Municipal Street Aid	66	Water Impact Fees	6,375
Real Estate Transfer Tax	15,215	Sewer Fund	19
Electric Fund	296	Sewer Capital Reserves	3,125
Electric Reserves	13,459	Sewer Impact Fees	3,125
Electric Impact Fees	1,875	Trash Fund	49

TOTAL INTEREST EARNED TO DATE \$54,744

**REVENUE REPORT**

Page Two

8.3% of Year Expended

Date: July 2011	AMOUNT BUDGETED	MTD	YTD	YTD%
ACCOUNT				
Budgeted Fund Balance	421,235	0	0	0.00%
General Fund Capital Reserves	255,500	84,051	84,051	32.90%
Municipal Street Aid	195,000	0	0	0.00%
Property Transfer Tax-Police	500,000	41,667	41,667	8.33%
Real Estate Tax	3,004,155	3,849	3,849	0.13%
Business License	35,000	900	900	2.57%
Rental License	85,000	250	250	0.29%
Building Permits	50,000	4,590	4,590	9.18%
Planning & Zoning	20,000	350	350	1.75%
Misc. Revenues	262,035	20,834	20,834	7.95%
Transfers From	3,215,480	267,956	267,956	8.33%
Police Revenues	287,000	16,008	16,008	5.58%
<b>Total General Fund Revenues</b>	<b>\$8,330,405</b>	<b>\$440,455</b>	<b>\$440,455</b>	<b>5.29%</b>
Water Revenues	2,187,255	223,919	223,919	10.24%
Sewer Revenues	1,907,725	175,228	175,228	9.19%
Kent County Sewer	1,350,000	123,837	123,837	9.17%
Solid Waste Revenues	1,126,000	89,672	89,672	7.96%
Electric Revenues	27,885,500	2,760,388	2,760,388	9.90%
<b>TOTAL REVENUES</b>	<b>\$42,786,885</b>	<b>\$3,813,499</b>	<b>\$3,813,499</b>	<b>8.91%</b>
YTD Enterprise Expense		5,711		
YTD Enterprise Revenue		3,525		
LTD Carlisle Fire Company Building Permit Fund		30,968		

## EXPENDITURE REPORT

Page Three

Date: July 2011

8.3% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
<b>City Manager</b>					
Personnel	420,655	\$17,542	17,542	4.17%	403,113
O&M	107,850	\$7,506	7,506	6.96%	100,344
Capital	0	\$0	0		0
<b>Total City Manager</b>	<b>\$528,505</b>	<b>\$25,048</b>	<b>\$25,048</b>	<b>4.74%</b>	<b>503,457</b>
<b>Planning &amp; Zoning</b>					
Personnel	123,335	\$6,266	6,266	5.08%	117,069
O&M	34,935	\$791	791	2.26%	34,144
Capital	0	\$0	0		0
<b>Total P, C &amp; I</b>	<b>\$158,270</b>	<b>\$7,057</b>	<b>\$7,057</b>	<b>4.46%</b>	<b>151,213</b>
<b>Code Enforcement &amp; Inspections</b>					
Personnel	130,715	\$5,838	5,838	4.47%	124,877
O&M	37,100	\$1,521	1,521	4.10%	35,579
Capital	0	\$0	0		0
<b>Total P, C &amp; I</b>	<b>\$167,815</b>	<b>\$7,359</b>	<b>\$7,359</b>	<b>4.39%</b>	<b>160,456</b>
<b>Tax Department</b>					
Personnel	74,155	\$3,394	\$3,394	4.58%	70,761
O&M	15,265	\$5,972	\$5,972	39.12%	9,293
Capital	0	\$0	\$0		0
<b>Total Tax Department</b>	<b>\$89,420</b>	<b>\$9,366</b>	<b>\$9,366</b>	<b>10.47%</b>	<b>80,054</b>
<b>Council</b>					
Personnel	31,225	\$1,653	1,653	5.29%	29,572
O&M	27,600	\$1,930	1,930	6.99%	25,670
Council Expense	17,000	\$5,410	5,410	31.82%	11,590
Contributions	447,735	\$64,000	64,000	14.29%	383,735
Codification	4,000	\$0	0	0.00%	4,000
Employee Recognition	8,000	\$0	0	0.00%	8,000
Insurance	16,000	\$0	0	0.00%	16,000
DMI-Tree and Grate Project	175,000	\$7,344	7,344	4.20%	167,656
<b>Total Council</b>	<b>\$726,560</b>	<b>\$80,337</b>	<b>\$80,337</b>	<b>11.06%</b>	<b>646,223</b>
<b>Finance</b>					
Personnel	321,855	\$14,309	14,309	4.45%	307,546
O&M	54,600	\$2,075	2,075	3.80%	52,525
Capital	0	\$0	0		0
<b>Total Finance</b>	<b>\$376,455</b>	<b>\$16,384</b>	<b>\$16,384</b>	<b>4.35%</b>	<b>360,071</b>
<b>Information Technology</b>					
Personnel	165,870	\$8,197	8,197	4.94%	157,673
O&M	173,250	\$3,041	3,041	1.76%	170,209
Capital	13,000	\$12,990	12,990	99.92%	10
<b>Total Information Technology</b>	<b>\$352,120</b>	<b>\$24,228</b>	<b>\$24,228</b>	<b>6.88%</b>	<b>327,892</b>

**EXPENDITURE REPORT**

Page Four

Date: July 2011

8.3% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
<b>Police Department</b>					
Personnel	3,528,870	\$161,508	161,508	4.58%	3,365,162
O&M	440,120	\$67,180	67,180	15.26%	372,940
Capital	71,500	\$63,894	63,894	89.36%	7,606
<b>Total Police</b>	<b>\$4,038,290</b>	<b>\$292,582</b>	<b>\$292,582</b>	<b>7.25%</b>	<b>3,745,708</b>
<b>Streets &amp; Grounds Division</b>					
Personnel	407,665	\$19,789	19,789	4.85%	387,876
O&M	447,400	\$28,058	28,058	5.82%	421,342
Capital	225,000	\$0	0		225,000
Debt Service	48,115	\$0	0	0.00%	48,115
<b>Total Streets &amp; Grounds</b>	<b>\$1,128,180</b>	<b>\$45,847</b>	<b>\$45,847</b>	<b>4.07%</b>	<b>1,080,333</b>
<b>Parks &amp; Recreation</b>					
Personnel	474,915	\$30,407	30,407	6.40%	444,508
O&M	236,875	\$29,782	29,782	12.57%	207,093
Capital	55,000	\$0	0	0.00%	55,000
<b>Total Parks &amp; Recreation</b>	<b>\$766,790</b>	<b>\$60,189</b>	<b>\$60,189</b>	<b>7.85%</b>	<b>706,601</b>
<b>Total General Fund</b>					
<b>Operating Budget</b>	<b>\$8,330,405</b>	<b>\$568,397</b>	<b>\$568,397</b>	<b>6.82%</b>	<b>7,762,008</b>

EXPENDITURE REPORT

Page Five

Date: July 2011

8.3 % of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
<b>Water Division</b>					
Personnel	217,500	\$9,980	9,980	4.59%	207,520
O&M	1,141,565	\$78,991	78,991	6.92%	1,062,574
Capital	25,000	\$0	0	0.00%	25,000
Debt Service	803,190	\$0	0	0.00%	803,190
<b>Total Water</b>	<b>\$2,187,255</b>	<b>\$88,971</b>	<b>\$88,971</b>	<b>4.07%</b>	<b>2,098,284</b>
<b>Sewer Division</b>					
Personnel	217,500	\$9,979	9,979	4.59%	207,521
O&M	1,033,500	\$57,153	57,153	5.53%	976,347
Capital	0	\$0	0	0.00%	0
Debt Service	656,725	\$0	0	0.00%	656,725
<b>Sewer Sub Total</b>	<b>\$1,907,725</b>	<b>\$67,132</b>	<b>\$67,132</b>	<b>3.52%</b>	<b>1,840,593</b>
Kent County Sewer	1,350,000	\$123,962	123,962	9.18%	1,226,038
<b>Total Sewer</b>	<b>\$3,257,725</b>	<b>\$191,094</b>	<b>\$191,094</b>	<b>5.87%</b>	<b>3,066,631</b>
<b>Solid Waste Division</b>					
Personnel	335,485	\$14,311	14,311	4.27%	321,174
O&M	722,320	\$50,081	50,081	6.93%	672,239
Capital	68,195	\$0	0	0.00%	68,195
<b>Total Solid Waste</b>	<b>\$1,126,000</b>	<b>\$64,392</b>	<b>\$64,392</b>	<b>5.72%</b>	<b>1,061,608</b>
<b>Total Water, Sewer Solid Waste</b>	<b>\$6,570,980</b>	<b>\$344,457</b>	<b>\$344,457</b>	<b>5.24%</b>	<b>6,226,523</b>
<b>Electric Division</b>					
Personnel	947,130	\$43,704	43,704	4.61%	903,426
O&M	1,788,505	\$117,913	117,913	6.59%	1,670,592
Transfer to General Fund	2,500,000	\$208,333	208,333	8.33%	2,291,667
Capital	982,310	\$4,400	4,400	0.45%	977,910
Debt Service	667,555	\$0	0	0.00%	667,555
<b>Electric Sub Total</b>	<b>\$6,885,500</b>	<b>\$374,350</b>	<b>\$374,350</b>	<b>5.44%</b>	<b>6,511,150</b>
Power Purchased	21,000,000	\$2,095,894	2,095,894	9.98%	18,904,106
<b>Total Electric</b>	<b>\$27,885,500</b>	<b>\$2,470,244</b>	<b>\$2,470,244</b>	<b>8.86%</b>	<b>25,415,256</b>
<b>TOTAL OPERATING BUDGET</b>	<b>\$42,786,885</b>	<b>\$3,383,098</b>	<b>\$3,383,098</b>	<b>7.91%</b>	<b>39,403,787</b>

**INTERSERVICE DEPARTMENTS REPORT**

Page Six

Date: July 2011

ACCOUNT	AMOUNT BUDGETED	MTD	8.3% of Year Expended		UNEXPENDED BALANCE
			YTD	YTD%	
<b>Garage</b>					
Personnel	91,865	3,337	3,337	3.63%	88,528
O&M	61,940	4,243	4,243	6.85%	57,697
Capital	0	0	0		0
<b>Total Garage Expense</b>	<b>\$153,805</b>	<b>7,580</b>	<b>\$7,580</b>	<b>4.93%</b>	<b>146,225</b>
<b>Public Works</b>					
Personnel	338,940	15,671	15,671		323,269
O&M	187,370	8,456	8,456	4.51%	178,914
Capital	0	0	0		0
<b>Total Public Works Expense</b>	<b>\$526,310</b>	<b>24,127</b>	<b>\$24,127</b>	<b>4.58%</b>	<b>502,183</b>
<b>Meter Department-Water</b>					
Personnel	120,315	5,930	5,930	4.93%	114,385
O&M	68,950	1,150	1,150	1.67%	67,800
Capital	60,000	0	0	0.00%	60,000
<b>Total Water Meter Expense</b>	<b>\$249,265</b>	<b>7,080</b>	<b>\$7,080</b>	<b>2.84%</b>	<b>242,185</b>
<b>Meter Department-Electric</b>					
Personnel	229,635	10,072	10,072	4.39%	219,563
O&M	99,550	2,497	2,497	2.51%	97,053
Capital	0	0	0		0
<b>Total Electric Meter Expense</b>	<b>\$329,185</b>	<b>12,569</b>	<b>\$12,569</b>	<b>3.82%</b>	<b>316,616</b>
<b>Billing &amp; Collections</b>					
Personnel	435,195	20,604	20,604	4.73%	414,591
O&M	210,790	15,928	15,928	7.56%	194,862
Capital	0	0	0		0
<b>Total Billing &amp; Collections</b>	<b>\$645,985</b>	<b>36,532</b>	<b>\$36,532</b>	<b>5.66%</b>	<b>609,453</b>
<b>City Hall Cost Allocation</b>					
Personnel	0	0	0		0
O&M	58,000	5,659	5,659	9.76%	52,341
Capital	0	0	0		0
<b>Total City Hall Cost Allocation</b>	<b>\$58,000</b>	<b>5,659</b>	<b>\$5,659</b>	<b>9.76%</b>	<b>52,341</b>

ALL COSTS SHOWN ON PAGE 6 ARE ALSO INCLUDED IN THE VARIOUS DEPARTMENTS LISTED ON PAGES 3-5 OF THE EXPENDITURE REPORT WHO UTILIZE THE SERVICES OF THE DEPARTMENTS LISTED ABOVE. INTERSERVICE FUNDS ARE ENTIRELY FUNDED BY OTHER CITY DEPARTMENTS.

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
*August 8, 2011*

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, August 8, 2011

RESIDING: Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr. and Douglas Morrow

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

City Solicitor David Rutt, Esquire

#### CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:03 p.m.

#### MOMENT OF SILENCE AND PLEDGE

Mayor Rogers asked everyone present to stand with a moment of silence, which was followed by the Pledge of Allegiance.

#### APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Brooks to approve the minutes of the June 28, July 11, July 20 and July 28, 2011 meetings as presented. Motion carried.

#### RECOGNITION

Mayor Rogers advised that earlier today, he recognized Milford resident Mildred Steen on her 102<sup>nd</sup> birthday.

#### POLICE REPORT

Police Committee Chairman Morrow presented the monthly report on behalf of Chief Hudson. Mr. Pikus moved to accept the Monthly Police Report, seconded by Mr. Brooks. Motion carried.

#### CITY MANAGER REPORT

Mr. Baird then read portions of the following report into record:

##### *Solid Waste & Recycling*

In 2010, SB234 was signed into law and part of the legislation establishes diversion rates of 50% by January 1, 2015 for Municipal Solid Waste being disposed of at the landfill. The tables below compare the City's diversion rate by month with the same period of the previous year as well as year to date and annual totals.

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
June 2010	446.48	40.82	40.06	0	527.36	15.3%
June 2011	379.05	36.34	41.47	30.55	487.41	22.0%

	Solid Waste	Curbside Recycling	Igloo Recycling	Yard Waste	Total	Diversion Rate
2009	4,684.38	442.44	545.68	-	5,672.50	17.4%
2010	4,630.47	450.12	505.82	37.49	5,632.39	17.6%
2011(YTD)	2028.09	235.52	243.18	169.35	2676.14	24.2%

*Impact Fee Waivers*

Since the waiver of impact fees was implemented in June 2010, the City has waived \$212,084 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$11,527,279 (based on building permit values) during the months of June 2010 through July 2011.

*Washington Street Water Plant Reservoir Tank*

The Water Department is addressing a leak in the reservoir tank at the Washington Street Water Plant. The leak is causing water to leak out of the tank when it is full and the pumps are running. Crews are anticipating having this leak repaired by the date of this meeting, however, the plant may need to be taken off line for a short duration during the repair and curing time. This further supports the need for the proposed improvements.

*School Zone Signage*

The City has partnered with the Milford School District for the implementation of a DelDOT report on improving pedestrian and vehicle safety in the vicinity of the schools through new signage and street markings. The School District has purchased the Streets and Grounds personnel will be installing the signage over the next few weeks before school begins on August 31.

*Wilmington-Chaney Riverwalk Project*

This phase of the Riverwalk project is currently being bid and is scheduled to be opened later this month. Following a review of bids, a recommendation will be forwarded to City Council for your award in late August or early September.

*Riverwalk Freedom Festival*

The Riverwalk Freedom Festival is scheduled for September 8-10.

Mr. Pikus asked if major industrial users in town are informed when a water tank is down. Mr. Baird noted that this tank will not impact any services. In the case of an incident that created fear about the proper service, those users would be contacted. He noted we are in good shape operationally.

The Comcast letter included in the packet was then referenced; Mr. Pikus asked if the problems expressed by several Milford residents at a previous meeting were ever corrected. Mr. Baird said Tom Worley followed up with several customers though a group meeting was never held. In the meantime, he has not been informed of any further complaints.

It was agreed that intermittent blocking/freezing of the picture has continued; Mr. Baird will follow up with Comcast. Mr. Gleysteen noted there is no penalty for not obtaining the 50% diversion requirement for solid waste in 2015. He asked that the city manager obtain additional information on how to achieve that target. Mr. Baird explained the legislation made it easier for residents to participate by making recycling available to every household and commercial establishments by specific dates. However, he is unaware of any guidelines.

The city manager advised that other municipalities are questioning how this will be met noting they are experiencing the same percentages as Milford. He added that the inclusion of yard waste over the previous year has impacted those calculations.

Mr. Gleysteen believes that all businesses recycling on a regular basis could make a large impact. Mr. Baird explained the city is required to make recycling available to its customers; however, the commercial and industrial users are permitted to utilize private haulers so they will not impact the city numbers.

Mr. Gleysteen also went on record stating that he objects the manner in which the city manager presents the numbers for the waiving of the impact fees in relation to the building permit fees. He feels strongly that a fair correlation cannot be made in that manner. It appears to be more of a psychological incentive than a quantitative incentive.

When asked what he suggests, Mr. Gleysteen said to provide the fees waived and the building permits separately. He does not believe one has a relationship to the other.

Mr. Brooks then stated he is pleased that all four schools are getting the proper signage and markings. He has discussed this with the police chief the past year and in particular, about what was needed at Banneker School.

Mr. Baird emphasized the majority of the work will be done at Milford High School and the Central Academy and Lulu Ross and the new Mispillion Elementary Schools because of the state-maintained roads surrounding them. However, he believes there are some scheduled improvements at Banneker as well.

## COMMITTEE REPORTS

### *Public Works Committee*

Mr. Brooks reported, and the city manager concurred, the city is proceeding with the Washington Street Water Plant project.

## COMMUNICATIONS

Included in packet.

## UNFINISHED BUSINESS

### *Planning Commission Vacancy*

Mayor Rogers asked the item be placed on the August 22<sup>nd</sup> agenda because he has still not received a final commitment.

## NEW BUSINESS

### *St. John's Oktoberfest Request*

Mr. Pikus moved to approve the request of St. John the Apostle Church to close a portion of School Place and allow the sale of beer at their Annual Oktoberfest on October 7, 2011 and October 8, 2011, seconded by Mr. Brooks. Motion carried with no one opposed.

### *Adoption of Fiscal Year 2011-2012 Tax Warrant*

Mr. Pikus moved for adoption of the following tax warrant, seconded by Mr. Brooks:

## GREETINGS:



Reallocated to DMI Annual Contract	-\$7,500
for two years	-\$7,500
Reallocation to Tree & Grate (Aug 2011)	-\$50,000
Remaining Balance	\$161,840

Mr. Baird emphasized the \$375,000 is still a required matching fund for the \$250,000 state grant. He said this funding was an allocation toward the Downtown Milford Project. Because the Northeast Front Street did not move forward, they are requesting they be utilized.

The city manager reported the estimated Downtown Tree and Grate Project budget is \$188,500. The construction totals \$159,082, design and contract administration is \$20,906 and the \$8,512 contingency brings the total to \$188,500.

He advised their request is to allocate an additional \$50,000 to cover Downtown Milford's portion. There is some additional work on the sidewalks, which is the city's responsibility and is outside the scope of the proposed project that totals \$13,500. If that work is done, based on the bid projects, he proposes that Municipal Street Aid or Legislative Funds (Community Transportation Funds) be used. However, that decision can be made at the time the bids are received.

Because the Northwest Front Street Project is well into the future, Mr. Baird said he will support the request. He feels that Southeast Front Street now has a much greater chance of being completed.

Mr. Pikus confirmed that the priority has changed from the Northeast Front and Southeast Front Street projects to the Downtown Milford projects; Mr. Baird stated yes.

Mr. Pikus moved to approve the transfer of \$50,000 from the Northeast Front Street Project to the Downtown Tree and Grate Project, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

Mr. Pikus then recalled the allocation of \$7,500 to DMI at the time of the budget; he asked if an additional \$7,500 was approved at that time. Mr. Baird confirmed it was approved for two consecutive years with the understanding it would be paid from those same funds.

#### *Revised Proposal/DMI Tree & Grate Project/Landscape Architectural Services LLC*

The city manager advised this is the second part of this proposal. Noting the five added alternates added as a result of the additional scope of work, Landscape Architectural Services is presenting a proposal in the amount of \$13,905.60. With the increase, \$3,000 will be added making the revised cost to the original contract \$16,905.60.

Mr. Pikus moved for approval of the amended agreement of Landscape Architectural Services for the design, construction documentation, etc. required as a result of the additional work proposed, seconded by Mr. Gleysteen.

It was confirmed this work will occur on Northeast and Northwest Front Streets and North and South Walnut Streets in the downtown area.

Motion carried by unanimous roll call vote.

#### MONTHLY FINANCE REPORT

Mr. Pikus reported that through the twelfth month of Fiscal Year 2010-2011 with 100% of the fiscal year having passed, 102.652% of revenues have been received and 98.03% of the operating budget expended.

He advised that 98% of our departments are under budget. When reviewing the tight budget over the past year, he stated he is very pleased with the departments that we were able to remain below budget.

He noted that electric reserves show a disbursement of almost \$1.9 million and explained that money was used for the land purchase for the new substation and the purchase of transformers.

Mr. Pikus moved to accept the June 2011 Finance Report, seconded by Mr. Morrow. Motion carried.

Mr. Baird noted that the numbers presented tonight are unaudited though our annual audit is underway and should be completed within the next couple weeks.

ADJOURN

With no further business, Mr. Brooks moved to adjourn the Monthly Meeting, seconded by Mr. Grier. Motion carried.

Meeting adjourned at 7:35 p.m.

Respectfully submitted,

Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
*MINUTES OF MEETING*  
*August 22, 2011*

The Milford City Council held Public Hearings on the following matters on Monday, August 22, 2011 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware

PRESIDING:                   Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE:       Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

COUNSEL:                 City Solicitor David Rutt

Mayor Rogers called the Public Hearing to order at 7:02 p.m.

*Robert Nash Associates on behalf of G. Walter and Janet R. Swain requesting the Final/Minor Subdivision of one parcel into two parcels (separating auto shop from sports complex) in a C-3 District; site located at 5877 S. Rehoboth Boulevard, Milford, Delaware; Tax Parcel 3-30-11.00-42.00; Area of Petition .359 +/- Acres (7.656 +/- Total Acres) .*

City Planner Gary Norris advised this is a simple two-lot subdivision. The intent is to separate the recreational facility from the parcel with the existing garage. The applicant has asked for a waiver to the one-acre minimum lot size due to the garage lot size of .359 acres.

The application was reviewed by the planning commission who recommended approval of the subdivision by a vote of 7 to 0.

Robert Nash then spoke emphasizing the need for the waiver. He explained the garage is fenced in and any additional land added to that parcel would eliminate recreational area which is the purpose of the subdivision.

He confirmed that approvals have been received from DelDOT as well as the city's public works department.

Mayor Rogers asked if anyone from the public had comments; no one responded. The floor was then closed.

Mr. Pikus moved to grant the waiver to the minimum lot size thus allowing the .359 acres, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Mr. Grier then moved for approval of the minor subdivision with the lot size waiver, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

*City of Milford requesting the Final/Minor Subdivision of one parcel into three parcels (convenience store with gas pumps, car wash and water tower) in a C-3 District; site located at 902 North DuPont Boulevard, Milford, Delaware; Tax Parcel MD-16-174.14-01-05.00; Area of Petition 3.995 +/- Acres.*

City Planner Gary Norris advised that this is the result of the property being sold to Wawa as has been discussed previously. The matter was presented and reviewed by the planning commission who recommended approval of the subdivision by a vote of 8 to 0.

Mayor Rogers asked if anyone from the public had comments; no one responded. The floor was then closed.

Mr. Pikus moved for approval of the minor subdivision as presented, seconded by Mr. Gleysteen. Motion carried by a 6 to 0 vote with Mr. Grier abstaining.

With no further business, the Public Hearing session was adjourned at 7:14 p.m.

Respectfully submitted,

Terri K. Hudson, CMC  
City Clerk/Recorder

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
*August 22, 2011*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, August 22, 2011.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen  
Douglas Morrow, Sr., James Starling, Sr. and Katrina Wilson

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

City Solicitor David Rutt

CALL TO ORDER

Mayor Rogers called the City Council Meeting to order at 7:14 p.m.

It was noted that Councilman Brooks was absent due to a health issue.

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests in attendance.

COMMUNICATIONS

All items included in packet.

UNFINISHED BUSINESS

*Adoption of Ordinance 2011-20/Provides for the Readjustment of Ward Boundaries*

Ms. Wilson advised that after a review of the proposed realigned wards, there was concern expressed that the fourth ward was being divided on North Church Street and in particular, the Benjamin Banneker School area. She noted the historical heritage of the school and its meaning to a large number of our residents. She added that many of our senior citizens fought to attend the school many years ago.

Though it removes 54 persons from the third ward and places them back into her ward, she feels it is justified by keeping that landmark in the fourth ward. Therefore, she and Mr. Starling are requesting that ward line be adjusted back to keep that area in the fourth ward.

Mr. Baird stated that Davis, Bowen and Friedel then modified the proposed ward map. The Church Street Extended line has now been moved back to North Walnut Street, down to Northwest Fourth Street and will only impact one census block which will be kept in the fourth ward. With the change, the first ward will have 2,442 persons, the second ward 2,331 persons, the third ward 2,316 persons and the fourth ward 2,470 persons. The numbers still comply with the 10% population requirement in the city charter.



Mr. Baird advised that DEMA and Kent County requested the city to adopt the Kent County All Hazard Mitigation Plan. It was adopted by the county in 2010 and both DEMA and the county recommends adoption by the municipalities. He explained that adopting the plan makes the city eligible for funding in Kent County should that be needed.

Mr. Pikus asked the status of the Sussex County plan; the city manager stated he is currently working with them on a similar document which council will see in the near future.

Ms. Wilson moved to adopt Resolution 2011-11, seconded by Mr. Starling:

*Resolution Adopting an All Hazard Mitigation Plan for the City of Milford, Delaware*

*WHEREAS, the Disaster Mitigation Act of 2000, as amended, requires that local government develop and adopt natural hazard mitigation plans in order to receive certain federal assistance, and*

*WHEREAS, a local Hazard Mitigation Advisory Committee comprised of county governmental departments, municipal council members, the business community, nonprofit organization, and citizens working in Kent County of the State of Delaware, convened in order to study the City of Milford's risks from, and vulnerabilities to natural, technological and terrorism and to make recommendations on mitigating the effects of such hazards on the city, and*

*WHEREAS, a contract was issued to an experienced consulting firm to work with the Kent County Hazard Mitigation Advisory Committee, and the Delaware Emergency Management Agency to develop a comprehensive all hazard mitigation plan for Kent County of Delaware, and*

*WHEREAS, the efforts of the City of Milford, Kent County, and the consulting firm have resulted in the development of an All Hazard Mitigation Plan for the county and the City of Milford.*

*NOW THEREFORE, BE IT RESOLVED by the Council that the Kent County All Hazard Mitigation Plan dated February 16, 2010 is hereby approved and adopted for the City of Milford and Kent County of the State of Delaware. A copy of the plan is attached to this resolution ADOPTED by the City of Milford, Delaware this 22nd day of August, 2011.*

Motion carried.

*Dissolution of Milford Parking Authority*

Mayor Rogers has discussed this matter with the city manager who agrees it should become an inactive body though it will remain on the books.

Mr. Pikus emphasized their request is to dissolve the board and turn any remaining funds over to the city.

City Solicitor David Rutt explained that Delaware Statute states when the authority is paid and has discharged all bonds, it can convey any property back to the city. However, the law does not address the dissolution of the authority.

He explained the authority could stay in existence but without anyone serving. He noted the authority exists under the city code. His recommendation is the property be transferred to the city but keep the authority in existence as is permitted under Chapter 45 of the Milford Code.

Mr. Pikus explained that some of the remaining funds were used to pay bills and minor expenses. He then asked the benefit of keeping the authority. The mayor stated that if it were needed in the future, appointments could be made much simpler. Mr. Rutt said the city council has the right and obligation to appoint members to the authority. Under Chapter 45, the power to establish the authority continues to exist. Should it need to be revived, new members could then be appointed.

Mr. Pikus confirmed that the current members will have no further obligation or responsibility to the parking authority; Mr. Rutt explained it will be considered an empty body with no one serving.

Mr. Pikus wants assurance it is done legally.

Dan Marabello of 1 Windy Drive, Meadows at Shawnee, stated he agrees the authority needs to be kept in case it is needed in the future. He recalled there was approximately \$10,000 in cash and almost \$6,000 in uncollected taxes. He asked if that was collected and if not, the status of those debts.

Mr. Pikus advised that Chairman Harvey Marvel had informed him there is less than \$10,000 in the account and there remains some uncollected debts.

Mr. Baird confirmed it will become the city's responsibility to collect any outstanding debt. He will continue to work with the current members of the parking authority to make the parking authority defunct though it will still exist.

The city solicitor confirmed the properties are titled in the name of the parking authority. Mr. Rutt further explained the filing of the certificate essentially acts as the transfer of the property. He said they are typically placed in a miscellaneous file and become difficult to find. He suggests a confirmatory deed which will show up under the title transfer from the parking authority to the City of Milford.

Mr. Rutt advised the next step is to prepare the certificate which needs the approval of the parking authority and city council. It will then be filed with the Secretary of State. Certified copies would be filed with the Recorder of Deeds in both counties due to the parking lots being in both Kent and Sussex County, followed by a confirmatory deed.

Mr. Gleysteen stated that repairs are needed to the parking lots and specifically, the one across from the bank. He asked if the funds in the parking authority account could be used for repairs before it is transferred. Mr. Baird recalled an estimate of \$70,000 being received approximately two years ago for the repair of all municipal parking lots. That covered the North Walnut Street/Front Street lot, the lot adjacent to Milford Senior Center, the lot across from Park Place and Milford Skating Rink and the one behind Georgia House on Southwest Front Street. As a result, \$10,000 will not begin to cover the needed repairs.

Mr. Pikus asked for confirmation that Municipal Street Aid can be used for those repairs; Mr. Baird stated yes.

Joe Palermo, 5 Misty Vale Court, Meadows at Shawnee, confirmed that once we assume responsibility of these parking lots, any work would be at the taxpayers' expense.

#### *Transfer of Funds and Budget Amendment/Solid Waste Department/Purchase of Recycling Containers*

Mr. Baird referenced the August 18, 2011 memo from Public Works Director Brad Dennehy in the packet. As a result, he is requesting city council authorize the transfer of \$40,000 from Account 399-40-00 Solid Waste Fund Balance to Account 204-4040-432-60-10 Solid Waste Materials & Supplies to purchase recycling containers for single family residential trash customers in the city as required under Delaware's Recycling Law.

He explained the new recycling law, effective September 15, 2011, requires the city to provide recycling containers to every single family trash customer in the city. Initially, they were only provided to customers requesting containers.

The city manager reported that of the 3,246 single family residential trash customers, 2,108 already participating in the recycling program. The city has 300 containers obtained from the Delaware Solid Waste Authority when they got out of the recycling business. Another 738 are needed in order for the city to comply with the law.

Mr. Pikus moved to transfer of \$40,000 from Account 399-40-00 Solid Waste Fund Balance to Account 204-4040-432-60-10 Solid Waste Materials & Supplies, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

#### *Planning Commission Status Report-Milford Ponds*

Solicitor Rutt received a call from one of the attorneys who asked what was occurring at this meeting. Mr. Rutt informed her this would only be a status report with no public hearing and no comment. Therefore, he suggests council reserve any questions for the public hearing.

City Planner Gary Norris then provided a history of the Milford Ponds project through a powerpoint presentation. He reported the site is located between Route 113 and Walnut Street. He then referenced the plans presented to city council in 2007. At that time, Milford Ponds was given a conditional use as a PUD. Documents were submitted that included a phase I plan and clubhouse.

He advised that utility and street improvements, as well as a pumping station have been completed. Since that time, the property was foreclosed at which time there were two property owners--Griffin Realty and EB Lands.

The city manager and Mr. Norris have been involved in ongoing discussions with both property owners regarding the development of the property. There were several issues and no agreements reached between the two property owners. This year a modification to the approved conditional use was submitted to the planning commission involving the Griffin Realty lands.

He concluded by reporting the planning commission reviewed the modification. They recommended approval by a vote of 7 to 1.

City Solicitor Rutt then explained that at the time of the initial hearing before the planning commission, the attorneys for EB Lands raised some objections. Mr. Rutt responded by asking for those objections to be submitted in writing because they were extensive which they complied with.

Some negotiations then occurred in an attempt to resolve the issues. He then received a response from the attorney for Griffin Realty. He reviewed the objections, letters and responses. There were three objections to amending the site and conditional use on technical issues and three objections on legal issues. He did not find them sufficient enough to prevent the planning commission from recommending the application be sent to council to amend the conditional use.

Mr. Rutt advised the application will be coming to city council for consideration and a public hearing.

The city manager said he recommended it be brought before council in advance of the public hearing to allow council to become familiar with the project. At the time of the public hearing, there will be a number of presentations, along with counter arguments.

He felt it was beneficial to present the initial project, how it changed over the years and what is left today. In addition, the proposal on how to remedy their problems will be presented. Mr. Baird said that in order to move forward, council will need to approve the application.

The city manager stated this is informational with the intent to get councils' thoughts moving so they are familiar with the project at the time of the public hearing.

#### *Resolution 2011-11/Public Hearing/Borrowing/Washington Street Water Plant*

Mr. Baird explained that this resolution is the first step of the referendum process to allow the city to borrow up to \$3.7 million from the Delaware Drinking Water State Revolving Fund program.

As he has discussed, the structures at the Washington Street Water Plan will be demolished and the building reconstructed for use by the city billing department. Originally, the loan was for \$2.7 million with a 35% principal forgiveness. The balance would be for a term of twenty years at 1% interest.

He has been in discussions with Heather Warren from the Office of Drinking Water who was in attendance. Currently, she is offering \$3.7 million with a 35% principal forgiveness which brings the project down to a \$2.4 million loan. The term and interest rate remains as was originally offered.

Ms. Warren was in attendance and offered to attend the public hearing in case there are questions. She said they appreciate the city considering their program for financing of water system improvements now and in the future.

She emphasized this is the most favorable rates/terms she has seen noting that typical interest is currently 3.25%.

Mr. Baird then stated that following the public hearing, final authorization will be needed by council. The referendum will be scheduled between thirty and sixty days following the hearing and final authorization and is anticipated sometime in late October.

Mr. Rutt advised council the resolution needs to be adopted in order to schedule the public hearing.

Mr. Pikus moved to adopt the following resolution, seconded by Ms. Wilson:

*RESOLUTION TO BORROW FUNDS TO DEMOLISH AND RECONSTRUCT THE WASHINGTON STREET WATER PLANT AND OFFICE BUILDING FOR THE CITY OF MILFORD, DELAWARE*

*WHEREAS, the City Council of the City of Milford, Delaware ("Council") has been advised that up to \$3,700,000 is required to finance the improvements associated with the demolition and reconstruction of the Washington Street Water Plant and the office building located on the same site.*

*NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL AS FOLLOWS:*

- 1. The Council hereby proposes unto the electors of the City that an amount of money not exceeding \$3,700,000 (exclusive of original issue discount) be borrowed to pay for the costs of the Capital Improvements and to pay the costs associated with the financing. The borrowing is expected to be accomplished through the issuance of a loan from the State of Delaware Drinking Water State Revolving Fund (the "DWSRF Loan").*
- 2. The loan proceeds will be used for the demolition and reconstruction of the Washington Street Water Plant and office building located on the same site.*
- 3. The average rate of interest on the DWSRF Loan shall not exceed 1.0%*
- 4. Of the total loan amount, the principal and interest shall be forgiven on \$1,295,000.*
- 5. The DWSRF Loan shall be secured by the full faith and credit of the City.*
- 6. The DWSRF Loan shall be paid or funded from water revenues of the City.*
- 7. A Public Hearing upon this Resolution shall be held in the Council Chambers at City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 12, 2011, commencing at 7:00 p.m., at which time the Council shall vote upon the final authorization for the DWSRF Loan.*

Motion carried by unanimous roll call vote.

ADJOURN

Mr. Pikus moved adjourn the council meeting, seconded by Mr. Morrow. Motion carried.

Meeting adjourned at 7:44 p.m.

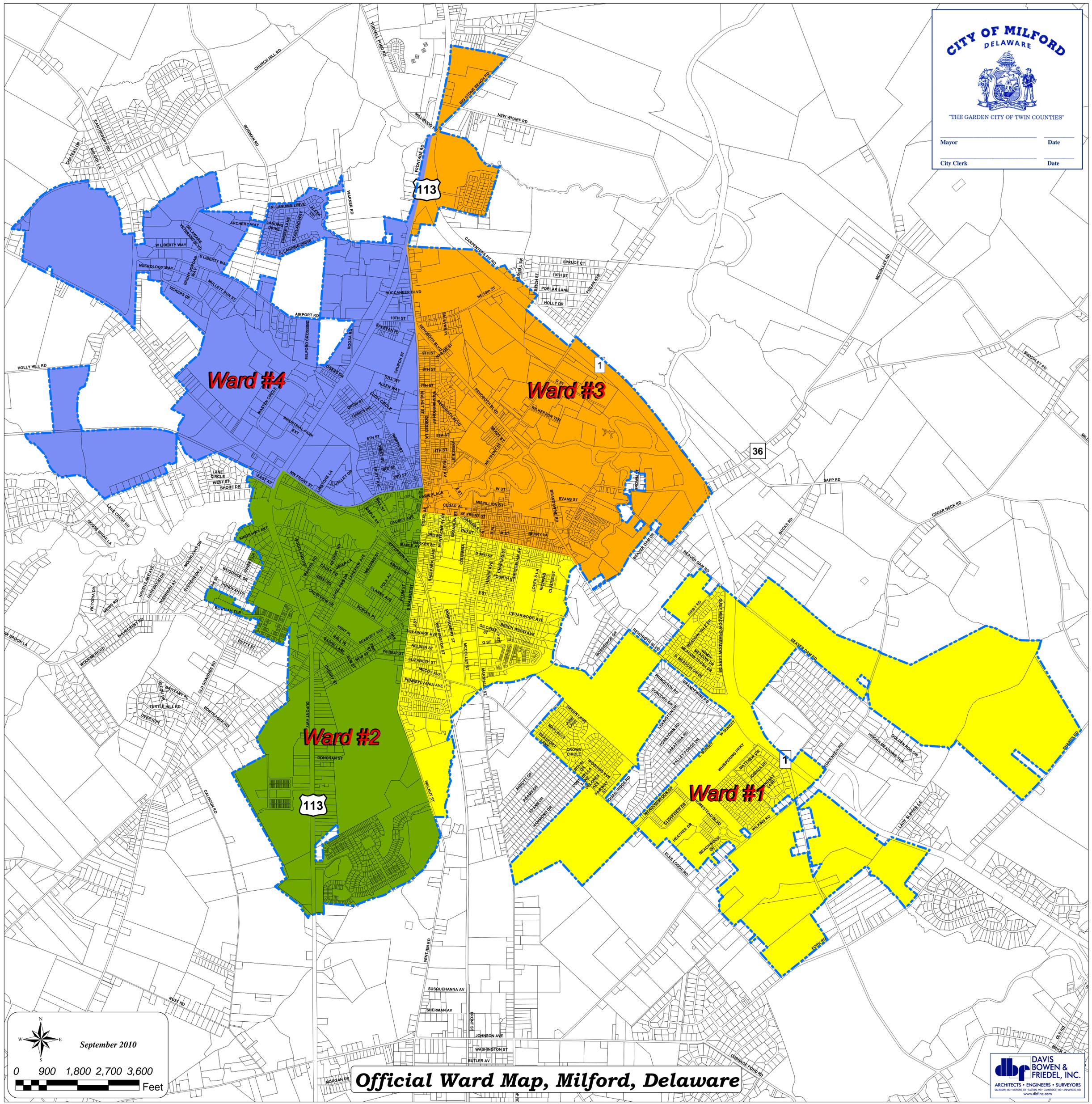
Respectfully submitted,

Terri K. Hudson, CMC  
City Clerk/Recorder

cc: Adopted Ward Map/August 2011



Mayor \_\_\_\_\_ Date \_\_\_\_\_  
City Clerk \_\_\_\_\_ Date \_\_\_\_\_



**Ward #4**

**Ward #3**

**Ward #2**

**Ward #1**

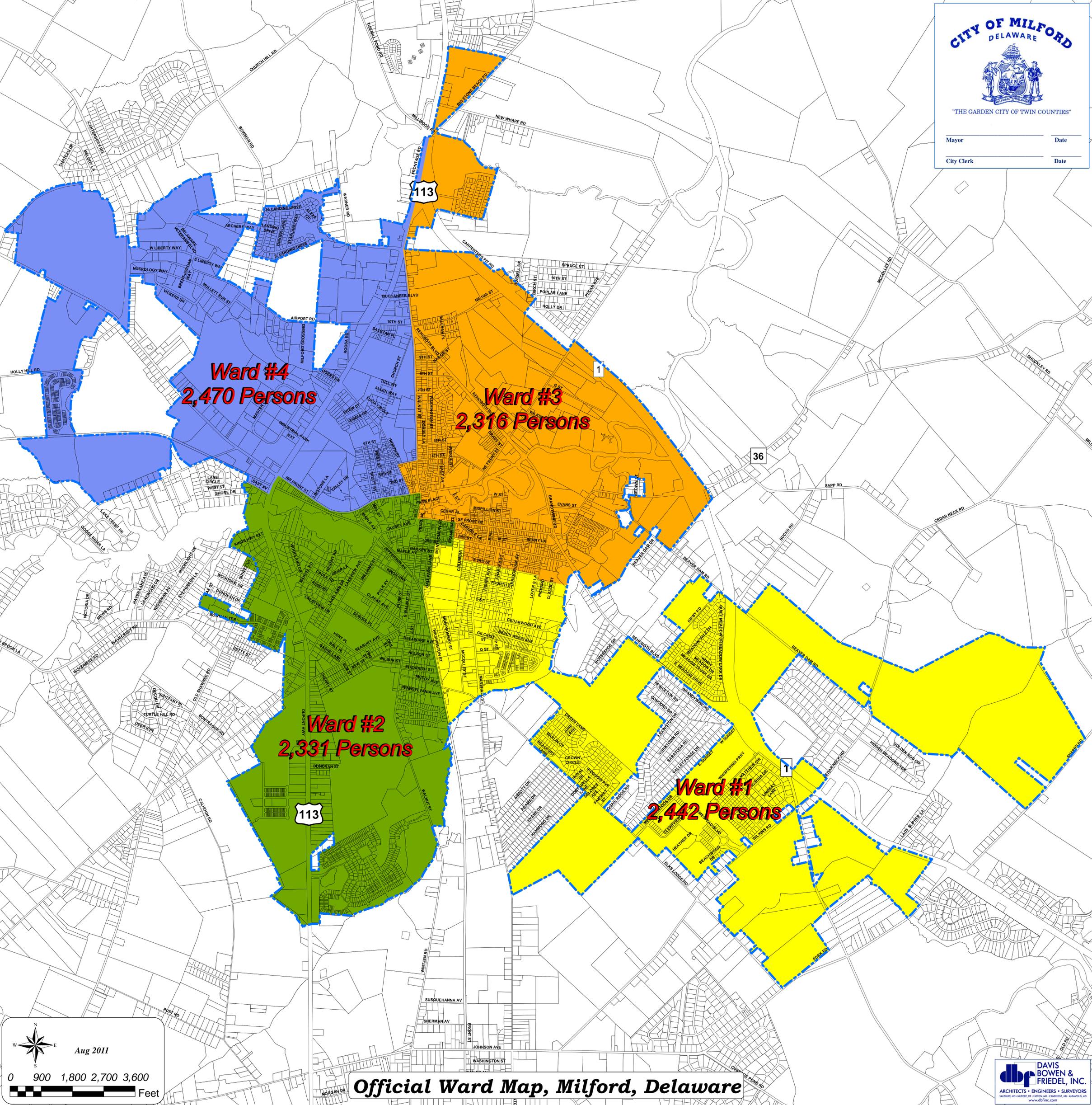
September 2010

0 900 1,800 2,700 3,600 Feet

**Official Ward Map, Milford, Delaware**



Mayor \_\_\_\_\_ Date \_\_\_\_\_  
City Clerk \_\_\_\_\_ Date \_\_\_\_\_

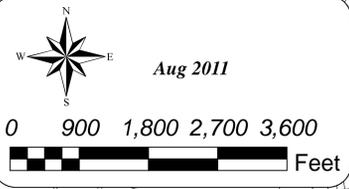


**Ward #4**  
**2,470 Persons**

**Ward #3**  
**2,316 Persons**

**Ward #2**  
**2,331 Persons**

**Ward #1**  
**2,442 Persons**



**Official Ward Map, Milford, Delaware**

*MILFORD CITY COUNCIL*  
MINUTES OF MEETING  
August 17, 2011

A Meeting of the Economic Development Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Wednesday, August 17, 2011.

PRESIDING: Chairman Garrett Grier, III

IN ATTENDANCE: Committee Member Councilman Douglas Morrow, Sr.

Mayor Joseph Ronnie Rogers

Councilman Steve Johnson and Owen S. Brooks, Jr.

City Manager David Baird and Recorder Christine Crouch

Economic Development Director Richard Carmean

The Economic Development Committee Meeting was called to order at 6:04 p.m. by Chairman Grier.

*Wyshock Development*

Mr. Grier then introduced Tom Wyshock who provided committee and council members with an agenda and detailed booklet for the meeting.

Mr. Wyshock thanked those who took time to hear their plans. He said he is normally referred to as a sponsor or developer. That capacity requires him to research and purchase land, get leases signed for properties and handle third parties which include architects, attorneys, municipalities, consultants, contractors and anyone else needed. It is also his responsibility to ensure the project stays within its time frame.

Project Manager, Freddie Bada of Moonlight Architecture, Incorporated, then addressed the committee. Mr. Bada explained the concept of the project is for a CCRC (Continuing Care and Retirement Community). They feel there is a need due to the aging and demographics of Delaware which is becoming more of a retirement area where these type facilities will be needed.

They looked at different sites and decided on the Simpson Farm site which is a 200-acre parcel in the southwest part of Milford. They feel it is in good proximity to Route 113 and will be easily accessible from other roadways.

Mr. Bada reported there are three parts to the project—a retirement community, continuing care component and a health care facility.

He said the main component is the continuing care facility; a section of the building will be dedicated to Alzheimer and dementia type patients. This is a specialized type care and patients need to be in the best environment. They are proposing a 45-bed unit for dementia patients.

Another area of the facility will offer assisted living care with 125 beds in addition to a private nursing home.

He explained the building will provide all the amenities and necessities for emergency care. It will include dining and recreation facilities. The design will include a walking track for dementia and alzheimer patients.

He then referenced a proposed drawing of the facility whose design is intended to keep in character with the historic feel of the City of Milford.

Mr. Bada said the other component is a retirement community. Included will be a mix of uses--54 single detached units, 65 duplexes and 4 apartment buildings with 35 units each for a total of 140 independent units.

The purpose of the community is for residents to transition to the various housing types as needed. As an example, he said that a person may start out in a single detached home, but may later need to move over to an apartment building when yard work and other maintenance becomes difficult. When specialized care is needed, the continuing care facility would be available which will include alzheimer and dementia care. They plan to keep the two areas separated by green space, buffers and trees.

He advised a clubhouse is planned which may include a workout facility, a kitchen and open space that can be leased out to the community.

They plan to add a small amphitheater out the rear of the clubhouse. In the summer, entertainment options, such as bands, shows and movies can be considered. The community would be invited to walk down and set up their chairs to be part of the activities.

They are also considering tennis courts and a swimming pool. They hope to build an activity center which will serve the various aspects of the community. A gymnasium or larger facility is being considered and could be rented out, in addition to some classrooms that may be used for training.

He noted the substantial amount of green space on the conceptual plan. Walking plans will be added throughout the community which will allow this to become a walking community. This would prevent residents from getting in the car and instead allows them to walk throughout the community. Gazebos and exercise stations along the walkways will be added.

Also planned are some commercial retail type spaces such as salons, boutiques, coffee shops, cafes, etc.

Mr. Bada said the last and largest portion of the community is the healthcare facility. As was stated previously, the location just off Route 113 makes it easily accessible by emergency vehicles. A three or four-story parking garage will be built to prevent using available green space.

Roughly 100,000 square feet of future expansion will be available.

The healthcare facility will include medical offices or other commercial facilities in close proximity to the hospital. As the hospital is built, doctors will start buying houses and establish offices in the area. The plan provides space to lease to those doctors who would be able to walk across the street to the hospital.

They also want to make the project green. He would like to take advantage of the top of the parking structure by adding a solar array to capture some of the sun energy. Through various areas, they will have solar arrays and possibly some small windmills.

They may add solar water heaters or utilize land for geothermal purposes within the housing units.

Mr. Bada concluded by stating that Moonlight Architecture is spearheading the project. They are based out of Lewes and have been in business for twelve years. They have completed a number of projects from warehouse type facilities to bathroom additions. They just completed a 150,000 square foot aircraft hangar in Wilmington. He emphasized they are a team that will work with experienced people that knows what they are doing and will be able to move quickly as a result.

He then introduced his team:

Zach Crouch of Davis, Bowen and Friedel, Incorporated then addressed the committee. He stated he has been with DBF for fifteen years during which time he has worked with the city on various projects. He noted the project has been designed probably twice. When he was called about the project, he agreed it was a good fit for that area. He noted the traffic impact study has already been completed though it will still require some DelDOT approvals. However, water, sewer and electric is already there. He has handled several projects in the city and most have been constructed or are ready for construction.

He informed the committee there is a great need for this type facility in Milford and welcomes the opportunity to proceed.

Jim Baker of Macintosh Engineering advised they are structural engineers located out of Wilmington and Georgetown; he is currently working out of the Georgetown office. He explained the majority of their clients are architects so they are able to see various structures and facilities. Where an architect may specialize in a particular sector, they work in all sectors based on the need. He explained that with this project, there are several sectors including healthcare and continuing care. They have worked on a multitude of projects and in particular with all four major healthcare players in the state. On the continuing care side, they have also handled several projects not just in Delaware, but throughout the country as well as many along the eastern seaboard.

Dan Blake of Blake and Vaughan Engineering then stated they are a mechanical, electrical and plumbing engineering firm. They work out of Wilmington and have a small satellite office in Lewes. They started in 2003 and currently have 13 employees. They did a similar project in Long Island where one of the first geothermal systems was used in this type facility. He said their firm concentrates on green and sustainable designs.

Aaron McCarthy of Francis Cauffman Architects informed the committee that he joined this team as the healthcare architect representing the medical facility or hospital which will become a greenfield hospital. He said Francis Cauffman was founded in 1954 and with a staff of 110, is one of the largest architectural firms in Philadelphia. They also have offices in New York and Baltimore.

He said they have worked on medical facilities up and down the east coast and have worked in 22 states and 13 different nations building health facilities. They are excited about this project and the trend in the development of continuing care communities. He stated that as people age, they prefer to be close to their doctors and desire high quality health care which this will provide.

Frank Yoder of Honeywell-Integrated Building Solutions stated they are an international technology company out of Morristown, New Jersey. He lives in Wilmington though his office is out of Fort Washington, Pennsylvania. They are planning a smart building with a centralized video management system, intrusion detection, personal inventory, occupant/visitor safety to cover all their security needs.

Kevin Lucas of EDiS stated they are a Delaware Company that has been in existence for 103 years. He said they will be in charge of the construction portion of the project. Presently, they have 66 employees working up and down the state. Their current volume is approximately \$150 million per year. They have worked with healthcare clients including Christiana Care, Saint Francis, Beebe Hospital as well as some retirement facilities in the area. Locally, they recently completed Stockley Medical Facility and the new Cape Henlopen High School.

Mr. Bada stated they are really committed to this project and want to get it moving. He asked the committee to look at their brochures adding that he likes the team concept which is why they want the city to be part of their team.

Mr. Wyshock then reviewed the project stating that his experience is with assisted living, dementia units and nursing homes. He has a decade where he was a licensed administrator with the Department of Welfare in Harrisburg. It is important that he understand every facet of the campuses that are becoming fixtures in communities throughout the country. When you build a community for people who are 55 plus and retiring, statistics show that they will not want to leave regardless of the level they enter. They do not want to leave the campus as they age or have a need for additional medical assistance. Nor do their families want them moved to another location because it is painful to put their parents in a facility. Psychologically, it is balanced when they do not have to leave the campus.

Mr. Wyshock said on the other side, you do not want individual people living too close to the main building because it is a reminder of their aging and where they are heading. He said you do not want to put their dining halls next to one another and you do not put the assisted living people close to the nursing home resident. He said most of the dementia patients live a very long time and most do not take medicine.

He reported he is very passionate about this project namely because it will allow one spouse to remain close to their spouse should the other need one of these facilities.

Mr. Wyshock is also familiar with the insurance health field because he has been in it for forty years. He said one of the things that hospitals are required today is to release people as soon as possible. He said a patient is often released because the private insurance companies only cover a particular ailment for a very short period of time. However, Medicare and Medicaid will cover the costs of a patient going to a convalescent center on the doctor's recommendation for 120 days. Mr. Wyshock emphasized they have a window of opportunity though it is a short window. He said it is time to think out of the box and not in traditional methods. They need an aggressive approach to the project.

Mr. Wyshock said the team they have assembled is experienced and can move quickly. They need the project to be shovel-ready by November. Several hundred million dollars are needed for this project and though that generally takes about four months, they are already on the fast track for financing.

He said the reason behind the limited window is because we are going into a presidential election year and no one will know the outcome of those elections. By July of 2012, he expects all the money will stop and no one will be willing to spend money until they know the outcome of the election. By the spring of 2013, they will not know if they can continue.

He reported there are presently a number of institutions sitting on a lot of cash waiting for the right opportunity. Mr. Wyshock said this project will create 450 to 500 construction jobs immediately. When completed, the facility will be home to between 4,000 to 5,000 full-time employees.

Mr. Wyshock thinks the committee will agree this town is long overdue for a shot in the arm of this nature. They feel Milford needs a burn center because the closest one is Crozer Burn Center in Chester, Pennsylvania. Milford also needs a Neonatal Intensive Care (NIC) Unit adding that Milford had 2,700 babies last year of which many were sent to Dover or Christiana for specialized care. A pediatric center is also needed similar to AI Dupont in Wilmington.

He is familiar with a hospital who is interested in bringing an eye center to Milford. He said this could become one of the ancillary arms of the medical center. He said that most people with serious eye conditions are sent to Wills Eye Center in Philadelphia.

Mr. Wyshock then discussed their financing. He said that when he builds a facility, which he owns, they sometimes own the land though sometimes it is already owned by the tenant. That tenant then leases the land, or the land and the building from Mr. Wyshock's corporation for a period of 20 to 25 years. At the end of the term of the lease, the property/building is turned over, free and clear. It is given as a donation and they sell the tax credits on Wall Street which makes a little more profit.

He said many hospitals and institutions have difficulty getting financing, but are not fully aware of this concept. Also, there are not a lot of people willing to give away a successful property. He does not have a problem with that and believes it is necessary to give back to the community.

He advised they will end up with balance sheets that will give them a higher rating. When they have a lease, it is carried as an expense on their profit and loss statement. It becomes an asset at the time they receive it. Therefore, it is advantageous for their expansion not to have a lingering debt versus it being listed as an expense which can always be offset with additional revenue.

Mr. Wyshock feels the medical center they sign will be surprised because based on the trust fund he is working with, they basically have a green light to turnkey the property. He said that means they will also be able to purchase the equipment needed for their facility which will be worked into the package. That institution will then come in financed at 100%. He added they will not get that deal anywhere else in town.

Mr. Wyshock said he asked for this meeting because they really want the city to become part of their team. They cannot do this without the City of Milford. They will not try unless the city is part of the team. He said they need Milford's support in getting fire marshal, DeDOT and other agency approvals. He asked that the city be aggressive emphasizing they are here to ask for their help.

Mr. Wyshock then asked if they can count on the city and will they be part of the team. He then asked the committee and council members if they had questions.

Mr. Brooks said the project seems good though it is huge. He asked is the project will begin at one end and finish at the other end of the site. He said that Mr. Wyshock stated it will involve 450 construction workers.

Mr. Wyshock answered they will start simultaneously. The first 75 acres will be used for a medical institution because it will be more complicated. The continuous care campus is not less cumbersome and does not the requirements of a hospital.

Mr. Brooks asked the anticipated time span. Mr. Wyshock said the realistic time span will be anywhere from 28 to 36 months.

Mr. Brooks asked what happens in July of next year if there no more money available; Mr. Wyshock assured him they will have all the money. He said that once the commitment is made, the money will be available. Yesterday, he was discussing the matter with his attorneys who are already pricing his title insurance which will be \$350,000.

He noted that because of all the logistics involved, the retainer for the attorneys is \$150,000 a year.

He said that each one of the project team members has been given documents they are to complete to show their bondability.

Mr. Brooks asked if Mr. Wyshock had a good working relationship with the State of Delaware; Mr. Wyshock stated he thinks so. Mr. Brooks said he brought that up because of his comments about needing help with DeIDOT and the fire marshal. He explained there have been a number of developers that have come back for multiple extensions because it is so difficult to get approvals through these agencies. He then confirmed Mr. Wyshock's intent is to break ground in November; Mr. Wyshock stated yes. He said he has a good relationship because his daughter works closely with the Attorney General's Office. He said she is a nationally certified advocate for domestic violence for women and children. Therefore, she works very close with Beau Biden.

Mr. Wyshock said he also knows Joe Biden though he is bipartisan. He worked with Joe Biden's father when he got out of the military selling used cars. He will contact and believes he can depend on the Bidens and Senator Tom Carpenter if necessary.

Mr. Brooks said his concern is the amount of time it takes to get approvals for larger projects. Mr. Wyshock feels their aggressiveness will help those agencies move their application to the top of the pile.

Economic Director Carmean then asked where Mr. Wyshock is looking for a feeder system. He noted the several institutions he mentioned for specialized care. Mr. Carmean then agreed that Milfordians travel to those facilities but asked who will come here for treatment noting the population of Milford will not fill the rooms.

Mr. Wyshock explained that the lower counties of Delaware and the residents from the surrounding communities will fill many of those beds. He explained that initially, there will not be large 100-bed units for Wills Eye Center, as an example. He feels they may start out with 25 rooms but with the ability to expand. He noted that many of their procedures are done through an outpatient service so they are in and out.

When asked if any study has been done on the impact to Bayhealth; Mr. Wyshock advised they are meeting with Bayhealth next week whom they would like to consider their proposal as well. He then emphasized they are not the only healthcare facility being approached.

Mr. Wyshock confirmed that Milford is big enough for competing hospitals. He explained that all hospitals are sharing facilities today. For example, the NIC unit at Kent General is leased by Christiana Hospital. Though it is Bayhealth on the window, it is Christiana's NIC unit.

Mr. Wyshock then confirmed the residential area will be leased. He explained there will not be any entrance fees or purchases. When asked the rental range, he said it will be based on the design, though they typically construct two-bedroom/two-bath units with lofts. He anticipates approximately \$795 per month which he pointed out it will be competitively priced. They will include certain things in their costs up front such as utilities because they want to go green.

That will ultimately lower the utility costs so they can operate within that price range. As a resident needs and enters the specialized units, that price will increase.

The city manager then commended Mr. Wyshock on the team he has put together noting they will have the ability to make this project happen.

Mr. Baird then verified the items Mr. Wyshock needs assistance from the city. He confirmed they are asking for assistance with state agency permitting, land use approvals, site engineering approvals and overall project support. Mr. Wyshock stated that is correct. They intend to keep the Mayor and City Council apprised of all their moves by either e-mail or a weekly progress report so the city can continue to be involved.

Mr. Baird again referenced the land use approval and site engineering process and asked if there are specific concerns or red flags the city needs to jump on quickly.

DBF Engineer Zach Crouch then stated that is one of the benefits of this project because so much work was already done when phase I and phase II was completed. The project has already gone through DelDOT through the previous developer. He agrees there will be some legwork needed based on the design changing, though they hope to utilize some of those things in order to move the project forward.

Mr. Crouch stated that DelDOT will be the biggest challenge. However, there is a letter of no objection on file which he feels can be used or slightly modified. Regardless, he feels the traffic count of 1,023 units compared to this project will be much less. He hopes that will work to their advantage.

He emphasized there are no issues with sewer, water or electric.

Mr. Baird agreed noting that a lot of the work has been done. He reminded the committee that DBF has done a lot of modeling on the sewer side that can be used to prevent any potential bottlenecking problems because of the project's magnitude. He wants to be able to detect any issues quickly.

Mr. Crouch said that unfortunately the timing issue will be from a procedural perspective and specifically the PLUS process. He said that cannot be done until the end of the month; it will then be heard the 20<sup>th</sup> of the following month. He said that is a state procedure though he feels that with the number of potential jobs, he hopes there may be some pressure to get this through quicker. On the DelDOT end, there is a signal going in from Cypress Hall which is across the street and under construction now and one less thing that will need to be done. He pointed out there are a number of positives that will help jump start this project.

He said the city's procedure requires hearings before the planning commission one month and council the next month. Mr. Baird assured them it will be worked out.

Mr. Crouch said he does not see any other obstacles.

Mr. Baird then asked if they will be required to get a Certificate of Public Necessity for the healthcare and nursing facility; Mr. Wyshock answered no, because it is a private facility. He said when there are nursing beds, you need a Certificate of Need which has a waiting list in Delaware. He explained that the reason there is a waiting list is because when Medicaid or Medicare is involved, it is a state expense. When a Certificate of Need is handed out, they keep a close eye on their budgets which are less today with fewer services. Because this is private, they will not be impacted.

Mr. Baird then advised the city has a fiber optic network that can easily be extended to this area which he is willing to discuss with Mr. Wyshock.

Mr. Yoder responded stating that on the surveillance side of things, should there be any kind of intrusion in the area, this would be a way the police department could retrieve information from their data base. It can also be expanded out into the community. He said there are always concerns from private residents who feel their surveillance is intruding into their windows. Cameras will provide that capacity though through software, there are ways to actually blank out buildings and locations or physically direct a camera in its proper location.

Mr. Grier then asked if there is an agreement for the purchase of the property. Mr. Wyshock stated there is an agreement with the current owner which should be solidified by August 24<sup>th</sup>. They will have a letter of intent which includes the contract of sale. Their attorneys are currently reviewing the documents.

When asked the current zoning, Mr. Carmean advised it is residentially zoned with a PUD which allows for a mixed use which can include some commercial.

Mr. Grier asked if zoning change is needed; Mr. Baird said that will need to be discussed once we have a more concrete proposal.

Mr. Grier thanked Mr. Wyshock for coming adding they are here to help them through the process.

With no further business, the Economic Committee Meeting was adjourned at 7:33 p.m.

Respectfully submitted,

Terri K. Hudson, CMC  
City Clerk/Transcriber