

City of Milford



AGENDA

Monthly Council Meeting

October 10, 2011

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

COUNCIL MEETING

7:00 p.m.

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition

Monthly Police Report

Police Committee-Police K9 Grant

City Manager's Report

Committee Reports

Communications

Unfinished Business

Update/Public Hearing Rescheduled-Morris and Ritchie Associates, Incorporated on behalf of Griffin Realty, LLC/Modification of Conditional Use/PUD

New Business

MS&B Contract/Feasibility Study for Small Business Accelerator*

Adoption of Resolution 2011-11/Scheduling Public Hearing/Washington Street Water Plant & Offices Borrowing

Bid Award/Road Improvements 2011-2012

Introduction of Ordinance 2011-27/Chapter 21/Article I Absentee Voting in Municipal Elections

Water Tower Color Scheme/N.E. Tenth Street

MSA Funding/S.E. Fourth Street Curbing

Monthly Finance Report

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.**

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: October 5, 2011

RE: Activity Report/September 2011

Monthly Stats:

A total of 693 arrests were made by the Milford Police Department during September 2011. Of these arrests, 205 were for criminal offenses and 488 for traffic violations. Criminal offenses consisted of 93 felonies and 112 misdemeanors. Traffic violations consisted of 200 Special Duty Radar, 5 Drunk-Driving charges, and 283 other.

Police officers investigated 28 accidents during the month (2 personal injury, and 26 property damage) and issued 123 written reprimands. In addition, they responded to 1476 various complaints including city requests and other agency assistance.

A total of \$20,197.56 was collected in fines during September.

Monthly Activities:

Officers from the Milford Police Department attended the following schools or seminars during the month of September.

- *Three-week GTI Swat School held at the DSP Firing Range
- *Four-day Diamond State Gang Conference
- *Three-day Identifying Deceptive Behavior
- *Four-day 21st Annual Narcotics Investigators Conference
- *One-day Pursuit Policy Trainer

The department is working with the school district to solve an issue with parents dropping kids off

prior to the start of school. Kids are being left in front of the elementary schools unsupervised. A letter, being prepared for parents advising them of the risks and possible consequences, is being converted to both Spanish and Creole. School Resource Officer Melvin plans to hand the letters out to parents that are dropping the kids off prior to any staff arriving at the elementary school.

The department recently tested 42 applicants for police positions. Of those, 28 passed the written test and 25 passed the physical exam. The Academy has since notified us that the next training class will not begin before January 2012.

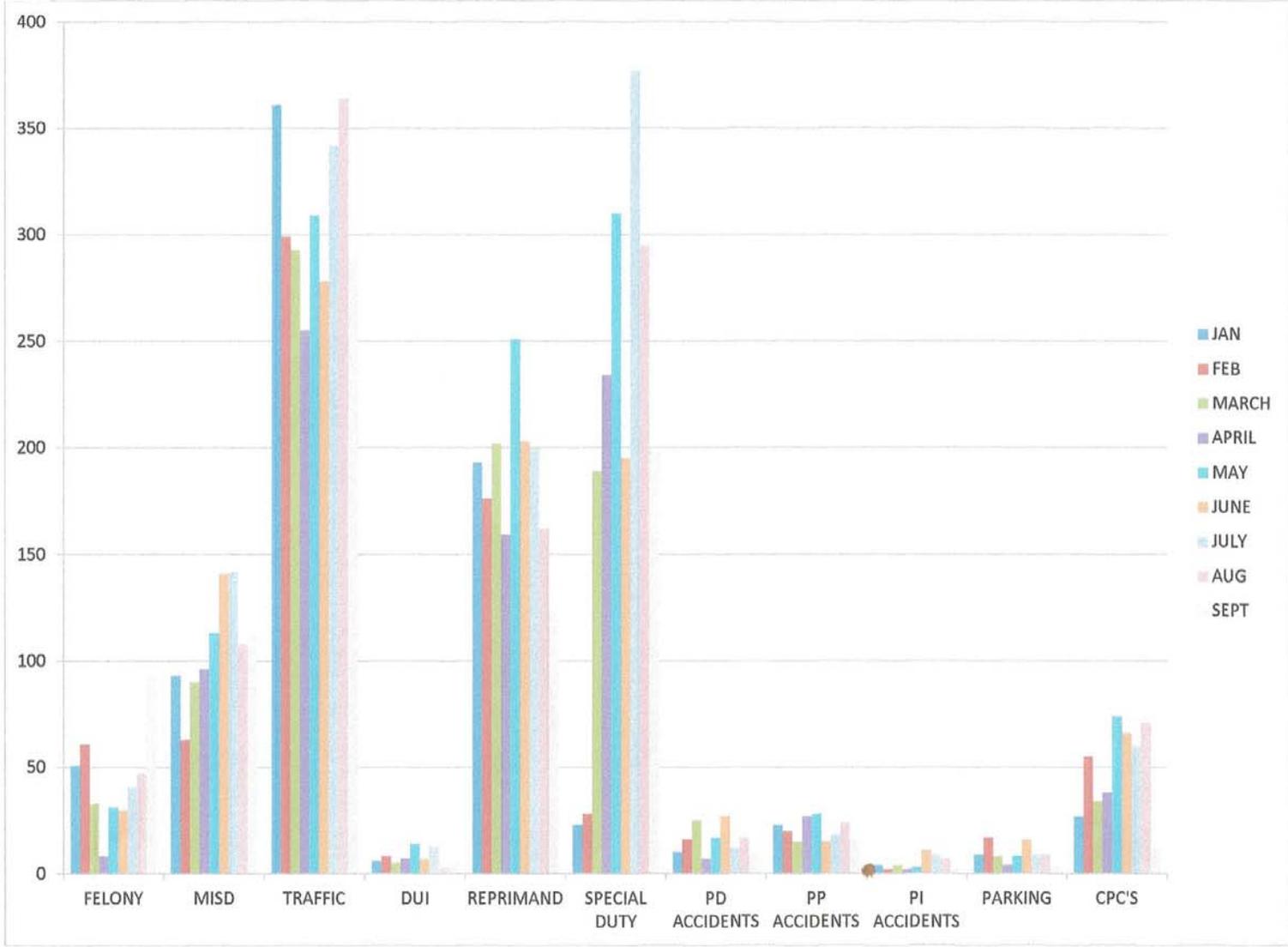
Our K-9 unit recently graduated from the Wilmington Training Academy and is now at work in the field.

EKH

vrk

SEPTEMBER ACTIVITY REPORT

	<u>SEP 2010</u>	<u>TOTAL 2010</u>	<u>SEP 2011</u>	<u>TOTAL 2011</u>
<u>Complaints</u>	1027	10177	1357	11693
<u>Criminal Arrests</u>	206	1311	205	1356
Felonies	84	397	93	391
Misdemeanors	122	914	112	949
<u>Traffic Arrests</u>	263	2533	488	4341
Special Duty Radar	101	573	200	1862
D.W.I.	4	65	5	65
Other	155	1724	283	2316
<u>Reprimands</u>	79	1101	123	1673
<u>Accidents</u>	40	377	28	365
Personal Injury	7	63	2	43
Property Damage	33	323	26	322
Fatal (included in PI)	0	2	0	0
<u>Parking Summons</u>	3	61	3	82
<u>Crime Prevention Checks</u>	14	338	12	434
<u>Fines Received</u>	\$5,197.21	\$80,418.46	\$20,197.56	\$109,715.37



City Manager's Report October 10, 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
Aug 2010	428.12	31.95	41.40	0	501.47	14.6%
Aug 2011	409.66	35.99	31.98	43.30	520.93	21.4%

	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)	2,775.22	307.80	304.19	232.67	3,619.88	23.3%

- **Impact Fee Waivers**

Since the waiver of impact fees was implemented in June 2010, the City has waived \$324,725 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$16,867,747 (based on building permit values) during the months of June 2010 through September 2011.

- **I&I Construction Work has Started**

Construction work has started on the I&I project and crews from Teal Construction are proceeding with the open cut repair and replacement portion of the contract. Most of the work to date has centered in the area of SE Front Street and many of the side streets off of it. The Public Works staff is also evaluating options presented to it for the permanent repairs to the sewer line break on S. Walnut Street and how it may be incorporated into the I&I project.

- **201-207 NW Front Street**

The City is meeting with both property owners on Tuesday, October 11 in a final attempt to bring resolution to this matter. I am optimistic a resolution will come from this meeting, however, if one does not, the City will be in a position to issue condemnation and demolition orders on 205 and 207 NW Front Street.

- **Board of Adjustment—Outdoor Woodburning Furnaces**

The Board of Adjustment will be meeting on Thursday, October 13, 2011 at 10:00 a.m. in City Council Chambers to consider applications for variances to the City's outdoor woodburning furnace prohibition as contained in the City's zoning code.

- **Milford Ponds Conditional Use Hearing**

After further discussions with the applicant and a detailed review of the City's Zoning Code, the City has an obligation to hold a public hearing and consider the applicant's request.

Section 230-47C of the City Code states “The Council shall then act within 60 days of the receipt of the Commission’s recommendation to either approve with conditions or deny such use after holding a public hearing. The Council’s decision shall be based on the determination that the location of the use if appropriate, it is not in conflict with the Comprehensive Plan and it is consistent with the purpose and intent of this chapter.” With this said, the Public Hearing has been scheduled for Monday, October 24, 2011 at 7:00 p.m.

- **Electric Rate Comparison**

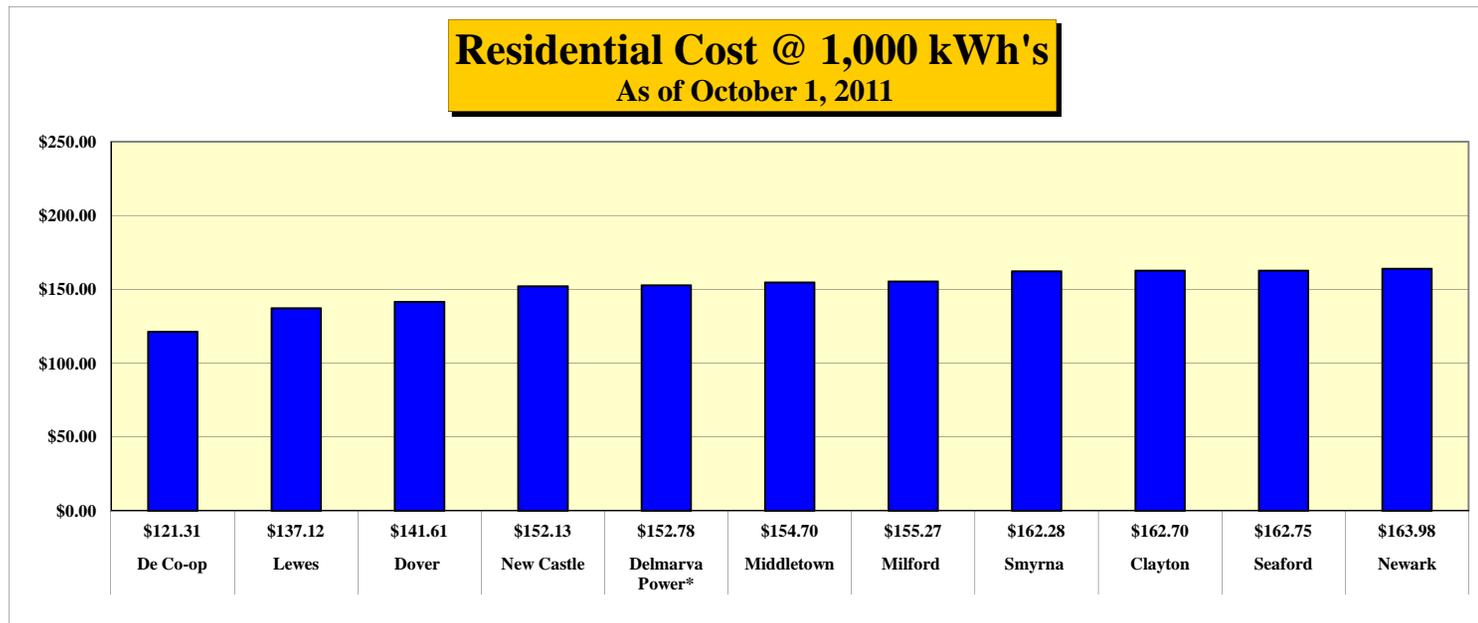
See attached rate comparison chart for both summer and winter rates as prepared by DEMEC as of Oct 3, 2011.

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>	\$137.12	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>	\$154.70	28%	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.



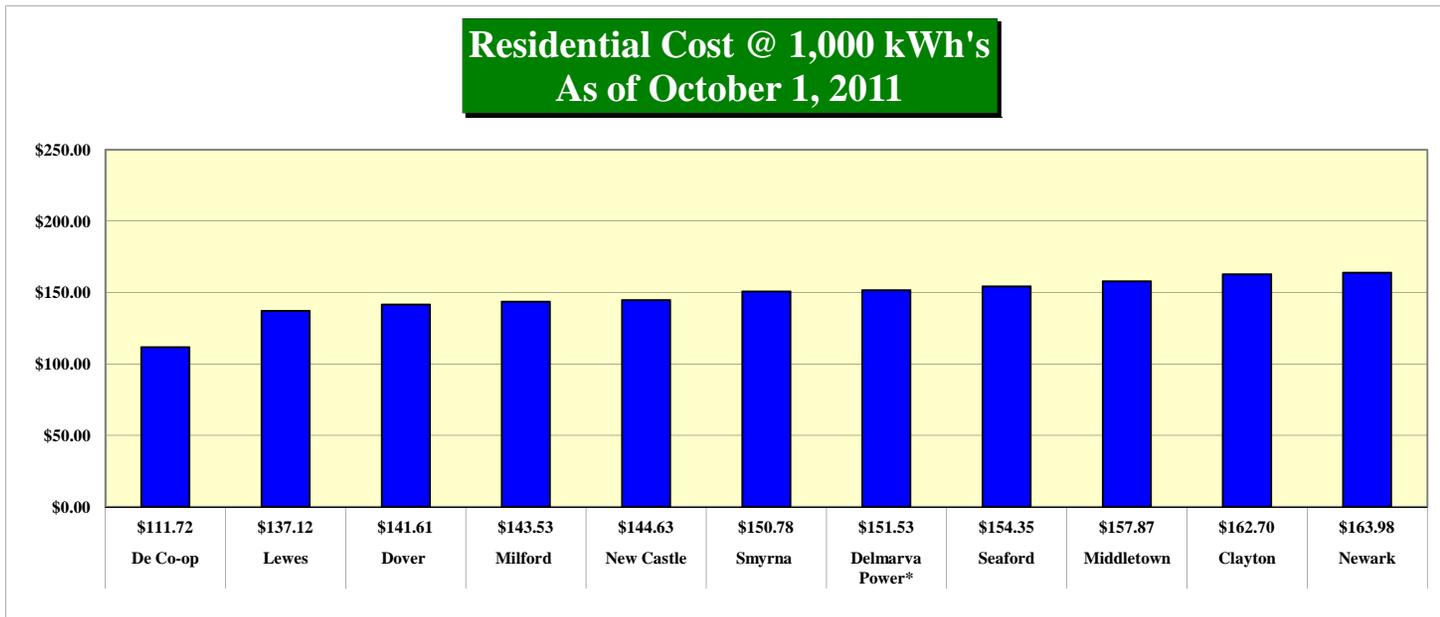
Selected Area Utilities

Winter (Oct. - May)

RESIDENTIAL RATE COMPARISON @ 1,000 kWh

		<u>% Difference</u>	<u>% Difference</u>
<u>De Co-op</u>	\$111.72	0%	-26%
<u>Lewes</u>	\$137.12	23%	-10%
<u>Dover</u>	\$141.61	27%	-7%
<u>Milford</u>	\$143.53	28%	-5%
<u>New Castle</u>	\$144.63	29%	-5%
<u>Smyrna</u>	\$150.78	35%	0%
<u>Delmarva Power*</u>	\$151.53	36%	0%
<u>Seaford</u>	\$154.35	38%	2%
<u>Middletown</u>	\$157.87	41%	4%
<u>Clayton</u>	\$162.70	46%	7%
<u>Newark</u>	\$163.98	47%	8%

* Approximate. DP&L's 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

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.

Pasquale S. Canzano, P.E., BCEE
*Chief Executive Officer*Richard P. Watson, P.E., BCEE
Chief Operating Officer

September 20, 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 August 2011.

**August 2011
Weight in Pounds****MARSHALL STREET**

SINGLE-STREAM TOTAL	OIL GALLONS
33,853	650

MILFORD MIDDLE SCHOOL

7,934	
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MILFORD COMMONS

22,216	
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Sincerely,

Rich Von Stetten
Sr. Manager of Statewide RecyclingC:\RVS\RD correspondence\cityofmilford.doc
Attachments: City of Milford Curbside Totals1128 S. Bradford Street, P.O. Box 455, Dover, Delaware 19903-0455
Phone: (302) 739-5361 Fax: (302) 739-4287CITIZENS' RESPONSE LINE: 1-800-404-7080 www.dswa.com

Date Out	Trans Num	MT Label	DT Label	Bill Acct Name	Net TN
8/11/2011	767102	2550-Single Stream R	100-Inventory	'City of Milford	5.07
8/5/2011	766367	2550-Single Stream R	100-Inventory	'City of Milford	6.46
8/5/2011	766368	2550-Single Stream R	100-Inventory	'City of Milford	6.37
8/19/2011	767885	2550-Single Stream R	100-Inventory	'City of Milford	5.65
8/19/2011	767889	2550-Single Stream R	100-Inventory	'City of Milford	7.11
8/26/2011	768699	2550-Single Stream R	100-Inventory	'City of Milford	5.33
					35.99

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 26, 2011

A Meeting of the Police 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 Monday, September 26, 2011.

PRESIDING: Vice Chair Katrina Wilson

IN ATTENDANCE: Committee Member Councilman S. Allen Pikus

Police Chief Keith Hudson and Recorder/City Clerk Terri Hudson

Called to Order

The meeting was called to order at 6:22 p.m. by Vice Chair Wilson.

Police K-9 Dog

Chief Hudson reported that at the last Delaware Police Chiefs' meeting, it was announced that FEMA has made some grants available through DEMA's WMD (Weapons of Mass Destruction) Working Group. Applications are being submitted to the group and will be awarded on a first come, first serve basis. One of the qualifying items is canine dogs.

Chief Hudson informed the committee that he has considered purchasing a second dog for several years. He emphasized the vital role that police dogs play in the department. Trained dogs can be used for a variety of assignments including the search for drugs, people and bombs. Their current canine is cross trained for patrol and drug detection.

If he is able to obtain the funding, he feels the timing is right. In addition, to the department having an available car, this dual purpose dog would be crossed trained for patrol and explosive detection. He said that unfortunately, bomb threats have become a regular occurrence over the past few years at the schools and at Walmart. When that occurs, they contact Dover Air Force Base for their assistance.

When asked if any officers are interested, Chief Hudson said he does not want to post the position until he receives council approval and notification that the grant was approved. Because of the funding on a first come, first serve basis, the application was submitted with the understanding that should council disapprove, he would withdraw it.

The department has always only had only one canine. Those dogs have been very successful in detecting illegal drugs, tracking individuals and are always ready to protect their handler and other officers in dangerous situations. The second dog would provide some relief to their current canine who is basically on call all the time. In addition, one group of shifts has an advantage because the canine typically follows their schedule. The second dog would almost guarantee a canine every weekend and most nights.

He emphasized that if the grant is denied, he would not pursue the purchase of the second dog.

Mr. Pikus moved for approval of the submission of the application to purchase a second canine dog and that Chairman Morrow present the matter to city council at the October 10th meeting, seconded by Ms. Wilson. Motion carried.

With no further business, Mr. Pikus moved to adjourn the meeting, seconded by Mr. Wilson. Motion adjourned at 6:30 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk

**DELAWARE LEAGUE OF LOCAL GOVERNMENTS
MONTHLY DINNER MEETING
NOVEMBER 17TH, 2011
SHERATON DOVER HOTEL
1570 NORTH DUPONT HIGHWAY
DOVER, DELAWARE**

SOCIAL HOUR: 6:00 P.M. - 6:45 P.M.
 OPENING: 6:45 P.M. - 7:00P.M.
 DINNER: 7:00 P.M. - 7:20 P.M.
 PROGRAM: 7:20 P.M. - 8:00 P.M.

PROGRAM

Art C. Aranilla and Scott Shannon, Attorneys at Law, will deliver an important presentation on the topic of Land Use & Ordinance. There have been a variety of recent legal issues and court decisions evolving the case law in Delaware. This will be a valuable program and a *must* for Mayors, Council Members, and Planning & Zoning Committee Members to guarantee that you stay informed on these changes that can affect local government policy. This program is being sponsored by the DFIT Program.

NEXT MEETING: JANUARY 26, 2012

Special diets can be accommodated with 24 hours notice

WE MUST HAVE YOUR RESERVATIONS NO LATER THAN November 10, 2011

Mail To: Delaware League of Local Governments
 P.O. Box 484
 Dover, Delaware 19903
 Telephone: 302-678-0991 Fax: 302-678-4777

_____ will have _____ attendees
 (Municipality/County/Agency)

PLEASE LIST THE NAMES OF THOSE ATTENDING

<u>Name</u>		<u>Title</u>
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____
_____	&	_____

- () Check enclosed for () dinners @ \$20.00 each
- () Please direct bill the Municipality/County/Agency
- () Payment will be made at the door
- () Enclosed for () dinners @ \$20.00 each

Please join Kent County Tourism for the

*20th Annual
Celebration of Tourism*

Friday, November 4, 2011

11:30 a.m.-1:30 p.m.

Outlook at the Duncan Center
500 W. Loockerman Street, Dover

Luncheon, Awards & Silent Auction

\$35 Per Person or \$250 Table of 8

RSVP by October 28, 302-734-4888

Small Business Development

Feasibility Study for Small Business Accelerator

Submitted to the City of Milford, DE
October 6, 2011



Moran, Stahl & Boyer
Site Selection and Economic Development Consultants

GENERAL INFORMATION

Client:	City of Milford, DE
Scope of Service:	Feasibility Study for Small Business Accelerator
Consultant:	Moran, Stahl & Boyer-FL, LLC
Registration:	A registered Florida LLC in good standing
Mailing Address:	8374 Market Street - #422 Lakewood Ranch, FL 34202
Company Contact:	John M. Rhodes
Title:	Senior Principal
Business Phone:	941.755.0074
E-mail:	john.rhodes@msbconsulting.com
Web Site:	www.msbconsulting.com

■ BACKGROUND

Within the local, regional and national economy, the highest potential for economic growth resides in small businesses that seek to expand. The concept of developing a business accelerator within the Milford area is to provide the information, tools and other resources required for small businesses to growth by reaching new markets, expanding existing product lines or adding new lines. The initial focus would be on manufacturing but would also have provisions for new business startups of any kind as well as in further stimulating entrepreneurship into the area culture.

The result would be a web portal and an accelerator team that could effectively support emerging local businesses, entrepreneurs and product offerings that have growth potential. The team would then facilitate access to available resources that support small business growth and job. The accelerator would potentially be a partnership between the City of Milford, local businesses and other local and state-wide stakeholders. The approach that is utilized will not only impact the businesses in the greater Milford area but also throughout Delaware.

The Milford area accelerator also seeks to leverage the concept of entrepreneurship as an education tool for local students, and in particular, those students that are at risk and represent a challenge to the community and its education system. By exposing students to the potential opportunities of entrepreneurship, it will provide them with an attractive stimulus to engage in education and move their lives forward in a constructive manner.

■ SCOPE OF WORK

MS&B proposes to define the key elements of successful accelerators throughout North America, define a structure the best fits the local and state situation, identify elements of an accelerator that exist and those that need to be established, and quantify the potential impact from the accelerator on the local economy. To this end, the following tasks are proposed to be completed as part of this contract:

1. Outline the needs of a Small Business Accelerator to support the City of Milford and the surrounding area, structured in a way that other communities throughout Delaware can leverage its format.
2. Summarize local interest that may exist in participating in a business accelerator.
3. Determine the best methods of communication on the existence of an accelerator both initially and on an on-going basis.
4. Summarize the outcome of benchmarking other accelerator efforts in North America and elsewhere.
5. Quantify the impact of the accelerator in the community.
6. Define ways entrepreneurship can be implemented into school activities.
7. Make recommendations on establishing the accelerator.

■ PROJECT DELIVERABLES AND COST SUMMARY

Project Deliverable

- Summary report incorporating the work scope noted above
- Presentation of information to a group defined by the City at an agreed upon date

Project Delivery Date for Draft Report: November 15, 2011

Cost: \$35,000

■ **TERMS AND CONDITIONS**

1. **Scope of Agreement:** This Agreement and the detailed scope of tasks defined in the contract between MS&B and the City of Milford, DE (Client) contain the entire understanding and all of the terms between the parties with respect to the matters contained herein, and supersedes any prior oral or written understanding. Any changes to the Agreement must be in writing and signed by both parties represented in the Agreement.
2. **Termination of Agreement:** MS&B or the service provider can terminate this Agreement upon giving 15 days’ prior written notice to the respective parties. If this Agreement is terminated by MS&B without cause prior to completion of the services described in this Agreement, MS&B will pay all expenses incurred and fees due up to the point of the client’s termination. Fees will be prorated for any services which have not been completed. In addition, either party can terminate this Agreement immediately upon giving written notice to the other party of the breaching party’s material breach of the Agreement, provided that the terminating party has first given the breaching party written notice of the breach 10 days to cure the breach and the breaching party has not cured the breach within the 10-day period.
3. **Assignment:** The service provider agrees not to assign or otherwise transfer its rights or delegate its obligations under this Agreement without the prior written consent of MS&B. No such assignment or delegation by either party will relieve it of its obligations or duties under this Agreement.
4. **Choice of Law:** This Agreement will be construed according to and governed by the laws of the State of Delaware.
5. **Payment to MS&B:** MS&B will issue and invoice to the client at the end of month covering work completed in that month on a net 30 day term basis.

If work scope and terms are acceptable, please acknowledge by signing the Agreement in the space below and send an original to:

John M. Rhodes
Moran, Stahl & Boyer-Florida, LLC
8374 Market Street – 422
Lakewood Ranch, FL 34202

Moran, Stahl & Boyer-Florida, LLC
Name: John M. Rhodes
Signature: _____
Title: Senior Principal
Date: _____

City of Milford, DE
Name: _____
Signature: _____
Title: _____
Date: _____



RESOLUTION 2011-11*

RESOLUTION PROPOSING THE ISSUANCE OF UP TO \$4,000,000 MAXIMUM PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS OF THE CITY OF MILFORD TO FINANCE OR RE-FINANCE CERTAIN IMPROVEMENTS TO THE CITY'S DRINKING WATER FACILITIES AND ESTABLISHING THE TIME AND PLACE FOR A PUBLIC HEARING THEREON

WHEREAS, the City of Milford (the "City"), a municipal corporation of the State of Delaware, pursuant to Chapter 148, Volume 72, Laws of Delaware (as amended, the "City Charter") proposes to borrow up to \$4,000,000 maximum principal amount and issue its general obligation bonds (the "Bonds") in order to finance or re-finance (i) certain improvements to the City's drinking water facilities including, but not limited to, demolition and reconstruction of the Washington Street Water Plant and Office Building and (ii) certain costs of issuance of the Bonds (the "Project");

WHEREAS, the City has received a preliminary commitment from the Delaware Drinking Water State Revolving Fund, acting by and through Delaware Health and Social Services, Division of Public Health ("Drinking Water") to loan the City \$4,000,000 for the Project;

WHEREAS, to authorize the borrowing of up to \$4,000,000 through the issuance of general obligation bonds for the Project and in order to comply with Section 8 of the City Charter, the Milford City Council ("City Council") through the adoption of this Resolution hereby gives notice to the electors of the City that the City Council proposes to borrow an amount of money not to exceed \$4,000,000 to fund the Project and hereby establishes that a public hearing be held on October 17, 2011 at 7:00 p.m. at City Hall located at 201 South Walnut Street, Milford, DE.

NOW, THEREFORE, THE MILFORD CITY COUNCIL RESOLVES, as follows:

Section 1. Pursuant to Section 8 of the City Charter, City Council hereby gives notice that the City proposes to borrow an amount of money, not to exceed \$4,000,000 to fund the Project.

Section 2. Pursuant to Section 8 of the City Charter:

Amount of Borrowing for the Project: Not to exceed \$4,000,000.

Stated Municipal Purpose: To provide funds to finance the Project described herein.

Manner of Securing the Bonds: Full faith and credit of the City shall be pledged to secure up to \$4,000,000 of bonds for the Project.

Other Facts Deemed Pertinent by the City and in the Possession at the Time of this Resolution: The loan will be used by the City to finance or

reimburse the City for (i) certain improvements to the City's drinking water facilities including, but not limited to, demolition and reconstruction of the Washington Street Water Plant and Office Building.; and (ii) certain costs of issuance of the Bonds (the "Project")

It is anticipated that during construction of the Project, accrued interest on loan disbursements will be due and payable in semi-annual payments; it is also anticipated that full amortization of principal and interest shall begin on the date which is the earlier of (i) one year from the date of loan closing or (ii) upon the Project completion date. Interest will be payable over a twenty (20) year term at a rate of up to two percent (2%) per annum although it is anticipated that it will be one percent (1%) per annum pursuant to the preliminary commitment letter from Drinking Water. In addition, at a minimum, 30% of the principal of the loan shall be forgiven although pursuant to the preliminary commitment letter it is anticipated that 35% of the principal of the loan shall be forgiven upon the Project completion date.

Section 3. The City hereby finds that the Project constitutes a proper municipal purpose under Section 8 of the City Charter.

Section 4. The City Council hereby establish that a Public Hearing on this Resolution and the proposed borrowing described herein shall be held at a special meeting of Council on October 17, 2011, 7:00 p.m. at the City Hall located at 201 South Walnut Street, Milford, Delaware and hereby directs that notice of such Public Hearing be published and posted as required by the City Charter.

I, THE UNDERSIGNED, Clerk of the City of Milford, do hereby certify that the above Resolution was passed at a regular meeting of the City Council, duly called and convened, held on the 10th day of October, 2011, at which a quorum was present and voting throughout and that same is still in full force and effect.

CITY OF MILFORD, DELAWARE

s/Teresa K. Hudson, City Clerk

*Amended to reflect increase in borrowing (\$4,000,000)



ENGINEERING DEPARTMENT
302.422.1110, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

www.cityofmilford.com

September 15, 2011

To Whom It May Concern:

The City of Milford will receive sealed bids on October 5, 2011 at 2:00 p.m. local time for the
2011/ 2012 ROAD IMPROVEMENTS PROJECT

This bid is for furnishing all labor, equipment, and materials necessary to remove and replace approximately 160 linear feet of curb, 160 square feet of miscellaneous concrete flatwork, and replace 11 manhole frames and covers. In addition, the program includes as follows: 19,980 square yard inches of pavement milling, 1,368 tons of asphalt overlaying, and all work necessary to prepare the subgrade for resurfacing including any regrading necessary.

There will be a **mandatory Pre Bid Meeting** at the City of Milford Public Works Facility, 180 Vickers Drive, Milford, DE 19963 on Wednesday, September 28, 2011 at 2:00 p.m. Traffic and weather will not be considered a justifiable reason to be late. **All vendors are encouraged to download the specifications and review them prior to the pre-bid meeting.**

Bidders should examine the specifications and visit the locations listed in the estimated scope of work, fully informing themselves of all conditions which can in any way affect the work or cost thereof. Specifications may be obtained from the City Engineer, Public Works Facility, 180 Vickers Drive, Milford, DE, 19963 or on the City web site at www.cityofMilford.com.

A bid bond or certified check in the amount equivalent to ten percent (10%) of the bid amount shall be required with each bid. The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the City of Milford as liquidated damages in case the contract and performance bond are not executed within fifteen days after receiving official notification of award.

Please direct any questions to the City Engineer, Department of Public Works at (302) 422-6616 xt 131.

Bids will be opened publicly at the time and place designated in this letter. The main purpose of the bid opening is to reveal the name(s) of the bidder(s), not to serve as a forum for determining the low bidder(s).

The contract shall be awarded within 30 calendar days of the approval of City Council, when required. A contract may be awarded to a firm other than the lowest responsible and responsive bidder if, in the opinion of the City, the interests of the City shall be better served by awarding the contract to some other bidder. The

quotes, quote summaries, and tabulations shall not be open for public inspection until after receipt of a fully executed contract.

All bids are to be received by the City of Milford, 201 South Walnut Street, Milford, DE, 19963 no later than the 2:00 p.m. bid opening. All bids will be opened in the presence of the City Clerk or his/her designee. All bids shall become public record and shall be available for public inspection after it has been determined that there is no proprietary information contained within the bids. Any and all proprietary information contained within the proposal must be clearly marked. The cover must indicate that the proposal contains such information.

Local vendor preference shall be considered for materials, equipment, construction contracts, and utility contracts. Local vendor preference shall be three percent (3%) of the value of the award. The term local vendor is defined as a gradually increasing range with preference assigned as follows:

Rule 1: Vendor located within the city limits of the City of Milford.

Rule 2: Vendor located within the Greater Milford Area which includes the Milford School District (applicable only if no vendor qualifies under rule 1)

Rule 3: Vendor located within Kent or Sussex Counties (applicable only if no vendor qualifies under rules 1 & 2)

In the event that no vendor qualifies under rules 1, 2, or 3 no local vendor preference will be awarded. **The vendor must identify qualification and claim to the preference on the submitted bid documents.** This preference is to be considered as standalone and cannot be added to any other preference that may be allowed.

The City of Milford reserves the right to waive technicalities, to reject any or all bids, or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, or to abandon the work, if in the best interest of the City.

Vendors must provide references to the City of Milford upon request. Vendor references may be checked to verify the bidder's ability to perform the contract requirements, the quality of work and the ability to meet obligations.

Full payments for the purchases will be made only upon the department head's complete satisfaction as to the fulfillment of all of the conditions of the contract.

ENVELOPES MUST BE MARKED "2011/ 2012 ROAD IMPROVEMENTS PROJECT BID OPENING OCTOBER 5, 2011, 2:00 P.M." No faxed bid will be accepted. Failure to comply with the above format *may* result in disqualification of your bid.

Sincerely,



Mark S. Mallamo, P.E.
City Engineer

CONTRACT DOCUMENTS AND SPECIFICATIONS
FOR THE
2011/2012 ROAD IMPROVEMENTS PROJECT

CONTRACT NO.
2011-ST

SEPTEMBER 2011

CITY OF MILFORD
PUBLIC WORKS DEPARTMENT
180 VICKERS DRIVE
MILFORD, DE 19963

CITY OF MILFORD
2011/2012 ROAD IMPROVEMENTS PROJECT
SPECIFICATIONS

1. General requirements for all work associated with the paving component of the program:
 - A. The Contractor shall furnish all labor, materials and equipment necessary to mill, prepare the subgrade for resurfacing and resurface, complete and in place, the areas listed in the Scope of Work, including any and all manhole, valve box and catch basin adjustments necessary. In addition, the contractor may be required to mobilize several times to complete the paving program.
 - B. One copy of all delivery tickets shall be provided to the Inspector on a daily basis. Contractor must write the name of the road, alley, or parking lot on the appropriate delivery tickets.
 - C. It shall be the responsibility of the Contractor to dispose of all unsuitable excess material.
 - D. The Contractor shall keep all work areas clean and shall clean any areas when so directed by the Inspector. No excess or unsuitable material shall be left on the job site after work is completed in the area.
 - E. Written approval of all materials shall be obtained prior to delivery. Samples of each source shall be submitted as directed.
 - F. Workmanship shall be in accordance with the Delaware Department of Transportation Standard Specifications.
 - G. The Contractor shall furnish all necessary maintenance of traffic (MOT), as well as lighted barricades and signing to protect traffic and structures remaining above grade prior to paving. All traffic control and devices shall meet Delaware Department of Transportation Standards and requirements.
 - H. All manhole covers and valve box covers shall be brushed with fuel oil prior to hot mixing and cleaned when finished.
 - I. All catch basin grates will be protected during hot mixing. Any spills into catch basin shall be cleaned when finished. Each catch basin shall be inspected by City personnel prior to payment approval.
 - J. No residue from hot mix will be deposited in grass areas.

- K. "Miss Utility" is to be notified a minimum of two (2) consecutive working days prior to excavation of any area.
- L. Each location shall have a separate invoice or space on a collective invoice detailing all work completed at the location.
- M. A small roto-milling machine shall be on the job site at all times to facilitate clean-up following milling.
- N. The contractor shall provide a paving machine with a vibratory extend-o-mat. This machine shall be capable of multiple lane paving.
- O. The contractor shall provide a Johnson type vacuum truck for clean up. This machine shall be on site and in service immediately following the milling machine. Other types must be approved prior to award of contract.
- P. The contractor shall provide a track type Roto-milling machine.
- Q. "No Parking" signs will be provided by the Owner to be installed by the Contractors. The Contractor shall give the Owner 48 hours notice prior to any work being done on a street to insure coordination with the City of Milford Police Department. The Contractor shall install signs at least 24 hours prior to commencement of work. The Contractor will be responsible for removing the "No Parking" signs, after work has been completed on a street.
- R. Any utilities in need of adjustment must be completed prior to paving. The City will provide the necessary replacement castings for the work to be completed by the Contractor. Payment for this work shall be included under the bid item for "Preparation." Individual utilities to be adjusted will be noted during or immediately after milling of the street.
- S. All restriping will be performed by the City of Milford and parking bumpers, if necessary, to be purchased and installed by the City of Milford.
- T. The City reserves the right to add or delete locations to the Scope of Work with no change in the unit price bid. Any changes to the unit prices will be negotiated prior to commencement of added work.
- U. The city reserves the right to request the contractor to transport approximately 50 loads of millings to THE Public Works Facility as

desired by the City. All millings above and beyond the amount required by the City shall qualify for a recyclable material deduction. In addition, transport and disposal of any millings not requested by the City shall be the responsibility of the contractor.

- V. The primary roller used to finish hot mix must be a 12-14 ton articulated roller.
- W. Paving and roto-milling shall be done in stages, therefore requiring several different mobilizations. This must be included in the hot-mix and milling unit prices.

- X. The most current State of Delaware Prevailing Wage Rates are in effect on this contract. The Contractor is responsible for contacting the Department(s) of Labor to verify the appropriate rates. Payroll verification must be submitted on a weekly basis. Failure of the contractor to provide this information will result in the removal of the contractor from the jobsite until this obligation has been met.
- Y. Filter cloth shall be MIRAFI 500X or TERRATEX GS or approved equal.
- Z. The City reserves the right to require the contractor to install a leveling course of hot-mix if so instructed by the Public Works inspector. This shall be paid for under the unit price for hot-mix.
- AA. The contractor shall be required to provide a grader for clean up and preparation at the request of the Public Works inspector. This should be included in the unit price for preparation of the location; no extra costs will be paid for this piece of equipment.
- BB. All manhole adjustments shall have 48" diameter by 6" thick concrete collars poured around the casting, using Class "B" concrete. The concrete must be installed to a finish grade 2" below the top of the casting and all concrete spoil must be removed from the ring and cover.
- CC. All valve box adjustments shall have 18" diameter by 6" thick concrete collars poured around the valve box using Class "B" concrete. The concrete must be installed to a finish grade 2" below the top of the casting and all concrete spoil must be removed from the lid.
- DD. The contractor is responsible for all damages to curbing, catch basin grates, valve boxes, manhole castings, lamp hole castings, etc. caused by operator negligence of the roto-milling machine or other equipment. The contractor must repair or replace these damages at his own expense
- EE. Any street that is roto-milled must be paved within ten (10) calendar days after the completion of the milling operations.

2. General Requirements for all work associated with the concrete component of the program:

- A. The Contractor shall furnish all labor, materials and equipment necessary to place concrete work in all areas as listed in the Scope of Work, and as marked in the field.
- B. All materials and workmanship shall be in accordance with the City of Milford's "Standard Specifications for Installation of Utility Construction Projects and Subdivision Pavement Design." Where discrepancies occur, these project specifications shall govern.

- C. All curb to be removed shall be saw-cut with a minimum of a 14" diamond-tipped blade at the locations marked in the field. No exceptions will be allowed.
- D. The Contractor shall backfill behind the curb with topsoil and in front of the curb with Crusher Run stone. All areas where topsoil is placed shall be seeded immediately. At all locations, Crusher Run shall be placed to within two (2) inches of the top of the existing street after compaction with a pneumatic tamp.
- E. The City of Milford will provide manhole frames and covers and catch basin frames and grates where necessary at no cost to the contractor.
- F. One copy of all delivery tickets shall be provided to the Inspector/Engineer on a daily basis.
- G. It shall be the responsibility of the Contractor to legally dispose of all unsuitable excess material including concrete debris. No concrete debris or other material, including equipment and vehicles, shall be stored on any City street overnight.
- H. The Contractor shall keep all work areas clean and shall clean any areas immediately when so directed by the City. No excess or unsuitable material shall be left on the job site after work is completed in the area.
- I. The Contractor shall furnish all necessary maintenance of traffic (MOT), as well as lighted barricades and signing to protect traffic and structures remaining above grade prior to paving. All traffic control and devices shall meet Delaware Department of Transportation Standards and requirements.
- J. All curb and gutter shall be formed with the appropriate steel or wood forms. All forms shall be straight and undamaged. The City reserves the right to reject any form work it deems not suitable.
- K. The Contractor is responsible for the maintenance of the concrete from the time of installation until the concrete is cured. Any vandalism or blemishes of newly installed concrete shall be replaced or repaired immediately at the Contractor's expense.
- L. All property owners shall be provided ingress and egress during construction.
- M. "Miss Utility" is to be notified a minimum of two (2) working days prior to excavation of any areas.
- N. Any holiday or weekend work must be approved by the City. A written request must be submitted to the City at least five (5) days prior to any holiday work. The Contractor will reimburse the City for all costs of the City Construction Inspectors provided for weekend or

holiday inspection.

- O. Restoration of all property and/or damage during construction shall be completed or repaired before work can begin on the next location.
- P. An approved curing compound must be used in the curing of all newly installed concrete. Curing compound shall be sprayed on all exposed sides.
- Q. If concrete is placed when the overnight temperature is projected to be below freezing, polyethylene and/or blankets shall be placed over the concrete for protection.
- R. The City reserves the right to add or delete work from the Scope of Work with no change in the unit price bid. Any changes to the unit prices will be negotiated prior to commencement of added work.
- S. "No Parking" signs will be provided by the Owner to be installed by the Contractor. The Contractor shall give the Owner 48 hours notice prior to any work being done on a street to insure coordination with the City of Milford Police Department. The contractor shall install signs at least 24 hours prior to commencement of work. The Contractor will be responsible for removing the "No Parking" signs, after work has been completed on a street.
- T. Notification of property owners will be the responsibility of the Contractor. The City will provide a standard notice which will be distributed by the Contractor to all houses and/or businesses in the affected area. The notice shall not be placed in any mailboxes.
- U. Any time extensions requested as a result of severe weather, shall be agreed to in writing by both the Owner and Contractor.
- V. The most current State of Delaware Prevailing Wage Rates are in effect on this contract. The Contractor is responsible for contacting the Department(s) of Labor to verify the appropriate rates. Payroll verification must be submitted on a weekly basis. Failure of the contractor to provide this information will result in the removal of the contractor from the jobsite until this obligation has been met. The city reserves the right to conduct worksite interview with employees regarding compliance with the use of these funds.
- W. The Contractor is solely responsible for curb alignment and grade.
- X. Expansion joints shall be installed at one butt joint to existing concrete and spaced not farther than 40 feet in curb and 20 feet in sidewalk.
- Y. Joints in curb are to be saw cut not more than 10 feet and no less than 4 feet apart.
- Z. All contractor over excavation occurring during removal, or resulting

from rain event, etc. must be backfilled with only crusher run and compacted, unless otherwise directed by the engineer. Contractor will be solely responsible for all expenses including crusher run associated with this type of over excavation.

- AA. The contractor shall be responsible for all damages or claims for damages as a result of the work outlined in this contract or any additions thereof.

3. Bid Security

- A. Each bid must be accompanied by Bid Security in the form of a Bid Bond (on the form included herein) or a certified check in the amount of 10% of the Bid. Bid security shall be made payable to the City of Milford. The Bid Bond must be executed by a Surety licensed to conduct business in the State of Delaware.
- B. Such checks or bonds will be returned to all except the three lowest bidders within ten (10) days after the bid opening. The checks or bonds of the three lowest bidders will be returned within five (5) days after the successful Contractor and the Owner have executed the Contract and the Contractor has furnished an acceptable Performance Bond.
- C. If any bidder refuses to enter into a Contract, the Owner will retain his/her Bid Security as Liquidated Damages, but not as a penalty. The Bid Security is to be submitted with the submission of bids.

4. Bonds

- A. Each bidder must accompany his/her Bid with a signed certificate from a Surety Company acceptable to the Owner and authorized to transact business in the State of Delaware that such surety company will provide the bidder, if awarded the Contract, with a proper Performance Bond, with Labor and Materialmen's Clauses, covering up to the full amount of the contract price as security for the faithful performance of all work under the Contract and payment of all charges in connection therewith. The Bond form is included in these specifications.
- B. A Maintenance Bond will be required in an amount equal to ten percent (10%) of the Contract. The Maintenance Bond shall be dated as of the date of completion and final acceptance, and is to continue in effect for a period of one year.

5. Materials

- A. Hot-Mix, Hot-Laid Bituminous Concrete Pavement shall conform to State of Delaware Type B & C.
- B. Portland Cement Concrete shall conform to Section 812, Class B of the State of Delaware Standard Specifications.
- C. Expansion joint material shall consist of preformed sheets which have been formed from clean, granulated cork particles securely bound together by a synthetic resin of an insoluble nature or other types that may be approved. It shall be ½" thick and shall conform with all the requirements as specified in AASHTO M 153.
- D. Crusher Run stone shall conform to Section 821, Type "B" of the State of Delaware Standard Specifications. Crusher Run stone must be "Modified Type."

6. Job Mix Formula

The general composition limits prescribed herein are master ranges of tolerance to govern mixtures made from any raw materials meeting specifications. The composition limits are maximum and minimum in all cases. No work shall be started on the contract nor any mixture accepted for it until the proposed job mix formula has been approved. The contractor shall submit a written proposal indicating the single definite percentage for each sieve fraction of aggregate and for the asphalt which the contractor chooses as the fixed means in each instance, and also the temperature at which the contractor proposes to furnish the mixture at the plant. The approval of such job mix formula shall bind the contractor to furnish paving mixtures within the master ranges, but also meeting the exact formula thus set up for the project within the allowable tolerances.

Gradation

Sieve Size	Type B %	Type C %
½"	50-80	100.0
3/8"	45-70	85-100
#4	30-50	50-75
#8	22-38	33-59
#30	9-23	14-32
#50	6-18	7-26
#200	3-10	3-10
A.C.%	3.5-5.5	4.5-6.5
Temp. of	275-325	275-325

7. Surface Requirements

After final rolling, the surface will be tested longitudinally by the Engineer using a 10-foot straightedge at locations selected by the Engineer. The variations of the surface from the testing edge of the straightedge between any two contacts with the surface shall at no point exceed the following limits:

(a) For Bituminous Base Courses:

Lower courses $\pm 3/8"$

Top courses $\pm 1/4"$

(b) For Binder and Surface Courses:

(1) Multiple course construction: $\pm 3/16"$ for surface course, $\pm 1/4"$ for lower courses

(2) Single course construction: $\pm 1/4"$

The Contractor shall have a 10-foot straightedge on site at all times for the purpose of such testing.

8. Recyclable Materials

The Contractor shall provide the City with a cost per ton deduction based on use of recyclable materials. All said materials shall be in accordance with Sections 401.25, 401.26, 401.27, and 401.28 of the Delaware Department of Transportation Standard Specifications.

9. Equipment

All equipment and methods used shall be in accordance with Sections 401.32, 401.33, 401.34, 401.35, and 401.36 of the Delaware Department of Transportation Standard Specifications.

10. Measurements & Payments

A. Hot-Mix Bituminous Concrete

1) Measurement

The number of tons of Hot-Mix, Hot-Laid Bituminous Concrete to be paid for under this section shall be the actual weight of Hot-Mix Bituminous Concrete placed and accepted for the depths shown in the Scope of Work. Any additional tonnage, not approved by the Engineer in writing will not be included for payment.

2) Payment

The tonnage measured shall be paid for at the contract unit price per ton bid for Hot-Mix, Hot-Laid Bituminous Concrete, which price and payment shall be full compensation for furnishing, preparing, hauling and placing all materials and for all labor, equipment, tools, traffic maintenance, and incidentals necessary to complete the work. Only the tonnage of Hot-Mix, Hot Laid Bituminous Concrete actually placed shall be paid for.

B. Pavement Milling

1) Measurement

The quantity of pavement milling to be paid for shall be the number of square yards per inch of depth as shown on the Scope of Work. Any additional depth, not approved by the Engineer in writing, will not be included for payment.

2) Payment

Pavement milling shall be paid for at the contract unit price bid per square yard per inch of depth for Pavement Milling, which price and payment shall constitute full compensation for furnishing an accepted pavement milling machine and operator, for removal and disposal of the milled material, for transporting equipment, for all labor, tools, equipment, traffic maintenance, and incidentals necessary to complete the milling of existing pavements.

C. Type "C" Patching

1) Measurement

The square yards of patching with Type "C" Hot Mix to be paid for under this item shall be the number of square yards of asphalt placed in areas necessary to repair driveways, alleys and/or streets damaged by work done under the City's Curb Program. Any other patching required during the duration of this contract shall also be paid for under this item.

2) Payment

Type "C" patching shall be paid for at the unit price bid per square yard of patching, said price and payment being full compensation for all labor, materials, traffic maintenance, and equipment necessary to complete the necessary patching.

D. Over Excavation

1) Measurement

The cubic yards of over excavation on roads where the base has failed to be paid under this item shall be the number of cubic yards of material excavated from areas of the road bed as directed by the City.

2) Payment

This item, measured as described above, shall be paid for at the unit price bid per cubic yard. Said price and payment being full compensation for all labor, materials, and equipment necessary to over excavate and dispose of all unsuitable material.

E. Crusher Run

1) Measurement

The quantity of crusher run to be paid for under this item shall be the number of tons of crusher run placed and accepted.

Crusher Run stone shall conform to Section 821, Type "B" of the State of Delaware Standard Specifications. Crusher Run stone must be "Modified Type."

2) Payment

The quantity of crusher run measured as provided above shall be paid for at the unit price bid per ton for crusher run, which price and payment shall be full compensation for preparation, for furnishing, placing and compacting the materials and for furnishing all tools, labor, equipment and other items which are necessary to complete the installation of the crusher run.

F. Remove & Replace Curb (All Types)

1) Measurement

The footage of curb and gutter to be paid for shall be the number of linear feet of curb and gutter, measured along the face of the curb, constructed in accordance with these specifications, measured in place, completed and accepted. The linear feet of curb through a catch basin head is also included in the total footage of curb to be paid for. No deductions will be made where the curb is depressed for entrances. No curb with a measurement of less than four (4') feet will be accepted. This includes saw cut joints with a spacing of less than four (4') feet.

2) Payment

The footage of curb and gutter measured as provided above shall be paid for at the contract unit price per linear foot bid for the type of curb to be replaced, which price and payment shall constitute full compensation for furnishing and placing all material, including joints, forms, drainage openings, excavating and backfilling, tamping, top soiling, reseeding, and the disposal of surplus materials, and for all labor, equipment, tools, and incidentals necessary to complete the installation of the curb. All traffic control measures must also be included in the unit price of the curb.

All labor and materials necessary to place the required backfill to a distance up to twenty-four inches behind the curb, twelve inches into the roadway, and level with the existing grade shall be included in the linear foot price bid for curb. Where curb to be replaced is in a driveway or alley, payment shall include up to a maximum thirty-six inches behind the curb. Crusher run shall be placed as required as temporary backfill in any driveway or alley damaged. Asphalt shall be replaced by others.

No payment shall be made for any excavation or backfill done beyond the aforementioned limits of payment.

G. Remove & Replace Catch Basin Heads

1) Measurement

Measurement shall be on a unit basis for the number of catch basin heads replaced, regardless of type of curb.

2) Payment

Payment shall be at the unit price bid and shall be full compensation for all labor, materials and equipment necessary to replace the catch basin head. All incidental work necessary to protect the existing basin and grate shall be paid for under this item.

H. Removal and Replacement of Concrete Valley Gutters, Concrete Driveway Aprons, and Miscellaneous Flatwork.

1) Measurement

The square footage of concrete to be paid for shall be the amount of PCC Pavement complete and in place. There will be no separate measurement for cleaning, sawing, tooling and sealing of joints.

2) Payment

The accepted quantities of concrete pavement will be paid for at the contract unit price bid per square foot which price and payment shall be full compensation for furnishing and placing all materials, cleaning of joints, sawing of joints, tooling, sealing and other incidentals necessary for the completion of the items. No additional payment over the contract price bid will be made for any pavement which has an average thickness in excess of eight inches for valley gutters, six inches for driveway aprons, and four inches for any miscellaneous flatwork. All traffic control measures must be included in the appropriate unit price.

I. New 6" Concrete Aprons, 4" Concrete Flatwork, and New Curb (All Types)

1) Measurement

The square footage of flatwork and linear footage of curb work to be paid for shall be the amount of new PCC complete and in place. There will be no separate measurement for excavation, cleaning, sawing, tooling or sealing of joints.

2) Payment

The accepted quantities of PCC will be paid for at the contract unit price bid per square foot for flatwork and per linear foot price for curb work which price and payment shall be full compensation for furnishing and placing all materials, excavation, cleaning of joints, sawing of joints, tooling, sealing and other incidentals necessary for the completion of the items. No additional payment over the contract price bid will be made for any pavement which has an average thickness in excess of eight inches for valley gutters, six inches for driveway aprons, and four inches for any miscellaneous flatwork. All traffic control measures must be included in the appropriate unit price. **Payment under these line items will also include four (4") inches of crusher run - graded aggregate under the concrete work, including all excavation and placement costs.**

J. Select Backfill

1) Measurement

The cubic yards of select backfill to be paid shall be for all backfill, complete and in place, directed by the Engineer to be placed underneath the concrete. Removal from the site of the existing soil, when so directed by the Engineer, shall be included in this item. No payment shall be made for any backfill removed or placed without the authorization of the Engineer.

2) Payment

The cubic yards of select backfill as measured above shall be paid for at the contract unit price bid which price and payment shall be full compensation for the clearing, grubbing, stripping, furnishing, excavating, hauling, placing and compacting the material, and for furnishing all tools, labor, work and other items incidental thereto and necessary to place the select backfill.

K. Graded Aggregate-Crusher Run

1) Measurement

The cubic yards of graded aggregate-crusher run to be paid shall be for all graded aggregate, complete and in place, directed by the Engineer to be placed underneath the curb. Removal from the site of the existing soil, when so directed by the Engineer, shall be included in this item. No payment shall be made for any graded aggregate-crusher run removed or placed without the authorization of the Engineer.

2) Payment

The cubic yards of graded aggregate-crusher run as measured above shall be paid for at the contract unit price bid which price and payment shall be full compensation for the clearing, grubbing, stripping, furnishing, excavating, hauling, placing and compacting the material, and for furnishing all tools, labor, work and other items incidental thereto and necessary to place the graded aggregate-crusher run.

L. Detectable Warning Truncated Dome Tiles

1) Measurement

The square footage of new Truncated Dome Tiles to be paid for shall be the square feet of tiles installed in accordance with the specifications. There will be no separate measurement for excavation, cleaning, sawing, tooling or sealing of joints.

2) Payment

The square footage of accepted quantities of Truncated Dome Tiles will be paid for at the contract unit price bid per square foot which price and payment shall be full compensation for furnishing and placing all materials, labor, equipment, tools and incidentals to complete the installation of these tiles. Tiles to be set and grouted in the ramps IAW the most current DelDOT standards.

11. Time of Completion

All work described in this contract must be completed within 80 calendar days. Work is to begin within ten (10) days of receipt of Notice to Proceed. The contractor shall honor the unit prices for a period of one year.

12. Sequence of Construction

The sequence of the locations to be completed shall be dictated by the City of Milford at the discretion of the City Engineer or Director of Public Works.

13. Award of Contract

The City of Milford reserves the right to determine which Bid is the lowest and best and to award the contract on that basis. Award of contract will be made as soon as possible but no later than 45 calendar days after the bid opening.

Award of Contract 2011-ST 2011/ 2012 ROAD IMPROVEMENTS PROJECT, will be made to the lowest responsible Bidder selected by the Owner.

All work outlined in the proposed scope of work is conditioned upon the adequate funding available for each location. Project funds are being provided by the FY-2012 Operating Budget and Community Transportation Funds provided by area legislators.

The City of Milford reserves the right to award work to more than one general contractor to maintain the projected schedule of work and the expected completion date.

Note: The Public Works Department recommends that each contractor visit each area identified in the proposed scope of work prior to bid submission.

2011/ 2012 ROAD IMPROVEMENTS PROJECT
Proposed Locations

1. Church Street – North Front Street to North Street
 - Mill four inches of asphalt and base
 - Proof roll subgrade
 - Adjust utilities if necessary
 - Place two inches of Type “B” Hot Mix
 - Overlay two inches of Type “C” Hot Mix
 - Miscellaneous concrete work if necessary

2. South East 4th Street – McColley to end at ballfields
 - Taper mill up to two inches of asphalt along curbs
 - Adjust utilities if necessary
 - Overlay two inches of Type “C” Hot Mix

3. South East 3rd Street – Washington Street to Montgomery
 - Mill two inches of asphalt
 - Adjust utilities if necessary
 - Overlay two inches of Type “C” Hot Mix
 - Concrete curb and ADA ramps

**BID FORM
2011/ 2012 ROAD IMPROVEMENTS PROJECT**

We hereby agree to provide the City of Milford, Delaware with the services and material called for in the specifications for the project designated "2011/ 2012 ROAD IMPROVEMENTS PROJECT".

	ESTIMATED	UNIT	TOTAL
Remove & Replace Type I Curb	160	LF	_____
Remove and Replace 4" Concrete Flatwork	160	SF	_____
Remove & Replace Manhole Frame & Cover	11	EA	_____
Graded Aggregate - Crusher Run	30	CY	_____
Detectable Warning Truncated Dome Tiles	32	SF	_____
Type "C" Hot Mix	860	TN	_____
Roto-Milling	19,980	SY-IN	_____
Type "B" Hot Mix	508	TN	_____
Over Excavation	20	CY	_____

TOTAL BID FOR ALL ITEMS IN THE CONTRACT (IN NUMBERS):
\$ _____

TOTAL BID FOR ALL PARTS OF THE CONTRACT (IN WORDS): _____

Name of Bidder: _____
Individual, Firm or Corporation

Signature of Bidder: _____

Business Address: _____

Telephone Number: _____

Fax Number: _____

Date of Bid: _____

List of Subcontractors:

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT made as of the _____ day of _____ in the year 2011 by and between the City of Milford, Delaware (hereinafter called the Owner) and _____ (hereinafter called the Contractor). WITNESSETH THAT OWNER AND CONTRACTOR in consideration of the mutual covenants hereinafter set forth, agree as follows:

WORK

The CONTRACTOR shall perform all work as specified or indicated in the Contract Documents for the completion of the Project generally described as follows:

2011/ 2012 ROAD IMPROVEMENTS PROJECT

Remove and replace approximately 160 linear feet of curb, 160 square feet of miscellaneous concrete flatwork and replacing 11 manhole frames and covers. In addition, the bid package includes all labor, equipment and materials necessary to complete the paving work as identified as follows: 19,980 square yard inches of pavement milling, 1,368 tons of asphalt overlaying, and all work necessary to prepare the subgrade for resurfacing including any regrading necessary. As detailed in the General Requirements, the City reserves the right to add or delete locations to the estimated Scope of Work with no change in the unit price bid.

CONTRACT TIME

All work described in this contract must be completed within 80 calendar days unless extended in writing. Unit prices are good for one year.

CONTRACT PRICE

The OWNER shall pay the CONTRACTOR for performance of the work in accordance with the Contract Documents in current funds as follows: _____

_____ Dollars and _____ Cents. (\$ _____)

PROGRESS AND FINAL PAYMENTS

OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S application for payment as approved by the Engineer within thirty (30) days of submission.

Anything herein above to the contrary notwithstanding, the unpaid balance shall at all times, in the judgment of the Engineer, be sufficient to complete the work and to pay any unpaid liens or claims for which the Contractor may be responsible hereunder, and OWNER is hereby irrevocably authorized to withhold such sum from any and all payments otherwise payable hereunder.

Upon final completion of the work and settlement of claims, OWNER shall pay the remainder of the Contract Price.

MISCELLANEOUS

Neither OWNER nor CONTRACTOR shall, without the prior written consent of the other, assign or sublet in whole or in part his/her interest under any of the Contract Documents; and, specifically, CONTRACTOR shall not assign any monies due or to become due without the prior written consent of OWNER.

OWNER and CONTRACTOR each binds himself/herself, his/her partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents.

The Contract Documents constitute the entire agreement between OWNER and CONTRACTOR and may only be altered, amended or repealed by a duly executed written instrument.

IN WITNESS THEREOF:

Signed, sealed and delivered in the presence of:

COMPANY

Attest

Printed Name: _____
Title: _____

Sworn to and subscribed before me this ____ day of _____, 2010.

Notary Public

Date
Commission Expires

CITY OF MILFORD

Attest/City Clerk

By: Mayor Joseph R. Rogers

Sworn to and subscribed before me this ____ day of _____, 2010.

Notary Public

Date
Commission Expires

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____

(hereinafter called the "Principal") and Principal, and _____

_____, a Corporation authorized to transact business in _____ and having its principal office at _____ (hereinafter called the "Surety") as Surety, are held and firmly bound unto _____ (hereinafter called the "Obligee"), in the sum of _____ Dollars (\$ _____), lawful money of the United States of America; for payment of which we bind ourselves, and each of our respective heirs, legal representatives, successors and assigns, jointly and severally, by these presents on the _____ day of _____, 2011.

WHEREAS, said Principal is herewith submitting to the Obligee a proposal to perform the work for the Obligee's proposed _____ pursuant to plans, specifications and other Contract Documents incorporated into said proposal by reference; and it is a condition of the Obligee's delivery to the Principal of notice of intention to accept his/her proposal and to make a formal aware of contract to him/her, and shall enter into such contract, all as required by said Contract Documents, then this obligation shall be void; otherwise it shall remain in full force, and the Principal and Surety will pay to the Obligee the full amount of this Bond as liquidated damages.

IN WITNESS WHEREOF the Principal and Surety, intending to be legally bound, have executed this bond the day and year aforementioned.

Witness or Attest:

By: _____

Witness:

By: _____

IMPORTANT: Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

PERFORMANCE BOND
(With Labor and Materialmen's Clauses)

KNOW ALL MEN BY THESE PRESENT, that we _____
_____ (here insert name and address of Contractor)
hereinafter called the Principal, and _____
_____ (here insert name and address of the Surety)
hereinafter called the Surety, are held and firmly bound unto THE CITY OF MILFORD,
DELAWARE, hereinafter called the City, in the sum of _____
_____ Dollars and _____ Cents. (\$ _____)
lawful money of the United States for the payment of which sum well and truly to be
made, the Principal and the Surety bind themselves, their heirs, personal
representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain contract with said City dated _____
_____ 20_____ (hereinafter called the Contract) for _____
_____ which contract and the work to be done thereunder the specifications accompanying the
same shall be deemed a part thereof to the same extend as is fully set out herein.

NOW, THEREFORE, the condition of this obligation is such that if the Principal shall
faithfully perform the contract on his/her part and satisfy all claims and demands
incurred for the same, and shall fully indemnify and save harmless the City from all cost
and damage which the City may suffer by reason of failure so to do, and shall fully
reimburse and repay the City, all outlay and expense which the City may incur in
making good any such default during the original term of said contract and any
extensions hereof, and during the life of any guaranty required under the contract,
further that if the Principal shall pay all lawful claims of all persons, firms, corporations
for all labor performed, of material furnished for the performance of this contract, failing
which, such persons shall have a direct right of action against the Principal and Surety
under this obligation, then this obligation shall be null and void, otherwise, it shall
remain in full force and effect.

The said Surety for value received hereby stipulates and agrees that no change,
extension of time, alteration, and addition to the terms of the contract or to the work
performed thereunder of the specifications accompanying the same shall in any wise
affect its obligations on the bond, and it does hereby waive notice of any such change,
extension of time, alteration, or addition to the terms of the contract, or to the work to be
performed thereunder of the specifications accompanying the same.

Signed and sealed this _____ day of _____ 2011 three counterparts, each of
which shall without proof or accounting for the other counterparts be deemed an original
thereof.

WITNESS:

_____(SEAL)

_____(SEAL)

Countersigned:

_____(SEAL)

2011 Street Program Budget

REVENUES

Municipal Street Aid (MSA)		
FY11-12 Cap. Budget	\$	125,000
Additional FY11-12 Allocation	\$	85,000
Community Transp. Funds (CTF)		
Simpson	\$	100,000
Kenton	\$	100,000
Peterman	\$	25,000
Wilson	\$	25,000
Outten	\$	-
Scott	\$	15,000
Remaining funds from CTF 11-P-PROG-23	\$	126,000
TOTAL	\$	601,000

EXPENSES

N. Church Street Completion	\$	300,000
Columbia (SE Front to Mispillion St.)	\$	35,000
S.E. Third St. (S. Washington to Montgomery)	\$	35,000
S.E. Fourth (Columbia to end of street)	\$	50,000
Bridgeham Ave. (SE 3rd to SE 5th)	\$	145,000
Masten Circle	\$	16,000
Wilkerson Terrace	\$	20,000
TOTAL	\$	601,000

CITY OF MILFORD
PUBLIC WORKS DEPARTMENT
ROAD IMPROVEMENTS PROJECT FOR 2011-2012
OPENING 10/05/11 2:00 P.M.

Bidder	Bid	
Sun's Construction LLC	188,380.	✓ ✓
Kent Construction Co, Inc	169,264.40	No addendum ✓
Quiry's Inc.	130,006.80	✓ ✓
Seemaeva Paving Co, Inc	136,941.80	No addendum ✓
David A. Bramble, Inc.	172,294.00	No addendum ✓

Certified by:



Terri K. Hudson, City Clerk



ENGINEERING DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

www.cityofmilford.com

MEMORANDUM

TO: David Baird, City Manager

FROM: Mark S. Mallamo, P.E., City Engineer 

DATE: October 5, 2011

REFERENCE: 2011/2012 Road Improvements Project Bid Results/Recommendation

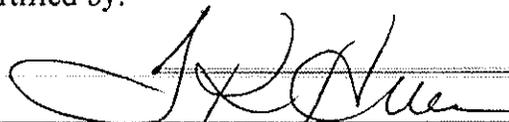
The 2011/2012 Road Improvements Project was duly advertised and 5 bids were opened Wednesday October 5, 2011. The bids were for unit prices in effect until December 31, 2012 and included hot mix asphalt overlay, milling, and concrete work for curbs and sidewalk. The total quantity of work bid was specifically for Church Street, SE 4th Street and SE 3rd Street. The City has the option to add or subtract streets based on unit prices as funding is available for the work. The engineer's estimate for these three streets was \$156,985.00. The bid tabulation is attached. Jerry's Inc. is the apparent low bidder with a bid of \$130,606.80, and adequate funding is available for this work. I have reviewed the bids and all bid requirements were met, therefore I recommend award of Contract 2011-ST to Jerry's Incorporated for \$130,606.80.

CC: Jeff Portman, Finance Director
Brad Dennehy, Public Works Director
Tim Webb, Supervisor Street Department

CITY OF MILFORD
PUBLIC WORKS DEPARTMENT
ROAD IMPROVEMENTS PROJECT FOR 2011-2012
OPENING 10/05/11 2:00 P.M.

Bidder	Bid
Sun's Construction LLC	188,380. ✓ ✓
Kent Construction Co, Inc	167,264.40 ✓ No addendum
Perry's Inc.	130,606.80 ✓ ✓
Selmanva Paving Co, Inc	136,941.80 ✓ No addendum
David A. Bramble, Inc.	172,294.00 ✓ No addendum

Certified by:



Terri K. Hudson, City Clerk

Milford, Delaware, Code of Ordinances >> PART I - ADMINISTRATIVE LEGISLATION >> **Chapter 21 - ELECTIONS** >> **ARTICLE I - Absentee Voting in Municipal Elections** >>

ARTICLE I - Absentee Voting in Municipal Elections

[Adopted 2-14-2000 by Ord. No. 1-2000]

- § 21-1. - Absentee voting authorized; applications.
- § 21-2. - Receipt of applications; action by City Manager; appeals.
- § 21-3. - Distribution of absentee ballots.
- § 21-4. - Return of ballots.
- § 21-5. - Disposition of returned ballots.
- § 21-6. - Opening and calculation of ballots.
- § 21-7. - Preservation of ballots.
- § 21-8. - Ballots obtained by agents.
- § 21-9. - Postage.
- § 21-10. - Votes cast for invalid candidates.
- § 21-11. - Deceased or ineligible voters.

Repeal
in its
entirety

§ 21-1. - Absentee voting authorized; applications.

Any qualified voter of the city, who, by reason of his/her physical condition or unavoidable absence from the city, and is otherwise prevented from being physically present to vote on a day on which a general or special election is to be held, may make an application for an absentee voting ballot. Printed application forms for the request of absentee ballots shall be provided by the City Clerk of the City of Milford not more than 30 calendar days prior to the election to which they apply. Application for voting in absentia stating the reason or reasons why such a ballot is desired shall be delivered to the office of the City Manager of the City of Milford, City Hall, Milford, Delaware.

§ 21-2. - Receipt of applications; action by City Manager; appeals.

All applications for absentee ballots must be received by the City Manager of the City of Milford not more than 30 calendar days and not less than seven calendar days prior to the election to which they apply. The signature of the applicant for an absentee ballot must be notarized and dated. The City Manager shall thereafter determine whether an applicant has met the requirements for absentee voting. Should the City Manager determine that an application may not be acceptable or valid for any reason, the City Manager shall notify the applicant, in writing, stating the reason or reasons for such rejection. Any person whose application has been rejected may appeal the decision of the City Manager to the City Council of the City of Milford. The decision may only be overturned by a majority vote of the City Council, provided a quorum has been established.

§ 21-3. - Distribution of absentee ballots.

Whenever an applicant has met the requirements for voting in absentia, the City Clerk shall mail the absentee ballot, except when less than seven calendar days remain before the applicable election. After that time, absentee ballots may only be obtained in person, up to two hours prior to the close of Milford City Hall's normal business hours, one day preceding the election, provided that application has been approved.

§ 21-4. - Return of ballots.

Persons receiving absentee ballots shall also be furnished an official self-addressed return envelope for use in returning the marked ballots. Only those ballots returned in an official return envelope shall be counted and considered properly cast.

§ 21-5. - Disposition of returned ballots.

All absentee voting ballots must be received at City Hall before the close of the normal business day preceding the election. The ballots are to remain unopened in the official return envelopes in which they are received and be placed in a ballot box which is designed for the purpose of storing absentee ballots until they are to be counted. Ballots returned in any envelope other than the official return envelope shall be destroyed and not counted. Only those absentee ballots which are physically received by the City Clerk or other designee of City Hall prior to the day of the applicable election will be counted in the results for that election.

§ 21-6. - Opening and calculation of ballots.

The Board of Elections Head Judge shall open all absentee ballots only after all of the polling places have been closed. Absentee ballots are thereafter to be opened, approved as to form and totaled. The grand total of the ballots cast at the polling places and the ballots cast in absentia shall thereafter be added together and included in any official election result as determined by the Board of Elections Judges.

§ 21-7. - Preservation of ballots.

Absentee ballots are to be preserved in the manner as prescribed for any other election ballots in § 9.01(f) of the Charter.

§ 21-8. - Ballots obtained by agents.

Absentee ballots may be obtained by an authorized agent for a voter who is unable to pick up a ballot in person, upon presentation of a valid application approved by the City Manager and a written authorization signed by the voter for whom the ballot is being obtained.

§ 21-9. - Postage.

Postage for mailing of a ballot or application to the voter will be paid by the city, and postage for the return of ballots shall be paid by the voter.

§ 21-10. - Votes cast for invalid candidates.

Any absentee ballot showing a vote for a person who is no longer a valid candidate for any reason will not be counted for that candidate, but such vote will not invalidate the remainder of the ballot.

§ 21-11. - Deceased or ineligible voters.

When the City Manager has sufficient proof that an absentee voter has died or otherwise become ineligible to vote in city elections before election day, that ballot shall not be counted, unless proof is received after the counting is completed.

Milford, Delaware, Code of Ordinances >> PART I - ADMINISTRATIVE LEGISLATION >> Chapter 68 - VOTER REGISTRATION >>

Chapter 68 - VOTER REGISTRATION

[HISTORY: Adopted by the City Council of the City of Milford 12-14-1981. Amendments noted where applicable.]

§ 68-1. - List of registered voters; registration dates and times.

§ 68-2. - Qualifications.

§ 68-3. - Information to be supplied.

§ 68-4. - Registrar and Assistant Registrars.

§ 68-5. - Removal from registration books.

§ 68-6. - Transfer of registration records.

§ 68-7. - Change of address within same election district.

§ 68-8. - Change of name.

§ 68-9. - Registration lists to be made available.

§ 68-10. - Books and forms to be provided.

§ 68-11. - Books of registered voters.

§ 68-12. - Right to challenge registration.

§ 68-13. - Registration by mail.

§ 68-1. - List of registered voters; registration dates and times.

An initial list of registered voters for the 1982 municipal election will be prepared by the Registrar and submitted to the Mayor and Council. This list will be comprised of residents who voted in any one of the last two city elections and who continue to reside in the city. The Mayor and Council will review and validate the qualifications of each name on the list. This initial list will be made available for review by January 1, 1982. All persons not on the above list will be required to register in person at City Hall, 201 South Walnut Street, or at such other places as the Mayor and Council shall direct. The City Hall office will be open for the purpose of registering persons who are qualified to be voters during normal working hours, Monday through Friday, except holidays, starting December 1, 1981. The Mayor and Council, at their discretion, may prescribe additional dates, times and places for the conduct of registration so long as the registration dates, times and places are published in a newspaper of general circulation in the city at least once per week for two weeks preceding the supplementary date for the registration of qualified voters. Registration will be closed as of midnight 30 days prior to the election.

§ 68-2. - Qualifications.

A resident of the City of Milford, to qualify to register, shall be a citizen of the United States, shall have been a resident of the city for a period of 30 days prior to the date of election and shall be 18 years of age or older prior to the date of election.

§ 68-3. - Information to be supplied.

- A. Any individual desiring to register to vote in a municipal election as required by this chapter shall present himself to the registration officials and shall advise the officials of the following:
- (1) Full name.
 - (2) Age.
 - (3) Birthdate.
 - (4) Present residence in the city, including street address and post office box number or apartment number if applicable.
 - (5) Date the individual commenced residency in the city.
 - (6) Ward in which presently residing.
- B. Every applicant shall present verification of identity and residence. Registration is not complete until the application has been approved by the Mayor and Council.

§ 68-4. - Registrar and Assistant Registrars.

The Mayor and Council shall appoint the City Manager to be the Registrar, and he may appoint one or more city employees as Assistant Registrars. The Registrar shall be the custodian of the permanent registration records. No records may be removed from City Hall without the express permission of the Registrar.

§ 68-5. - Removal from registration books.

If any voter shall fail to meet any of the requirements established for registration by this chapter, he shall be stricken from the registration books in the following manner:

- A. Certification. The City Registrar shall certify to the Mayor and Council a list of those individuals who are deceased, who have failed to vote in the past four municipal **elections**, who have not maintained their place or residence within the city or for any other reason failed to qualify as a voter of the city according to the requirement of this chapter.
- [Amended 5-12-1986]*
- B. Method of striking. The list shall be presented to the Mayor and Council at the regular March meeting. The Council shall be vested with the responsibility of determining, by the most effective means available, those individuals who shall be stricken from the registration books.
 - C. Recording and filing of cancellation of registration.
 - (1) The Registrar shall record the action taken by the Council on the original registration record in the space provided for cancellation of registration. This recording shall include the date of cancellation, the reason for cancellation and the signature of the Registrar. Any person who is determined not qualified to vote will be notified within three days after that determination, and that person may then request an appearance before the Mayor and Council for an explanation concerning that determination.
 - (2) There shall be kept in alphabetical order an inventory of all registration forms which have been removed from the registration lists or which have been voided for clerical error during issuance. This record shall be maintained permanently.

§ 68-6. - Transfer of registration records.

- A. When the boundaries of an **election** district are changed, the Registrar shall cause to have transferred the permanent registration records of registered voters whose voting districts have been changed into the appropriate **election** district record. The correct **election** district number shall be recorded on the **election** district record and on the application for registration record. Each registrant shall be notified of the transfer by regular mail. The registration of any voter shall not be invalidated nor shall the right of any registered voter to vote be prejudiced by any error in making transfers of the registration records.
- B. When a registered voter moves from one **election** district to another within the city, he shall apply to the Registrar to have his registration transferred to his new address by making and signing an application for transfer of registration.
- C. When a properly executed application for transfer of registration has been accepted, the Registrar shall have recorded the change of address and **election** district number on the registration records and transfer these records to the proper **election** district record.

§ 68-7. - Change of address within same election district.

A change of address or residence within the same **election** district shall not disqualify any person as a voter in such **election** district. Such voter shall, upon proper identification at the polls, be permitted to fill out a change of address form and to vote if he is otherwise qualified.

§ 68-8. - Change of name.

Any registered voter who changes his or her name, by marriage or otherwise, and continues to reside within the same **election** district shall not be disqualified as a voter in such **election** district. Such voter shall, upon proper identification at the poll, be permitted to fill out a change of name form and to vote if he or she is otherwise qualified.

§ 68-9. - Registration lists to be made available.

Registration lists shall be prepared and made available after the last registration day in March. The Registrar shall supply free of charge to each candidate two copies of the registered voters who reside in the district from which he seeks **election**. Candidates for Mayor shall be supplied free of charge with two copies of each of the above lists of registered voters in all districts. Each of the above registration lists shall be available to anyone for the cost of reproduction.

§ 68-10. - Books and forms to be provided.

The Mayor and Council shall provide the Registrar with all necessary books and forms for use in the conduct of general and supplementary registrations.

§ 68-11. - Books of registered voters.

The books of registered voters shall be of the same general type as those used by the County Board of **Elections** in the conduct of the registration of voters and shall be of a type which shall require the signature of the voter at the time of the registration of the voter.

§ 68-12. - Right to challenge registration.

The Mayor, members of Council, members of the **Election** Board, the Registrar, Assistant Registrars, any candidate or any registered voter may challenge the right to be registered of any person applying to be registered. Any challenger shall state the grounds of challenge, and these shall be entered in the registration book. Upon challenge, if the applicant for registration shall then withdraw his application, the Registrar shall note in the registration book that the application has been voluntarily withdrawn. If the applicant does not withdraw his application, the Registrar shall, within five days after said registration day, excluding Saturdays, Sundays and holidays, make a determination as to whether the challenge shall be sustained or rejected and shall cause an appropriate entry to be made in the registration book. If the challenge shall be sustained, the applicant shall be notified of his right to appeal the Registrar's decision to the Mayor and City Council.

§ 68-13. - Registration by mail.

[Copy link to clipboard](#)

Any person who is unable to register in person at the City Hall because of physical impairment or because of duties in any public or military service of Delaware or of the United States shall be permitted to register by mail. To register by mail, a person shall request, in writing, directed to the Registrar and specifying the reasons he is unable to register in person, that registration forms be sent to him at a stated address. Requests must be received by the last registration day before the **election**. Within three days of receipt of the request, the Registrar shall send the registration form and instructions to the person requesting to be registered. Forms shall provide spaces for obtaining the information outlined in [§ 68-3](#) above. The completed registration form must be received by the Registrar not later than 15 days before any **election** in which the person desires to vote.

Ordinance 2011-27

AN ORDINANCE TO AMEND Chapter 21 Election of the Code of the City of Milford by deleting and repealing Article I, Absentee Voting in Municipal Elections and replacing it with a new Article I, to be entitled Absentee Voting-Referenda and Annexation Elections.

WHEREAS, Signed into law on June 30, 2006, Title 15, Chapter 75 of the Delaware Code governs municipal elections in the State of Delaware; and

WHEREAS, Title 15, Chapter 75 of the Delaware Code provides rules for absentee voting for General Elections in municipalities within the State of Delaware; and

WHEREAS, Title 15, Chapter 75 of the Delaware Code states that Subchapter IV and Subchapter V shall not apply to referenda or annexation elections; and

WHEREAS, the Charter of the City of Milford provides rules of procedure, including specific timelines, for referenda and annexation elections; and

WHEREAS, there is a need to complete the absentee election process in a referenda and annexation election in a more timely manner in comparison to a general election; and

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 21 of the Code of the City of Milford is hereby amended by deleting and repealing Article I (Absentee Voting) in its entirety.

Section 2. Chapter 21 of the Code of the City of Milford is hereby amended by adding thereto a new chapter, to replace Article I, hereinabove repealed, to be Article I, entitled Absentee Voting-Referenda and Annexation Elections, to read as follows:

21-1. Absentee voting in referenda and annexation elections will be in accordance with 15 Del. C. 75 with the following exceptions:

A. Availability and return of affidavits; Availability of absentee ballots; Requests for absentee ballots.

(1) Affidavits will be made available to absentee voters during business hours at the city clerk's office no sooner than five days following the adoption of the resolution ordering the referenda or annexation election by city council. Completed affidavits must be received by the city clerk's office no later than noon two days preceding the referenda or annexation election.

(2) Official absentee ballots will be made available to absentee voters during business hours at the city clerk's office no sooner than five days after the resolution ordering the referenda or annexation election is adopted by city council and will end at the close of business two days preceding the referenda or annexation election.

B. Distribution of ballots, envelopes, and instructions.

(1) Not less than five days prior to a referenda or annexation election, and within five days after the absentee ballots, envelopes, and instructions therefore become available, the municipality shall mail, to each elector who requests and qualifies for an absentee ballot.

C. Delivery of absentee ballots.

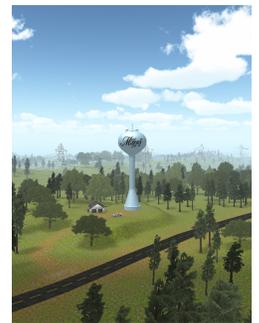
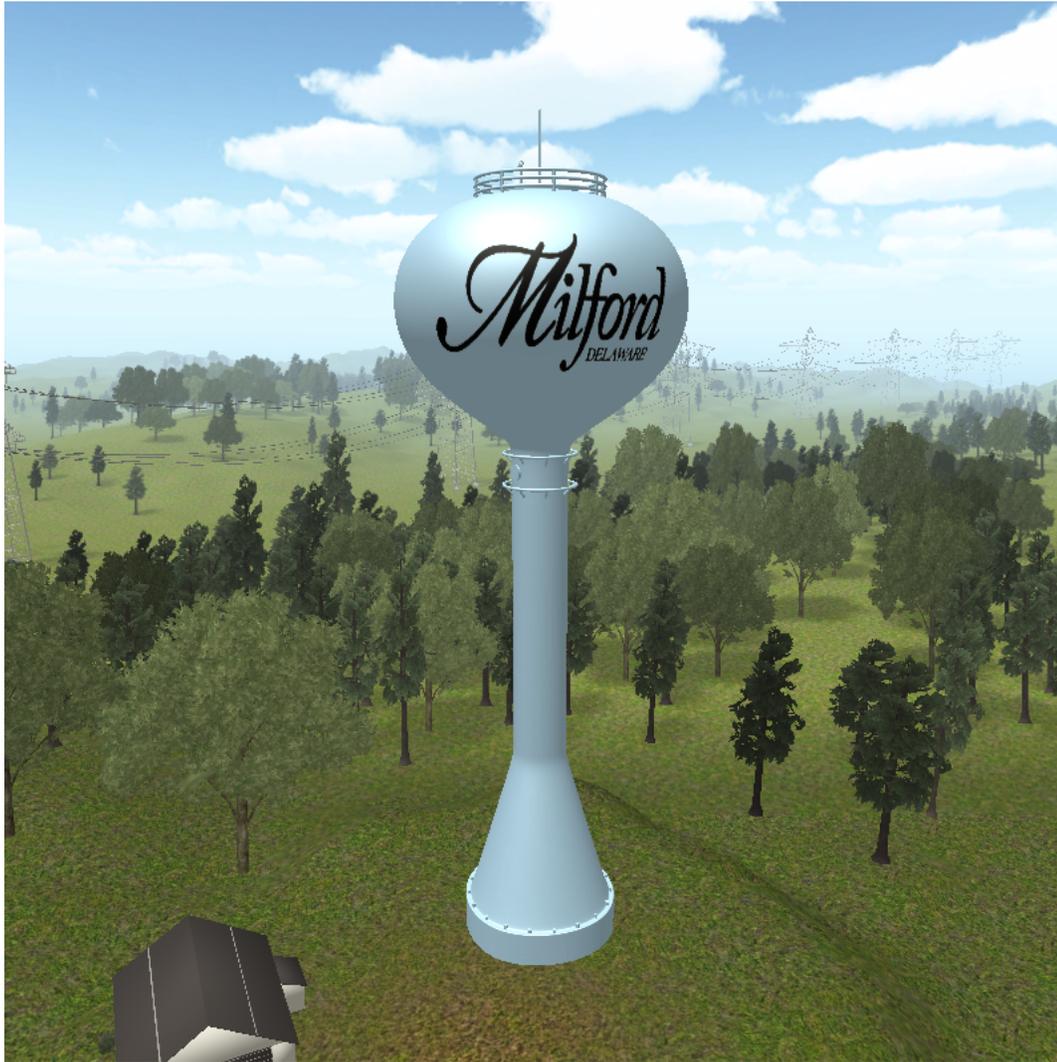
(1) In order for an absentee ballot to be counted, it must be received by the election board before the closing of the polls on election day.

Section 3. Dates

Introduction to City Council: 10/10/11

Adoption by City Council: 10/17/11

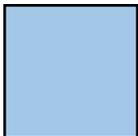
Effective Date: 10/27/11



PROJECT NAME: 10th St Tower
COMPLETION DATE:

PROJECT LOCATION: Milford DE
FABRICATOR: Southern Corr

COLORS SELECTED:



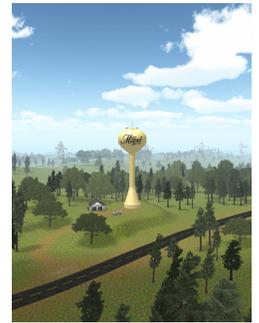
Horizon Blue | 17BL

ADDITIONAL INFORMATION:

Tnemec Company Tank Colorization

© All Rights Reserved. These colors should not be used to finalize your color selection.
Please visit www.tnemec.com to request accurate color swatches or to contact your local representative.
6800 Corporate Drive • Kansas City, MO 64120 • 1-800-TNEMEC1

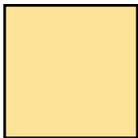




PROJECT NAME: 10th St Tower
COMPLETION DATE:

PROJECT LOCATION: Milford DE
FABRICATOR: Southern Corr

COLORS SELECTED:



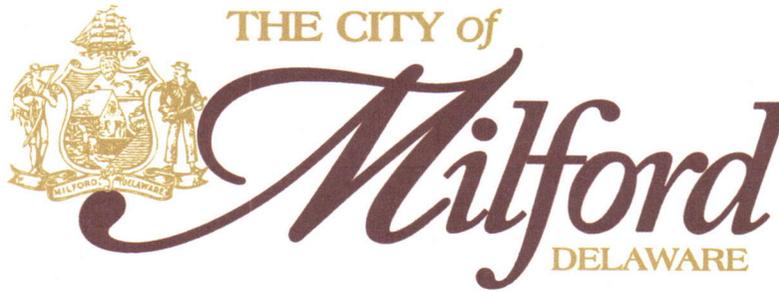
Flaxseed | 10YW

ADDITIONAL INFORMATION:

Tnemec Company Tank Colorization

© All Rights Reserved. These colors should not be used to finalize your color selection.
Please visit www.tnemec.com to request accurate color swatches or to contact your local representative.
6800 Corporate Drive • Kansas City, MO 64120 • 1-800-TNEMEC1





PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

MEMO

TO: David Baird
City Manager

FR: Brad Dennehy 
Director of Public Works

DA: September 28, 2011

RE: Payment for Curb Installation on SE 4th Street

Please find enclosed invoice #4933 for Curb installation on SE 4th Street, in the amount of \$10,560.00, from Shea Concrete LTD.

As part of the street paving project which is currently out to bid, it was agreed upon to have curb installed on one side of 4th street (where it did not previously exist), prior to re-paving the street.

It is mine and the Streets' Department Superintendent (Mr. Tim Webb) recommendation that payment for the curb installation be paid out of the Municipal street aid fund.

As always if you have any questions feel free to call.

Thank you

Shea Concrete LTD.

4933

304 Montgomery Street

P.O. Box 264

Milford, Delaware 19963

Phone: 422-7221

September 20, 2011

City of Milford

P. O. Box 159

Milford, DE 19963

Re: S. E. 4th St. (South Side)

528 LF P.C.C. Curb Type 1	@ \$20.00 LF	<u>\$10,560</u> 00
---------------------------	--------------	--------------------

Shea excavated, formed & poured
Class "B" concrete per City Specs.

**CITY OF MILFORD
FUND BALANCES REPORT**

Date: August 2011

Cash Balance - General Fund Bank Balance	\$1,441,112
Cash Balance - Electric Fund Bank Balance	\$3,673,514
Cash Balance - Water Fund Bank Balance	\$1,189,771
Cash Balance - Sewer Fund Bank Balance	\$292,941
Cash Balance - Trash Fund Bank Balance	\$560,399

	General <u>Improvement</u>	Municipal <u>Street Aid</u>	Real Estate <u>Transfer Tax</u>	Water Bond <u>Escrow</u>
Beginning Cash Balance	361,624	730,765	498,817	412,457
Deposits		136,938	15,180	
Interest Earned this Month	29	79	43	
Disbursements this Month	(48,488)	(813)	(41,667)	
Investments			1,600,000	
Ending Cash Balance	\$313,165	\$866,969	\$2,072,373	\$412,457

	GF Capital <u>Reserves</u>	Water Capital <u>Reserves</u>	Sewer Capital <u>Reserves</u>	Electric <u>Reserves</u>
Beginning Cash Balance	655,636	1,363,804	650,593	1,193,332
Deposits			537,477	1,786,775
Interest Earned this Month				
Disbursements this Month		(202,489)	(11,517)	(59,196)
Investments	1,000,000	2,960,000	2,245,000	7,484,000
Ending Cash Balance	\$1,655,636	\$4,121,315	\$3,421,553	\$10,404,911

	Water <u>Impact Fee</u>	Sewer <u>Impact Fee</u>	Electric <u>Impact Fee</u>
Beginning Cash Balance	69,007	\$41,641	\$9,703
Deposits	3,949	\$2,088	
Interest Earned this Month			
Disbursements this Month			
Investments	850,000	\$625,000	\$250,000
Ending Cash Balance	\$922,956	\$668,729	\$259,703

INTEREST THROUGH THE SECOND MONTH OF THE FISCAL YEAR:

General Fund	70	Water Fund	188
GF Capital Reserves	5,000	Water Bond Escrow	0
General Improvement Fund	59	Water Capital Reserves	5,500
Municipal Street Aid	145	Water Impact Fees	0
Real Estate Transfer Tax	88	Sewer Fund	46
Electric Fund	630	Sewer Capital Reserves	3,125
Electric Reserves	13,459	Sewer Impact Fees	0
Electric Impact Fees	0	Trash Fund	100

TOTAL INTEREST EARNED TO DATE \$28,410

REVENUE REPORT

Page Two

Date: August 2011	AMOUNT BUDGETED	MTD	YTD	17% of Year Expended YTD%
ACCOUNT				
Budgeted Fund Balance	421,235	15,108	15,108	3.59%
General Fund Capital Reserves	255,500	50,510	134,561	52.67%
Municipal Street Aid	195,000	0	0	0.00%
Property Transfer Tax-Police	500,000	41,666	83,333	16.67%
Real Estate Tax	3,004,155	2,972,978	2,976,827	99.09%
Business License	35,000	900	1,800	5.14%
Rental License	85,000	300	550	0.65%
Building Permits	50,000	7,662	12,252	24.50%
Planning & Zoning	20,000	4,578	4,928	24.64%
Misc. Revenues	262,035	13,149	33,983	12.97%
Transfers From	3,215,480	267,958	535,914	16.67%
Police Revenues	287,000	14,690	30,698	10.70%
Total General Fund Revenues	\$8,330,405	\$3,389,499	\$3,829,954	45.98%
Water Revenues	2,187,255	123,555	347,474	15.89%
Sewer Revenues	1,907,725	94,607	269,835	14.14%
Kent County Sewer	1,350,000	54,639	178,476	13.22%
Solid Waste Revenues	1,126,000	90,356	180,028	15.99%
Electric Revenues	27,885,500	1,902,585	4,662,973	16.72%
TOTAL REVENUES	\$42,786,885	\$5,655,241	\$9,468,740	22.13%
YTD Enterprise Expense		8,927		
YTD Enterprise Revenue		12,001		
LTD Carlisle Fire Company Building Permit Fund		39,492		

EXPENDITURE REPORT

Page Three

Date: Aug 2011

17% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	420,655	\$28,319	45,861	10.90%	374,794
O&M	107,850	\$3,413	10,919	10.12%	96,931
Capital	0	\$0	0		0
Total City Manager	\$528,505	\$31,732	\$56,780	10.74%	471,725
Planning & Zoning					
Personnel	123,335	\$9,153	15,419	12.50%	107,916
O&M	34,935	\$2,578	3,369	9.64%	31,566
Capital	0	\$0	0		0
Total P, C & I	\$158,270	\$11,731	\$18,788	11.87%	139,482
Code Enforcement & Inspections					
Personnel	130,715	\$9,578	15,416	11.79%	115,299
O&M	37,100	\$2,355	3,876	10.45%	33,224
Capital	0	\$0	0		0
Total P, C & I	\$167,815	\$11,933	\$19,292	11.50%	148,523
Tax Department					
Personnel	74,155	\$5,690	\$9,084	12.25%	65,071
O&M	15,265	\$1,551	\$7,523	49.28%	7,742
Capital	0	\$0	\$0		0
Total Tax Department	\$89,420	\$7,241	\$16,607	18.57%	72,813
Council					
Personnel	31,225	\$2,207	3,860	12.36%	27,365
O&M	27,600	\$2,186	4,116	14.91%	23,484
Council Expense	17,000	\$1,423	6,833	40.19%	10,167
Contributions	447,735	\$0	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	\$7,764	15,108	8.63%	159,892
Total Council	\$726,560	\$13,580	\$93,917	12.93%	632,643
Finance					
Personnel	321,855	\$24,361	38,670	12.01%	283,185
O&M	54,600	\$2,346	4,421	8.10%	50,179
Capital	0	\$0	0		0
Total Finance	\$376,455	\$26,707	\$43,091	11.45%	333,364
Information Technology					
Personnel	165,870	\$12,732	20,929	12.62%	144,941
O&M	173,250	\$4,589	7,630	4.40%	165,620
Capital	13,000	\$0	12,990	99.92%	10
Total Information Technology	\$352,120	\$17,321	\$41,549	11.80%	310,571

EXPENDITURE REPORT

Page Four

Date: Aug 2011

17% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	3,526,670	\$264,153	425,661	12.07%	3,101,009
O&M	440,120	\$27,716	94,896	21.56%	345,224
Capital	71,500	\$240	64,134	89.70%	7,366
Total Police	\$4,038,290	\$292,109	\$584,691	14.48%	3,453,599
Streets & Grounds Division					
Personnel	407,665	\$30,044	49,833	12.22%	357,832
O&M	447,400	\$23,794	49,852	11.14%	397,548
Capital	225,000	\$0	0		225,000
Debt Service	46,115	\$0	0	0.00%	46,115
Total Streets & Grounds	\$1,126,180	\$53,838	\$99,685	8.85%	1,026,495
Parks & Recreation					
Personnel	474,915	\$42,932	73,339	15.44%	401,576
O&M	236,875	\$30,632	60,414	25.50%	176,461
Capital	55,000	\$28,769	28,769	52.31%	26,231
Total Parks & Recreation	\$766,790	\$102,333	\$162,522	21.20%	604,268
Total General Fund					
Operating Budget	\$8,330,405	\$568,525	\$1,136,922	13.65%	7,193,483

EXPENDITURE REPORT

Page Five

Date: Aug 2011

17 % of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	217,500	\$16,437	26,417	12.15%	191,083
O&M	1,141,565	\$104,015	183,006	16.03%	958,559
Capital	25,000	\$0	0	0.00%	25,000
Debt Service	803,190	\$0	0	0.00%	803,190
Total Water	\$2,187,255	\$120,452	\$209,423	9.57%	1,977,832
Sewer Division					
Personnel	217,500	\$16,437	26,416	12.15%	191,084
O&M	1,033,500	\$99,234	156,387	15.13%	877,113
Capital	0	\$0	0	0.00%	0
Debt Service	656,725	\$0	0	0.00%	656,725
Sewer Sub Total	\$1,907,725	\$115,671	\$182,803	9.58%	1,724,922
Kent County Sewer	1,350,000	\$137,156	261,118	19.34%	1,088,882
Total Sewer	\$3,257,725	\$252,827	\$443,921	13.63%	2,813,804
Solid Waste Division					
Personnel	335,485	\$24,364	38,675	11.53%	296,810
O&M	722,320	\$57,862	107,943	14.94%	614,377
Capital	68,195	\$0	0	0.00%	68,195
Total Solid Waste	\$1,126,000	\$82,226	\$146,618	13.02%	979,382
Total Water, Sewer Solid Waste	\$6,570,980	\$455,505	\$799,962	12.17%	5,771,018
Electric Division					
Personnel	947,130	\$72,099	115,803	12.23%	831,327
O&M	1,784,105	\$151,550	269,463	15.10%	1,514,642
Transfer to General Fund	2,500,000	\$208,334	416,667	16.67%	2,083,333
Capital	986,710	\$14,025	18,425	1.87%	968,285
Debt Service	667,555	\$0	0	0.00%	667,555
Electric Sub Total	\$6,885,500	\$446,008	\$820,358	11.91%	6,065,142
Power Purchased	21,000,000	\$1,904,031	3,999,925	19.05%	17,000,075
Total Electric	\$27,885,500	\$2,350,039	\$4,820,283	17.29%	23,065,217
TOTAL OPERATING BUDGET	\$42,786,885	\$3,374,069	\$6,757,167	15.79%	36,029,718

INTERSERVICE DEPARTMENTS REPORT

Page Six

Date: August 2011

ACCOUNT	AMOUNT BUDGETED	MTD	17% of Year Expended		UNEXPENDED BALANCE
			YTD	YTD%	
Garage					
Personnel	91,865	5,167	8,504	9.26%	83,361
O&M	61,940	5,333	9,576	15.46%	52,364
Capital	0	0	0		0
Total Garage Expense	\$153,805	10,500	\$18,080	11.76%	135,725
Public Works					
Personnel	338,940	26,252	41,923	12.37%	297,017
O&M	187,370	7,302	15,758	8.41%	171,612
Capital	0	0	0		0
Total Public Works Expense	\$526,310	33,554	\$57,681	10.96%	468,629
Meter Department-Water					
Personnel	120,315	8,730	14,660	12.18%	105,655
O&M	68,950	3,157	4,307	6.25%	64,643
Capital	60,000	2,249	2,249	3.75%	57,751
Total Water Meter Expense	\$249,265	14,136	\$21,216	8.51%	228,049
Meter Department-Electric					
Personnel	229,635	17,744	27,816	12.11%	201,819
O&M	99,550	4,777	7,274	7.31%	92,276
Capital	0	0	0		0
Total Electric Meter Expense	\$329,185	22,521	\$35,090	10.66%	294,095
Billing & Collections					
Personnel	435,195	32,646	53,250	12.24%	381,945
O&M	210,790	22,918	38,846	18.43%	171,944
Capital	0	0	0		0
Total Billing & Collections	\$645,985	55,564	\$92,096	14.26%	553,889
City Hall Cost Allocation					
Personnel	0	0	0		0
O&M	58,000	3,712	9,371	16.16%	48,629
Capital	0	0	0		0
Total City Hall Cost Allocation	\$58,000	3,712	\$9,371	16.16%	48,629

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
September 12, 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, September 12, 2011

RESIDING: Mayor Joseph Ronnie Rogers

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

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.

PUBLIC HEARING

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

Mayor Rogers advised the public hearing was postponed.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Pikus, seconded by Mr. Brooks to approve the minutes of the August 8, 17 and 22, 2011 council and committee meetings as presented. Motion carried.

RECOGNITION

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

City Clerk Hudson read into record the proclamation recognizing September as Prostate Cancer Awareness Month. Mayor Rogers then presented to Mr. Sauls, Chapter Leader of the Us Too International Support Network, the signed proclamation.

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.

s/Mayor Joseph Ronnie Rogers

Mr. Sauls stated he also represents Delaware Prostate Cancer Coalition, Southern Delaware Prostate Cancer Group and the Man to Man Prostate Cancer and Education Group. He noted that in addition, Governor Jack Markell signed a proclamation declaring September as Prostate Cancer Awareness Month in Delaware.

Mr. Sauls thanked the Mayor and Council for the proclamation and presented the Mayor and Council with prostate cancer blue ribbon pins.

POLICE REPORT

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

CITY MANAGER REPORT

Mr. Baird referenced the public hearing that was postponed at the beginning of the meeting. He reported the original resolution and public notices were based on the original offer from the State of Delaware for \$3.7 million. A letter was then received from the state increasing the offer to \$4 million.

Therefore, the process needed to be restarted with the correct numbers. Tentatively, the public hearing is scheduled for October 10th.

He also advised that the heavy rains that occurred last week caused some significant water to enter the city hall basement again. ServPro has been working on the cleanup but at this point, we need to determine what is causing the problem. It is occurring more frequently and into areas that were not previously impacted.

In the meantime, the employees housed in the lower level have been relocated. The code and building inspector, along with the city planner, have been moved to public works. The IT Department will be working out of the finance department.

Mr. Baird has met with contractors regarding the repairs. Options and proposals are expected this week which he will share with the finance committee to make a determination.

He reported that all road signs for Hearthstone Manor have been ordered by the street department and are expected to arrive any day. Upon their receipt, they will be installed by the public works staff. That project will be coordinated with the police department as well.

Mr. Baird then presented the following report:

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	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)	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.

South 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 Wilkins Road/SR1 Crossover, Modifications to the Johnson Road/SR1 Crossover, Removing the existing crossover just north of Wilkins 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.

10th 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 10th 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

Rate comparison chart as prepared by DEMEC as of September 1, 2011:

Residential Rate @ 1,000 kWh

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

Mr. Starling recalled that some additional time was provided to allow taxpayers to pay their bills. Mr. Baird said he did not take any action this year because so few people took advantage of it last year. He said the majority of the bills are paid by mortgage companies who have the September 30th date plugged in and most of our residents were already planning to pay the bill by the September 30th date.

Mr. Baird noted that if anyone has a hardship, they should contact our billing office to work out a payment arrangement with our staff as is done with utility bills.

Mr. Brooks pointed out that Milford has gone from second to seventh in electric rates. He asked if a reduction is being considered; Mr. Baird said he has Mr. Kumar evaluating our rate structure in comparison to the projections from DEMEC. Mr. Kumar plans to provide him with a recommendation this week which he will then provide to city council.

Mr. Pikus asked for confirmation those rates will be part of the economic development package; Mr. Baird stated yes, it will address all classifications.

Mr. Johnson asked which area of the city Tyler is working in and who are they answering to; Mr. Baird stated they are coming to him noting they are still in the data collection phase and going door to door. He said their representatives are in various areas of the city and currently have three to four assessors assigned to different areas for consistency. At this point, they have been out about six weeks and have addressed a number of areas.

Mr. Brooks noted that only one side of Tenth Street was done approximately three weeks ago.

It was asked if they could provide a possible schedule of the locations they are working in. In that manner, residents could make arrangements to have their homes available during that time.

Mr. Baird said that information was put on the website initially. Because of the staffing changes and storm issues, it was then placed on the backburner. However, he will see that is again posted.

A question was then asked about when the Comcast representative would again attend a council meeting noting the various problems residents are experiencing. It was also noted that depending on which county you live in, customers

have to go to Rehoboth or Dover to obtain the new digital boxes. It was suggested that a Comcast distribution center be put in Milford to serve the area customers.

A number of council members stated that Comcast had mailed the digital boxes.

Mayor Rogers suggested that Tom Worley attend a future meeting to discuss the ongoing problems in Milford.

It was agreed to invite him to the September 26th meeting. Mr. Baird recommended that he address council concerns at that time. He would then have him follow-up with the individual communities depending on the outcome of the meeting.

COMMITTEE REPORTS

Riverwalk Festival-Community Affairs Committee

Chairman Johnson reported that the weather cooperated and the Riverwalk turned out to be a very nice event. He said he heard many positive remarks and noted the huge turnout for the fireworks display.

Public Works Committee/Police Committee

Public Works Chairman Brooks reported that on behalf of Police Committee Chairman Morrow, they wish to thank all the employees of the public works department and police department for the outstanding jobs they did during the recent storms. He emphasized that we experienced an earthquake, hurricane and tornado—all within five days.

Moment of Silence

Councilwoman Wilson asked for a moment of silence in remembrance of 9-11 and the victims and their family members as well as the first responders and our country.

A moment of silence was then observed.

COMMUNICATIONS

Communications included in packet.

UNFINISHED BUSINESS

Maroulas Northwest Front Street Condemnation Update

Mr. Baird advised that Superior Court of Kent County overturned the Board of Appeal's decision on a technical issue that involved the number of members on the Board of Appeals. A decision needs to be made how to continue to address the problem.

Since that time, the ordinance has been reviewed and an amendment is being proposed.

Ms. Wilson asked why the board was allowed to convene if there were not enough members; Mr. Baird explained the Board of Appeals is comprised of three people which includes a design professional (architect or engineer), a representative of the contracting industry, an alternate and himself. He said he rendered a decision during the first step and recused himself as a result. The decision for the alternate to recuse themselves was because he is an architect with Davis, Bowen and Friedel and a structural engineer had reviewed the structures on behalf of the city.

He said when it was time to convene the hearing, that point was raised and the applicant was asked if they had any objections to proceeding with only two people. In a statement, they stated they did not. However, at the time of the appeal, the issue was raised and supported by the court.

Mr. Rutt further explained that the court went through the factual background but did not decide it on merits. The judge decided it strictly on the procedure. At the time of the hearing, a quorum (2 of 3 members) was convened with no objection. On appeal, they raised the issue. He explained that typically, if an issue is not raised below, it is waived. However, in this case, the court accepted the argument there was a procedural error and distinguished the city manager position versus the other two positions on the board and found it was not a complete board. Therefore, it was a technical violation of the appeal process and he overturned the board's decision.

He said at this point, it is not necessary to go back to the very beginning, but it can be picked up midstream. The condition of the property has not changed and nothing was based on the condition of the property. Therefore, Mr. Williams was going to review the property and verify its status. The process will then begin again.

The solicitor noted there is a bifurcation of the properties as two of the properties are owned by Dan Bond who was not part of the appeal. Therefore, that process will continue. As to the other, the question was the process which he agrees has some problems and will now be cleaned up. If this progresses and there is an appeal to the Board of Appeals, the questions raised in the court decision will not occur again.

Mr. Pikus said this has been on going for years and now a court decision has been rendered so nothing will occur. He said there was an original order issued for the owner of the dilapidated structure to do some work and nothing was done. It then became predicated on the result of the condemnation of the other two properties. There remains a problem with the property that sits on the street and is getting worse. He asked if that problem can be addressed immediately.

Mr. Rutt said that should be addressed immediately.

Mr. Baird said we are proposing to move forward and take parallel tracks with the two properties. He explained that 201-203 Northwest Front Street is owned by Downtown Properties/Dan Bond. The 205-207 Northwest Front Street property is owned by Spyros Maurolas Incorporated/Spyros Doukas. A condemnation and demolition was ordered on Mr. Bond's property and the city will proceed and handle that as a stand-alone case with no relationship to the neighboring property. He believes a case will be made that the two properties are tied together even though that stalled the action and is why the city is in this situation. Therefore, the city will enforce the condemnation and demolition orders on 201-203 properties.

According to the city manager, it has been decided that no appeal will be filed on the 205-207 Northwest Front Street properties as it would not be in the best interest of the city based on the technicalities raised. He agrees there were some inherent conflicts in the ordinance. Therefore, those flaws are being addressed through the amendments being proposed this evening. Once those ordinances are effective, Mr. Williams will return to the properties, perform a new inspection, issue a condemnation and demolition order based on his reports. They will then have twenty days to appeal his determination to the Board of Appeals.

Mr. Baird recalled that when this process began, a hearing was held and they were given a 90-day period to explore different options. He is unsure if that will happen again though the chances are slim to none because much of that was part of the due diligence and fact-finding process the board went through. He said all of the records from the previous hearings will be reintroduced. In addition, Mr. Williams will provide updated reports.

He believes we will end up before Milford's Board of Appeals and should they again support the city's decision, he believes another appeal will be made to the court. After these changes, he hopes the decision will be upheld by the higher court.

The city manager emphasized that 205-207 will not hold up 201-203.

Mr. Pikus asked the procedure for the Bond property; Mr. Baird advised that the building inspector has had conversations with the property owner as well as demolition contractors to determine how to move forward.

City Building Inspector Don Williams then stated that Mr. Bond is willing to allow the city to demolish his structure. However, he explained it is not that easy. Mr. Williams explained that at one point, Mr. Bond had pulled the permit for the demolition; Brad Dennehy was the building inspector who stopped the demolition and informed him that nothing further could be done without a structural engineer verifying he was able to proceed safely. Mr. Williams said

that is when the makeshift wall for support came about that Mr. Bond was planning. However, he does not feel safe allowing a footer and foundation to be poured between the existing building in order to construct the makeshift wall though Mr. Bond is willing to allow the city to demolish his units.

Mr. Williams advised the engineer's report states that the units can be taken down and the wall installed. He said if the city directs Mr. Bond to take it down, should Mr. Williams force him to put the wall up or tear it down two feet from the other structure and allow the wall to fall away. He explained it is connected to Mr. Bond's structure. The wall will cost \$60,000 for a building that Mr. Williams ultimately plans to demolish.

He said if he then tells Mr. Doukas to tear it down and we lose another appeal a year from now, then Mr. Bond is out \$60,000 for a wall.

That is the reason the city was tying the issues into one even though they are separate. He emphasized that Mr. Bond is willing to demolish the property.

He noted that Mr. Doukas recently returned to Milford though Mr. Williams has not had a chance to speak with him. He plans to meet with him tomorrow to determine what he will do to compromise. He will then follow up with Mr. Bond who does not want the liability involved with removing the wall though he does not want the liability to fall on the city. He also needs to know who will put the wall back up if he removes it.

It was agreed the city is not responsible for taking it down; Mr. Williams explained that if Mr. Bond says no, he will hire a demolition contract to remove it. However, if the wall falls, he needs an answer as to who is responsible.

Mr. Baird said what Mr. Williams described is the inherent conflict between the two properties that has forced them together over the past last three years. That approach has gotten the city to this unacceptable situation. At this point, costs cannot be the driver in this decision. At this point, the city manager said they need to be told they are responsible and the liability falls on them regardless of whether the city handles it or not. However, it is something we cannot simply walk away from.

The city manager reported that our new ordinances need to be in place before we can start the condemnation and demolition process of 205-207 Northwest Front Street.

Solicitor Rutt emphasized that no agreements should be made with the homeowner that will box the city in and allow them to say you have waived the right to condemn it because you have agreed to do something.

Mr. Williams said his plan is to ask them what they are willing to do and if both agree, he will come back and allow council to make a decision. He feels they understand the properties are in dire need of maintenance. The last he knew, they had gutted the one though they do not feel it should be torn down and a wall put up. He has some ideas and hopes he can get them to come to an agreement.

Mr. Baird said the only time frame we are willing to work out is before the proposed ordinances become effective. If it has not been worked out, they will be informed the city will proceed with the strict enforcement of the condemnation and demolition order for Downtown Properties, then move forward with the condemnation and demolition for the Spyros Maroulas property.

According to the city manager, one owner asked what would happen if he abandoned the property and walked away from it. He said abandonment is not an issue because he will remain the owner of record which could impact his other properties.

Mr. Pikus asked if the property owner can legally abandon the property and tell the city they can have it. Mr. Rutt confirmed that the city could demolish the property but would then place a lien on the property. If there is a lien on any property owned by the same entity, it becomes a lien on all properties under that same ownership until it is satisfied.

Mr. Baird said the city will continue with the condemnation and demolition of 201-203 and 205-207 Northwest Front Street but make sure they are handled as two separate properties.

It was confirmed that the current city solicitor will handle the case from this point forward.

Mayor Rogers emphasized the importance of getting this situation resolved—noting it is an eyesore as well as a safety hazard. He encouraged the city manager and building inspector to work with both parties and get the matter resolved.

Mr. Williams said they will be given until the time the ordinances become effective; after that time, he will take the appropriate action.

FY 2011-2012 Budget/Municipal Street Aid Funds

Mr. Baird requested \$18,367 be paid from the Municipal Street Aid Account 123-9010-431-70-45 to cover the additional costs of the concrete work on Northeast Tenth Street and associated striping.

Mr. Pikus moved for payment of \$18,367 from Municipal Street Aid Account 123-9010-431-70-45 to cover the above costs to Northeast Tenth Street, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

Release of Liability/C&J Agreement

Mr. Baird advised that the proposed agreement was tentatively agreed to by C&J's attorney. The agreement requires a payment by the City of Milford in the amount of \$58,358.15 for the work completed on Northeast Tenth Street and the retainage for the Tenth, Foster and Evans Street projects. In return, C&J is releasing all of its interest in the remaining contract which included paving of Church Street. In the meantime, the Church Street project will be included in the bid currently being prepared by the city and presented to council on October 10th.

Solicitor Rutt explained the amount is slightly more than what was authorized by city council. However, when the costs of litigation were compared to the payoff and release of liability on Church Street, the settlement worked out to the city's advantage.

Mr. Pikus moved for approval of the C&J Settlement Agreement and Mutual Release, seconded by Ms. Wilson.

Mr. Pikus said he votes yes, but reluctantly due to the problems that still exist on Northeast Tenth Street which is a major street. However, he agrees to settle the case which will allow the city to move on.

Mr. Starling confirmed that additional work is needed; Mr. Baird stated yes though it will involve minor work. It will not need to be completely repaved but instead minor patches and repairs in addition to some utility adjustments. He feels most of the work can be handled in house.

Motion then carried by unanimous roll call vote.

Mr. Brooks added the street is so bumpy that he observes vehicles traveling the street whose drivers stop and get out of their car to see if something is wrong with the car. He said there is also a problem after a rainfall with drainage. As the weather gets cold, the water will freeze which will cause even more damage to the paving. However, he agrees we do not need to go to court for \$11,000.

Mr. Baird then noted that the contractor has come back and finished the punch list items on the other streets that were completed.

NEW BUSINESS

Bid Award/Chaney-Wilmont Mispillion Greenway Phases 15 & 16

Mr. Baird advised that this portion of the greenway runs through the old Fisherhawke area and will tie back into Columbia Street.

Sealed bids were received, publicly opened and read on August 22, 2011 for the Chaney-Wilmont Greenway Phases 15 & 16. Bids were as follows:

Clean Cut Interlocking Pavers	
Total Bid	\$289,677.79
 A. P. Croll & Sons	
Total Bid	\$301,901.00
 George & Lynch	
Total Bid	\$327,718.82
 Conventional Builders, Inc.	
Total Bid	\$338,690.00
 First State Crane Service	
Total Bid	\$380,241.59

A letter from Matt Spong of Landscape Architectural Services LLC indicates he has reviewed the bids and recommends acceptance of the low bid offered by Clean Cut Interlocking Pavers in the amount of \$289,677.79. The price includes the two alternate bids.

The original bid was \$350,000; the architect’s estimate was at \$347,000.

Mr. Pikus confirmed this project is being paid by grant money; Mr. Baird stated yes, the bulk of the funding is from the Community Transportation Fund and Land and Water Conservation Trust Fund though minimal funding was included in the Parks and Recreation’s capital budget.

Ms. Wilson moved to award the Greenway Phases 15 and 16 bid to Clean Cut Interlocking Pavers in the amount of \$289,677.79, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

Scheduling of Fall Clean-up Week

Mr. Pikus moved for approval of the week of October 24th as fall clean-up week and in the case of inclement weather, it be moved to the week beginning October 31st, seconded by Mr. Brooks. Motion carried.

Adoption of Resolution 2011-14/Establishing Dates/Halloween Events

Mr. Brooks moved for adoption of the Resolution 2011-14, seconded by Ms. Wilson:

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.*

Motion carried.

*Introduction of Ordinance 2011-22/Building Construction/Chapter 88
Introduction of Ordinance 2011-23/Property Maintenance/Chapter 174*

Mr. Baird reminded council that modifications were needed to the ordinance as a result of the Superior Court decision. Ordinances 2011-22 and 2011-23 address that.

He explained there are three codes—Building Code and Property Maintenance Code. The building code is in two sections. Article I deals with the International Building Code which governs commercial construction. Article II deals with the International Residential Code which governs residential construction. Chapter 174 addressed property maintenance standards which includes the International Property Maintenance Code. All three are used by the building and code officials in the city.

Mr. Baird said each has similar, but different appeal processes. After the court ruling, it was agreed it would be best to address the appeal processes as one. As a result, the building code, residential code and property maintenance code will all have the same appeal process.

The specific of the changes are addressed in Ordinance 2011-22, Article III:

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.

Mr. Baird pointed out the membership of the Appeals Board still includes the city manager or designee, a design professional and a representative of the contracting industry. However, the previous ordinance allowed an appeal of the code official to the city manager which became a conflict. That caused him to recuse himself which led to a deficiency in the board. Henceforth, any appeal will go directly to the Board of Appeals. An alternate member will also be appointed.

Mr. Brooks asked if one alternate member is adequate; Mr. Baird stated yes. Mr. Brooks noted there were two conflicts from the beginning. In this case, the representative from Davis, Bowen and Friedel had to be recused along with the city manager who had already made a decision thus leaving only two members.

Mr. Brooks said his understanding was that Mr. Doukas or his attorney were asked if two members were adequate and their response was yes. However, it became one of the issues raised in the appeal to Superior Court.

City Solicitor Rutt then explained the problem was that the city manager was a standing member of the committee and no designee was assigned in his place. The court ruled the process was incorrect because no substitute for the city manager was made. He said this actually allows two alternates. This gives the city manager the right to designate an alternate in his place. The alternate member (section 8.1) is actually for the other two members—the design professional or construction professional.

When asked if there should be three appointed alternates to prevent this from reoccurring, Mr. Baird said the ruling is that three members must be present in any hearing. Mr. Baird said it will always require himself or his designee to be present.

Mr. Baird then reviewed the balance of the proposed ordinance.

He pointed out that one item not in the previous code was that the board shall modify or reverse the decision of the code official, but not affirm the decision. That change has since been made.

Also added is the court review and the desire to appeal the board's decision to superior court in the appropriate county. Additionally, it addresses the stay in the case of an appeal.

He is confident the proposed amendments address the deficiencies in the previous ordinance.

The ordinances will be placed on the September 26th agenda for a final decision. They would become effective on October 7, 2011 which will allow Mr. Williams to proceed with the condemnation and demolition process at 205-207 Northwest Front Street.

Mr. Pikus moved to the introduction of Ordinance 2011-22 and 2011-23, seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Introduction of Ordinance 2011-24/Outdoor Burning Code/Chapter 92

This ordinance is a follow-up to the recent amendment made to the zoning code regarding outdoor furnaces. Mr. Baird said after additional review, the solicitor and building inspector agreed it would best to amend the outdoor burning code to specify what is permitted and prohibited.

He said that in addition, state regulations have been addressed for continuity purposes.

When the ordinance was initially circulated for review, Chief Hudson recommended that some additional requirements

for bonfires in the city which has since been added.

The proposed ordinance was the reviewed:

§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.

The current language will remain in the zoning code because there are properties that still fall under that ordinance. However, anything new will follow the new ordinance.

Mr. Rutt emphasized this is not a zoning ordinance but instead falls under the police powers and health, safety and welfare issues.

When asked who enforces this ordinance, Mr. Rutt stated the code officials and police have the ability to enforce this ordinance.

He noted there is a penalty for violations which is a fine. A citation would be issued which would go before the Justice of the Peace Court. Each day is a separate violation which is punishable up to \$1,000 per offense and would fall under the jurisdiction of the Justice of the Peace Court.

Mr. Grier moved for introduction of 2011-24, seconded by Mr. Johnson. Motion carried with no one opposed.

It was noted the ordinance is scheduled for adoption at the September 26th meeting, with a proposed effective date of October 7, 2011.

FY 2011-2012 Budget/Transfer of Funds/Electric Department

Electric Superintendent Rick Carmean submitted the following request:

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.

The city manager said this completes the work associated with the Downtown Lighting project. He confirmed it is within the current year's budget.

Mr. Pikus moved for approval of the transfer of funds as requested, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Mr. Pikus reported that through the twelfth month of Fiscal Year 2011-2012 with 8.3% of the fiscal year having passed, 8.9% of revenues have been received and 7.9% of the operating budget expended.

He noted that building permits are up and expenses remain below budget.

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

Mr. Baird advised the auditors will begin their review next week for the fiscal year ending June 30, 2011. Mr. Pikus said Mr. Portmann has requested the finance committee meet with the auditors; after that meeting, they will report back to city council.

EXECUTIVE SESSION

Mr. Pikus moved to go into 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, seconded by Mr. Grier. Motion carried.

Mayor Rogers recessed the regular Council Meeting at 8:40 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 8:59 p.m. No action needed as a result of the executive session.

ADJOURN

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

Meeting adjourned at 8:59 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 26, 2011

A Public Hearing was scheduled before Milford City Council on Monday, September 26, 2011 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware upon the matter of:

Morris and Ritchie Associates, Incorporated on behalf of Griffin Realty, LLC for a Modification of a Conditional Use to Allow a Planned Unit Development. Property is located east of US Route 113 at the intersection of West Heirloom Way, south of Seabury Avenue, Milford, Delaware, formerly known as Central Parke at Milford/Milford Ponds. Area of Petition is 107.50 +/- Acres; Current Zoning is R-1, R-2 and R-3. Tax Map No(s): 1-30-6.00-108.00, 1-30-3.00-6.00-167.00 thru 1-30-3.00-6.00-550.00; 1-30-3.00-6.00-557.00; 1-30-3.00-6.00-558.00.

RESIDING: Mayor Joseph Ronnie Rogers

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

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

City Solicitor David Rutt, Esquire

Mayor Rogers announced the scheduled public hearing has been postponed until further notice.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 26, 2011

The City Council of the City of Milford met in Workshop Session on Monday, September 26, 2011 in the Joseph Ronnie Rogers Council Chambers of 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, Owen Brooks, Jr., 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

The Workshop Session of Milford City Council convened at 7:03 p.m.

R. Thomas Worley/Comcast Senior Director Government Affairs

Mr. Pikus recalled that Mr. Worley addressed council last year in regard to several cable problems being experienced by Milford customers which continue to occur. Complaints include picture freezing and loss of sound.

Mr. Worley asked if the people with those problems have contacted Comcast to arrange a service call; Mr. Pikus stated the cable rep checked his connections at his home and found no issues.

Mr. Worley then introduced Jamie Lawrence, the field technician in charge of the Milford system.

Mr. Worley stated that after the last meeting, he went to the engineering and technical groups of Comcast to inquire about these problems. He then explained that their plant divides Milford into neighborhoods or nodes of approximately 200 homes each. Each node is monitored electronically to ensure the signal quality is adequate. The engineers reported no problems with the Milford nodes. He then followed up with the technical who actually work in the homes. They also indicated they were unaware of similar problems.

He reported that if the plant in general is working well, then individual situations must be considered. He said there could be a flaw on a particular street, drop or home. He said at the previous meeting, he explained the conversion to digital from analog which occurred this past spring. He stated the digital signal is much less tolerant of a weakness in the plant when compared to the analog signal. Normally, problems such as picture freezing or pictualization or audio drop-out are the result of a loose connection in the home or where wiring needs to be upgraded.

Mr. Worley stressed that anyone who continues to experience this problem should call Comcast to have a technician recheck their home because more than likely the problem is within the house. He added there is a possibility it could be on the street or in the drop coming into the home. He has seen a few situations where it has taken additional time to determine the weak point. However, there is no evidence of that in the electronic monitoring of the Milford system where everything meets the standards.

He pointed out that sometimes a picture is being sent from another place, for example from a ballpark, which may cause some configuration issues. However, if that continues to occur on a regular basis, he feels it is most likely a weak point inside the home.

Mr. Worley said they always watch for two things. One is ingress which is noise or electronic signals that get into the plant and can cause problems. They also have signals from a weak point that can go out and actually interfere with the electronics of an airplane. They do an aerial flyover twice a year to monitor any egress of all their plants to ensure they are within the limits of the FCC requirements. However, there is also a reverse wave that can come into the plant. He said that all their technician trucks have devices that listen for that when they are driving down the streets. If they find a home that is putting

out a lot of noise into the plant, they flag the home and investigate to determine the weak point.

Mr. Worley emphasized their efforts of constantly monitoring to ensure proper service.

Mr. Brooks advised that he received a phone call from Joe Palermo who stated the Comcast technicians worked at his house for two hours. Everything worked for a couple of days but he has since experienced the same problems with channel 6 and 31. He will provide Mr. Worley with Mr. Palermo's information.

Mr. Worley asked that anyone with a problem should contact the city manager who can e-mail Mr. Worley the information. They will then investigate each problem individually.

Ms. Wilson then noted that there is a neighborhood where everyone is experiencing the same problem. She believes it is beyond a connection within the house. They are also experiencing the picture freezing and pictualization. Mr. Worley asked that Ms. Wilson provide him with the street names.

Chuck Rini of 119 Ginger Lane, Knotts Landing, then discussed several issues. He noted that Comcast now has a digital to analog converter which took care of some channels that were missing in the past.

He then suggested that because Milford is in both Sussex and Kent County and considering the 40% increase in population over the past ten years, Comcast should consider a local store in Milford which could be used by customers in both counties. He then pointed out that his channels go from 100 to 103 and skip 101. He advised channel 101 is a digital radar of the local weather map and asked that channel 101 be added. He also said the old cable guide allowed you to back search channels for the previous two or three hours. The new cable guide does not allow that which is particularly frustrating to sports fans whose games have run over their anticipated time. He suggests that Comcast notify their customers of the channel search guide because many people are unaware of that service. He discussed the (real) baseball starting times (7:05, 7:15) noting those channels are unable to be accessed until that exact minute even though the program starts at the top of the hour or the half hour.

He mentioned one baseball game which was unable to be found on the guide. The only way he found it was by going channel to channel thru the guide until he found a sports channel. He said it was also to be on the MLB package though it was blacked out because it was being broadcast locally.

Mr. Rini reiterated the problems associated with audio and picture freezing and pictualization problems.

He also complained that Comcast no longer provides local telephone or addresses on the monthly bills. There is an 800 number which when connected, you are speaking with a representative who does not understand that Milford is in two counties. He asked that local information again be provided to customers.

He asked that Comcast consider adding the SNY, WPIX and NASA Select channels noting that NASA TV is free of charge because it is a government service.

Mr. Rini said that today he received a phone call from a Comcast representative offering a special package for \$18. Mr. Rini determined he was already receiving those services at a lesser price. He feels Comcast should be aware of the programming their clients have when making such calls.

Ms. Wilson then requested that the Knotts Landing community be included in Comcast's follow-up.

Dave Markowitz of East Thrush Drive, Meadows at Shawnee, then pointed out the city is divided into four wards. He said there are problems in Ward 1, Ward 2 and Ward 4. He suggested they start at the source and not at the end because the problem is citywide which should be taken into consideration.

The consensus of council was for Comcast to make every attempt to fix these problems.

Mr. Worley emphasized the need to have specific locations to target in addition to determining the channels experiencing the problems.

He encouraged council to ask their constituents to contact Comcast at the 1-800-Comcast number. Mr. Johnson asked why this cannot be taken care of locally. Mr. Worley explained that when the 800 number is called, the work order is printed locally with specific details. He agrees you may get a representative in Dover or another state; however, when the call is made, the 800 number provides the most efficient utilization of the call center staff throughout their network. He said they are all capable of dealing with the customer's concerns.

Steve Beneventano from the Meadows at Shawnee then complained that he left four messages for Jenni Moyer, Corporate Communications Vice President of Programming. He said he had a problem with his high definition channels. He had to search the internet to get her name and phone number. He asked if Mr. Worley would be willing to leave a number for everyone to call him if they have a problem.

He said he had Comcast at his house twice in two weeks because he only had sound on half of the Baseball Major League Channel. They came down and played with the box and only got three channels. However, is also a problem with Comcast in Georgetown because they do not have the MLB package on their computers and they are unable to determine any problems as a result. He feels they should be able to look on the screen to figure out his problem.

Mr. Beneventano said Mr. Rini gets some channels in Kent County that he does not get in Sussex County though they are in the same town.

Mr. Worley said that is the way the system was built years ago. There are certain channels through the FCC that do not show up in different towns.

Mr. Worley then noted there is a more advanced guide that Comcast is considering launching in the next year to eighteen months. He feels that will take care of the guide issues.

He said they will try to determine the problems though it helps to have specific addresses and specific channels. Mr. Pikus recommends that any residents provide their information to the city manager who will forward it to Mr. Worley.

When asked if the technicians can troubleshoot the entire city, Mr. Worley explained they have electronic monitoring systems that monitor signals. All signals indicate there are no problems. The technicians responding to trouble calls are not seeing anything unusual which is why it is puzzling. They prefer to have specific locations.

Mr. Worley then provided his direct phone number of 672-5936.

Mr. Johnson then noted that the majority of complaints are at newer homes so the problem cannot be within the home. Mr. Worley reiterated that their experience has been that a lot of the issues are the result of home wiring though he is not saying that is the case in every situation.

With no other business, the Workshop concluded at 7:33 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
September 26, 2011

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, September 26, 2011.

PRESIDING: Honorable Mayor Joseph Ronnie Rogers

IN ATTENDANCE: Councilpersons Steve Johnson, Garrett Grier III, S. Allen Pikus, Dirk Gleysteen, Owen Brooks, Jr., 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 7:33 p.m.

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 2011-22/Building Construction/Chapter 88

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 88, thereof, Building Construction, for the purpose of amending the appeal process associated with the actions of the Building and/or Code Officials relative to the Board of Appeals and the Composition of its Members.

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.

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.

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>

International Property Maintenance Code: \$ 300.00

§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

Adoption Date: September 26, 2011

Effective Date: October 7, 2011

Mr. Baird recalled the discussion when Ordinances 2011-22 and 2011-23 were introduced and reminded council that these ordinances amend the Board of Appeals process. This was the result of the recent Superior Court ruling in relation to the Northwest Front Street properties.

Chapter 88 contains two subsections entitled the International Residential Code and International Building Code; the International Property Maintenance Code is outlined in Chapter 174. The Board of Appeals has jurisdiction over both codes.

Mr. Pikus confirmed this will correct the conflicts in the current ordinance relating to board members. Mr. Baird stated it does by removing the first appeal hearing that went before the city manager.

Mr. Pikus moved for adoption of Ordinance 2011-22 as presented, seconded by Mr. Brooks. Motion carried by unanimous roll call vote.

Adoption of Ordinance 2011-23/Property Maintenance/Chapter 174

AN ORDINANCE TO AMEND the Code of the City of Milford by amending Chapter 174, Property Maintenance, for the purpose of amending the appeal process associated with the actions of the Building and/or Code Officials relative to the Board of Appeals and the Composition of its Members.

The City of Milford hereby ordains:

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

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.

Section 4. Dates

Introduction Date: September 12, 2011

Projected Adoption Date: September 26, 2011

Projected Effective Date: October 7, 2011

Mr. Baird explained this ordinance modifies the property maintenance code and refers any appeals directly to the Board of Appeals as with the building code.

Ms. Wilson moved to adopt Ordinance 2011-23 as presented, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

Adoption of Ordinance 2011-24/Outdoor Burning Code/Chapter 92

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, BY REPEALING CHAPTER 96, ENTITLED BURNING, OUTDOORS, IN ITS ENTIRETY, AND REPLACING 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.

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:

- 2. (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

Mr. Baird advised that this issue is addressed in both the zoning code and Chapter 92. City Solicitor Rutt stated there were two issues that came from the outdoor furnace issue. One concern was the related smoke. There were also smoke concerns about other devices as was explained in the information submitted. As a result, he reviewed DNREC regulations which have been incorporated into the new ordinance.

He said the intent of the issue with the outdoor furnaces went to use and what the land could be used for. It did not go to public health and safety which this ordinance does. The penalty is a fine of up to \$1,000 per day should they violate the health and safety codes.

Mr. Pikus asked how this will affect pre-existing conditions; Mr. Rutt stated it has nothing to do with pre-existing conditions. He said any health and safety violations do not fall within the zoning code thus do not have associated pre-existing conditions.

Mr. Rutt then clarified that any zoning matters go before the Board of Adjustment; appeals from that board go to Superior Court. The Board of Appeals have jurisdiction over any construction, building and property issues. Any case involving a violation of the Outdoor Burning Ordinance goes to the Justice of the Peace Court. Those appeals will be submitted to the Court of Common Pleas. With this ordinance, there is no appeal process in the city.

Mr. Johnson moved for adoption of 2011-24, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

Mr. Gleysteen votes yes for the public health and safety aspects of this ordinance.

Mr. Brooks and Mr. Morrow both vote yes for the same reasons as stated by Mr. Gleysteen.

NEW BUSINESS

Introduction of Ordinance 2011-25/Bob Nash/Bob Nash Associates on behalf of Patricia Arost/Change of Zone

The following ordinance was introduced to city council; a public hearing is scheduled before the Planning Commission on October 18, 2011 and City Council on November 28, 2011:

Ordinance 2011-25

Bob Nash of Bob Nash Associates, Incorporated on behalf of Patricia Arost for a Change of Zone

AN ORDINANCE OF THE CITY OF MILFORD, DELAWARE to amend the zoning map of the City of Milford by rezoning 1.76 +/- acres of real property from C-1 (Community/Neighborhood Commercial) to C-3 (Highway Commercial). Property is identified as Tax Parcel 1-30-3.15-11.00 and is located at 837 S. DuPont Boulevard, Milford, Delaware. Present Use and Proposed Use: Music Center.

Whereas, the City of Milford Planning Commission reviewed the application at a Public Hearing on October 18, 2011 and has presented item for consideration by City Council; and

Whereas, Milford City Council held an advertised Public Hearing on November 28, 2011 to allow for public comment on the application; and

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

Now, therefore, the City of Milford hereby ordains as follows:

Section 1. Upon the adoption of this ordinance, Tax Parcel 1-30-3.15-11.00, located at 837 S. DuPont Boulevard and owned by Patricia Arost, is hereby zoned C-3.

Section 2. Dates.

Introduction to City Council: 09-26-11

Planning Commission Review & Public Hearing: 10-18-11

City Council Review & Public Hearing 11-28-11

This ordinance shall take effect and be in force ten days after its adoption.

FY2011-2012 Budget/Wawa Sale Expenses/Account Payment

Mr. Baird explained that up to \$15,000 from General Fund Reserve Account 101-1110-413-95-10 is needed to cover settlement and engineering costs associated with the Wawa land sale. The expenses currently have no designated account and will be paid from this account upon council approval. At the time of settlement, the proceeds from the sale will be deposited into this account.

Mr. Pikus moved for approval of up to \$15,000 from General Fund Reserve Account 101-1110-413-95-10 Motion seconded by Ms. Wilson. Motion carried by unanimous roll call vote.

Mr. Johnson confirmed that the proceeds can only be used for economic development purposes. Mr. Baird agreed noting that any funds used from this account require the approval of city council.

Bid Award/Streetscape Project/Tree and Grate Project

One sealed bid was received, publicly opened and read on September 19, 2011 for the Tree and Grate Replacement on North Walnut and North Front Street. Five potential bidders attended the pre-bid meeting; however, only one bid was received. Clean Cut Interlocking Pavers submitted a base bid of \$144,468 and a total of \$177,505 with the addition of the five alternates. The project budget is \$175,000 (\$125,000 + \$50,000) which Mr. Baird said was previously approved in transfers by city council.

The city manager reported that Alternate 5 (\$14,000) was removed because it is the city's responsibility and covers the cost of additional pavers.

Alternate 1 (removal and replacement of Parking Authority trees) was also removed due to the overall paving work needed in the area.

As a result, Mr. Baird said the project has been brought into budget. He said that the Downtown Milford, Incorporated officials have given their approval.

The entire project being \$189,000, Mr. Baird recommends awarding the bid to Clean Cut Interlocking Pavers in the amount of \$162,850 and asked council to authorize \$14,000 in Municipal Street Aid to pay for sidewalk improvements.

Mr. Pikus verified this will address all thirty-five areas noted in the bid and asked if the existing bricks will be reused; Mr. Baird stated yes and confirmed the bricks will be reused throughout the project. Because of the high number, Mr. Brooks asked why this wasn't handled as routine maintenance because it must have occurred over a period of time; Mr. Baird said routine work has been done and it was only added as an alternate bid. He explained that if we received a good price, we would go ahead and do the work all at one time.

Mr. Baird verified the work will be started and completed by the end of November.

Mr. Pikus moved to award the bid to Clean Cut Interlocking Pavers in the amount of \$162,850 and authorize the additional \$14,000 to be paid from Municipal Street Aid, seconded by Mr. Gleysteen. Motion carried by unanimous roll call vote.

Reversal/Open Range Cell Tower Agreement

The city manager recalled council approving a lease agreement with Open Range Wireless Communication for space on the city water towers. The contact was never ratified by Open Range Wireless; they recently informed us they would not proceed.

Mr. Baird asked that council reverse the approval to ensure our records would be correct. Mr. Brooks confirmed this will not impact the revenues in this year's budget; Mr. Baird stated that is correct.

Mr. Pikus moved to reverse the approval of the Open Range Cell Tower lease agreement, seconded by Mr. Morrow. Motion carried.

Executive Session

Mr. Grier moved to go into Executive Session, pursuant to 29 Del. C. §10004(b)(9) personnel matters in which the names, competency and abilities of individual employees or students are discussed, seconded by Mr. Morrow. Motion carried.

Mayor Rogers recessed the regular Council Meeting at 8:05 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 8:32 p.m. No action needed as a result of the Executive Session.

ADJOURN

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

Meeting adjourned at 8:32 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder