

City of Milford



AGENDA

Monthly Council Meeting

January 9, 2012

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

7:00 p.m.

COUNCIL MEETING

Call to Order - Mayor Joseph Ronnie Rogers

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition

Monthly Police Report

City Manager's Report

Committee Reports

Communications

Unfinished Business

Planning Commission Vacancies/Appointments

New Business

FY 2011-2012 Budget Amendment/Planning & Zoning Department Legal Expense

FY 2011-2012 Budget Amendment/Council Legal Expenses

FY 2011-2012 Budget Amendment/Water & Wastewater Department(s) Legal Expenses

*FY 2011-2012 Budget Amendment/Police Department Legal Expenses**

*FY 2011-2012 Budget Amendment/Public Works Department Legal Expenses**

*FY 2011-2012 Budget Amendment/Code Enforcement & Inspections Department Legal Expenses**

*FY 2011-2012 Budget Amendment/Code Enforcement & Inspections Department Demolition Expenses***

*FY 2011-2012 Budget Amendment/Code Enforcement & Inspections Department Engineering Fees***

FY 2011-2012 Budget Amendment/Administration Transfer to Council

Introduction of Ordinance 2012-01/Conditional Use/Key Properties Group/Billboards

*Work Scholarship Program Responsibility & Expenses/EDAP Member William Pilecki**

Monthly Finance Report

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

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: January 5, 2012

RE: Activity Report/December 2011

=====

Monthly Stats:

A total of 372 arrests were made by the Milford Police Department during December 2011. Of these arrests, 128 were for criminal offenses and 244 for traffic violations. Criminal offenses consisted of 32 felonies and 96 misdemeanors. Traffic violations consisted of 120 Special Duty Radar, 4 Drunk-Driving charges, and 120 other.

Police officers investigated 36 accidents during the month (3 personal injury, and 33 property damage) and issued 59 written reprimands. In addition, they responded to 1096 various complaints including city requests and other agency assistance.

A total of \$9,759.79 was collected in fines during December.

Monthly Activities:

All officers have requalified for firearms certification with the last ones completed in December under the direction of Firearms Instructor/Lieutenant Kenneth Brown.

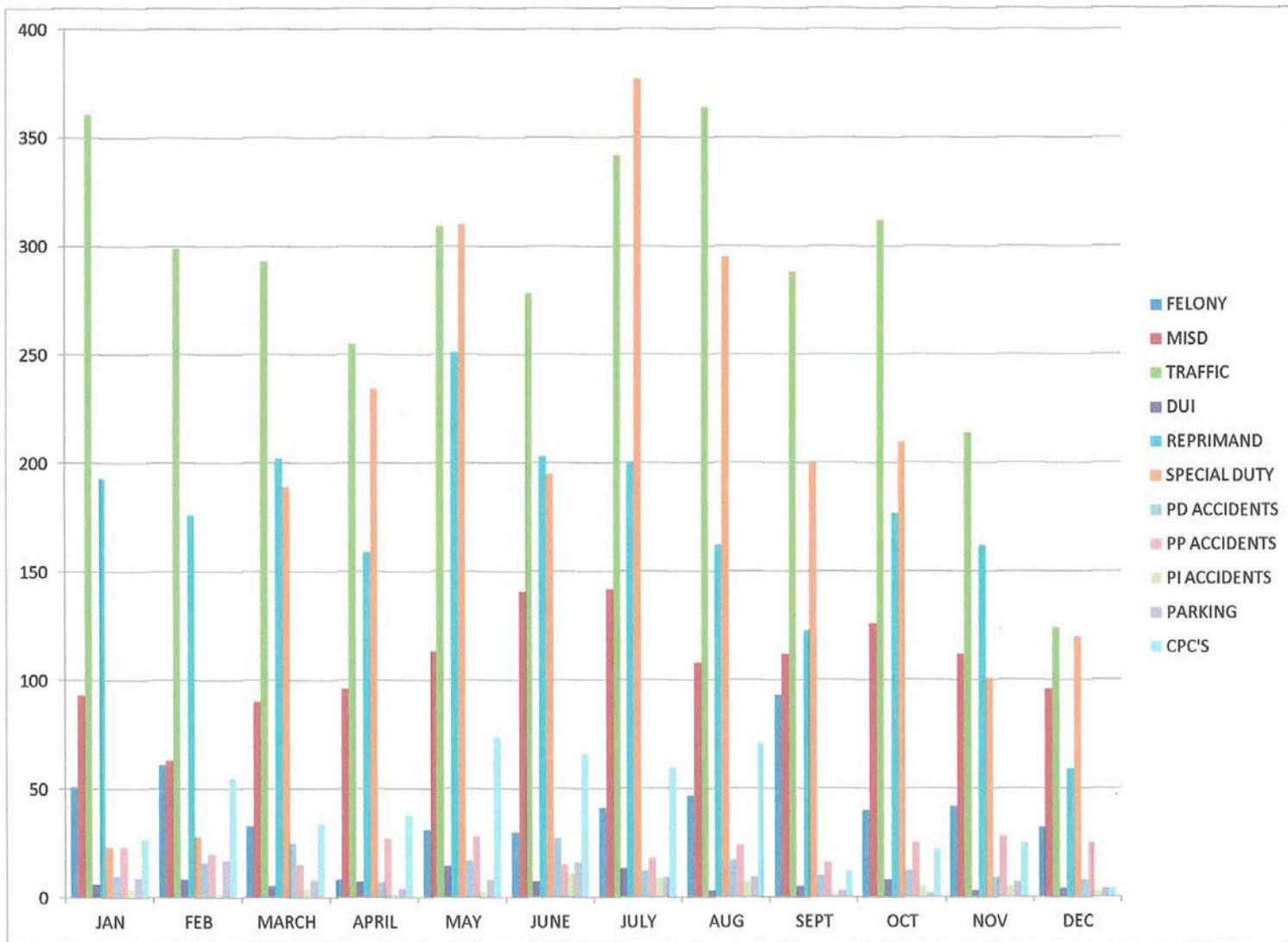
Applications will continue to be accepted for the 2012 Citizens Police Academy until January 31, 2012. Anyone interested should contact the police department. Criminal backgrounds are required.

EKH

vrk

DECEMBER ACTIVITY REPORT

	<u>DEC 2010</u>	<u>TOTAL 2010</u>	<u>DEC 2011</u>	<u>TOTAL 2011</u>
<u>Complaints</u>	925	13209	1096	15040
<u>Criminal Arrests</u>	128	1869	128	1826
Felonies	35	642	32	512
Misdemeanors	93	1227	96	1298
<u>Traffic Arrests</u>	236	3292	244	5436
Special Duty Radar	23	649	120	2293
D.W.I.	15	98	4	80
Other	198	2545	120	2965
<u>Reprimands</u>	127	1517	59	2083
<u>Accidents</u>	63	524	36	493
Personal Injury	7	79	3	56
Property Damage	56	454	33	437
Fatal (included in PI)	0	2	0	0
<u>Parking Summons</u>	6	80	4	96
<u>Crime Prevention Checks</u>	25	413	4	490
<u>Fines Received</u>	\$8,961.64	\$109,132.50	\$ 9,759.79	\$150,165.28



City Manager's Report
January 9, 2012

I have spent a great deal of my time during the last month talking with department heads and employees. The purpose was to ask and answer questions regarding the direction of the city, and the city's expectations of our workforce. I believe the majority of the employees, both managers and line staff, are in most cases, comfortable with the future of their positions with the city.

I have gotten the approval of both property owners for the location of our test wells. While their agreements probably allowed us to place them anywhere upon the agreed upon sites, I thought it best to include this one additional step. After advising the owners of the location for drilling, I had them sign for the drilling permits. Work should take place in early February.

I hope that this evening I can announce the property on the corner N.W. Front and Church Streets is either demolished or being demolished. The schedule was to begin work this morning, but with closing the streets, which will be for four to five days, and setting up the site, it will probably be Tuesday morning before the actual demolishing of the structure begins.

I have met with Mr. Bruce Blessing of Blessing Greenhouses and Compost to discuss our continued association with his business. As most of you know Mr. Blessing accepts our yard waste at his facility at a greatly reduced tipping fee. We plan to do a public information and education program next spring. Mr. Blessing and his staff will be distributing his compost product to our customers at no charge. We will use the occasion to distribute information about our yard waste program, and educate the people on the process of our waste being turned into an environmentally friendly product.

I am meeting with the developers and investors of the planned solar farm to be built next to our planned sub-station. This project is moving ahead now at an accelerated pace. I will know more about the schedule after next week's meeting, but at this time I expect things to start-up in weeks not months. This will be a fifty to sixty million dollar investment, and will be a very important part of our electric future. The plan is to have an interconnection with the generated electric to our sub-station. While it is not possible to estimate the savings to our customers, there should be a benefit in savings of capacity costs. This will also take care of our green energy purchase requirements for many years.

I have written a position available advertisement for Director of Economic Development. This position was adopted by the mayor and council during this year's budget process. Councilman Grier is the chairperson of the Economic Development Committee and will, along with Gary Norris, assist me in the selection of this person.

I am still working with Mr. Dennehey, our Director of Public Works, and Tim Webb, our Superintendent of Streets and Solid Waste, on a solution for our yard waste ordinance and collection. We have really not had too much opportunity to do so with the holidays and other work requirements. We will continue to operate this service as we have in the past until we can present council with a plan that meets your approval.

Respectfully submitted,

Richard Carmean City Manager

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>New Castle</u>	\$134.63	21%	-11%
<u>Lewes</u>	\$136.13	22%	-10%
<u>Milford</u>	\$141.54	27%	-7%
<u>Dover</u>	\$141.61	27%	-7%
<u>Newark</u>	\$150.68	35%	-1%
<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>	\$158.03	41%	4%
<u>Clayton</u>	\$162.70	46%	7%

* 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

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

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

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

December 13, 2011

Mr. Richard Carmean
City of Milford
P.O. Box 159
Milford, DE 19963

Dear Richard:

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

**November 2011
Weight in Pounds**

MARSHALL STREET

SINGLE-STREAM TOTAL	OIL GALLONS
22,065	450

MILFORD MIDDLE SCHOOL

5,728	
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MILFORD COMMONS

13,366	
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Sincerely,

Rich Von Stetten
Sr. Manager of Statewide Recycling

C:\RVS\RD correspondence\cityofmilford.doc
Christie Murphy
Attachments: City of Milford Curbside Totals

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

CITIZENS' RESPONSE LINE: 1-800-404-7080 www.dswa.com

**CITY OF MILFORD CURBSIDE
NOVEMBER 2011**

Date Out	Trans Num	MT Label	DT Label	Bill Acct Name	Net TN
11/3/2011	776031	2550-Single Stream R	100-Inventory	City of Milford	5.27
11/10/2011	776795	2550-Single Stream R	100-Inventory	City of Milford	6.57
11/11/2011	776804	2550-Single Stream R	100-Inventory	City of Milford	5.97
11/18/2011	777494	2550-Single Stream R	100-Inventory	City of Milford	4.31
11/23/2011	778119	2550-Single Stream R	100-Inventory	City of Milford	3.81
11/23/2011	778120	2550-Single Stream R	100-Inventory	City of Milford	4.05
				TOTAL	29.98

DAVID B. BAKER
COUNTY ADMINISTRATOR



Sussex County

ADMINISTRATIVE OFFICE BUILDING
2 THE CIRCLE
P.O. BOX 589
GEORGETOWN, DELAWARE 19947
TEL: 302-855-7742
FAX: 302-855-7749
E-MAIL: dbaker@sussexcountyde.gov
sussexcountyde.gov

December 14, 2011

The Honorable Joseph R. Rogers
Mayor of the City of Milford
P. O. Box 159
Milford, DE 19963

Dear Mayor Rogers:

Thank you for your letter of thanks and best wishes. It has been a pleasure to work with you and the City of Milford over the years. Your city has grown thanks to your proactive city government.

It has been a pleasure to work with you and your staff on the Sea Watch expansion project. I am sure this will mean even more jobs in the future for your city and the County.

Thanks again for your cooperation with me and your service with the Sussex County Association of Towns. Good luck in the future.

Sincerely,

David B. Baker
County Administrator

DBB/sww

**DELAWARE LEAGUE OF LOCAL GOVERNMENTS
MONTHLY DINNER MEETING
JANUARY 26TH, 2012
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

Margaret M. DiBianca, Esq., of Young Conway Stargatt & Taylor, LLP will deliver a timely presentation on the issue of Social Media in the workplace. Recently, there has been a shift in the way employers are approaching Facebook, Linked In, Twitter and other social media outlets, likely as a result of the frequency that social media issues arise in the workplace. Come out and learn about the latest legal challenges faced by employers and the best ways to prevent problems before they arise. This will be a valuable program and a *must* for Mayors, Council Members, and staff to guarantee that you stay informed on these changes that can affect local government policy.

NEXT MEETING: FEBRUARY 23RD, 2012

Special diets can be accommodated with 24 hours notice
WE MUST HAVE YOUR RESERVATIONS NO LATER THAN January 12, 2012

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

From: Lewis, Jerome [mailto:jlewis@UDel.Edu]
Sent: Wednesday, January 04, 2012 4:45 PM
To: del-towns@UDel.Edu
Cc: O'Hanlon, Julia; Lewis, Jerome
Subject: University of Delaware's School of Public Policy & Administration (SPPA): Anniversary Partnership Reception 3/19/12

Dear Local Government Leader,

As part of the University of Delaware's School of Public Policy & Administration (SPPA), the Institute for Public Administration (IPA) is excited to share news about a celebration and **Anniversary Partnership Reception** scheduled for **March 19, 2012**, at Clayton Hall, University of Delaware, Newark.

The reception, sponsored by SPPA, will be an opportunity for the School and its affiliated centers (including IPA) to thank you for your past support and talk about future commitments and collaborations. It will be one of several 50th anniversary activities planned for the day and will include remarks by University of Delaware and State of Delaware officials.

IPA has a long history of working with local government leaders like you and appreciates your role in helping to develop partnerships, projects, and programs designed to strengthen Delaware's communities. These include training programs, technical assistance, and a partnership with the Delaware League of Local Governments.

The **March 19 reception will be a time to celebrate our successful community partnerships and highlight new and exciting opportunities for continued work together**. We hope you and your colleagues will attend. Please stay tuned for additional information and details about the reception on **March 19th**.

Thank you,

Jerome Lewis
Director, IPA



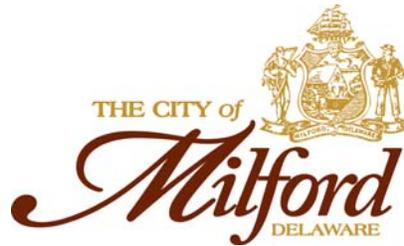
Jerome R. Lewis, Director
Institute for Public Administration
School of Public Policy and Administration
180 Graham Hall
University of Delaware
Newark, DE 19716
302-831-8971/302-831-3488(Fax)

Chapter 57. Planning Commission.

§57-2. Membership; Terms of Office.

The Commission shall consist of nine members to be appointed by the Council. The term of each member so appointed and confirmed shall be for three years, except that of the members first appointed, three shall be appointed to a term of three years, three shall be appointed to a term of two years and three shall be appointed to a term of one year.

<p>Charles M. Rini, Chairman 119 Ginger Lane Milford, DE 19963 Appointed: 07/2007, Expires: 08/31/2011 Ward: 4</p>	
<p>James F. Burk, Secretary 129 School Place Milford, DE 19963 Appointed: 11/2008, Expires: 08/31/2012 Ward: 2</p>	<p>Kim S. Hoey-Stevenson VACANT Expires: 08/31/2011</p>
<p>Kerry Fry 501 S . Walnut Street Milford, DE 19963 Appointed: 2011, Expires: 08/31/2013 Ward: 2</p>	<p>William J. Lane 7 Hickory Branch Court Milford, DE 19963 Appointed: 08/2010, Expires: 08/31/2012 Ward: 1</p>
<p>Karen K. McColley VACANT Expires: 08/31/2013</p>	<p>Marvin C. Sharp 844 NE Front Street Milford, DE 19963 Appointed: 09/2008, Expires: 08/31/2012 Ward: 3</p>
<p>Archie J. Campbell 6 Little Pond Drive Milford, DE 19963 Appointed: 10/09, Expires: 08/31/2013 Ward: 1</p>	<p>George R. Pilla 238 S Landing Drive Milford, DE 19963 Appointed: 10/09, Expires:08/31/2011 Ward: 4</p>



PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3559

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

MEMO

TO: Richard D. Carmean, City Manager

FR: Gary Norris, City Planner

DA: December 20, 2011

RE: **BUDGET ADJUSTMENT**

It has come to my attention the Planning Department's legal fees are exceeding what was budgeted for this fiscal year.

We respectfully request an increase of \$20,000 to the Planning Department's legal fees line item (Account 101-1035-419-30-20) to cover not only the last two months of fees, but the remaining second half of the fiscal year. Council will determine the account the \$20,000 will be transferred from.

Please contact me if you have any questions. Thank you.

Fiscal Year 2011-2012 Budget Amendment

Increase Council Legal Expense Account

(101-1110-411-30-20) by \$10,000

Budgeted \$10,000

Balance \$471.40 (as of December 2011)

Account Funding will be transferred from:

Date: 12/21/11

To: City Manager Richard Carmean and Finance Director Jeff Portman

From: Steve Ellingsworth and Eugene Helmick (Water & Sewer Department)

Subject: Account code Legal Services

The invoices we get from Moore and Rutt exceed the current budgeted amount for legal expenses. This is an account we have no control over. The FY 2011/2012 budget amount is \$500.00 in the water and sewer Legal Services Accounts. Not knowing what activities are coded to these accounts or the charges associated with projects that are currently underway, we are asking to transfer funds out of reserves in order to pay these attorney fees.

We would like to transfer \$7,000.00 from Reserve Account _____ and place in each Legal Services 202-2020-432-3020 and 203-3030-432-3020. If this trend continues, we may need to come back and request addition money.

To date we have paid : \$246.66 from water account and \$246.67 from sewer account.

We are also holding:

*Invoice \$420.00 water, (1) invoice \$100.00 and \$53.33 = \$573.33	#8175
*Invoice \$420.00 sewer, (1) invoice \$53.33 = \$473.33	#8326
*Invoice \$40.00, \$140.00, and \$13.33 water = \$193.33	#8487
*same invoice \$13.33 sewer	

cc: Eugene Helmick

CITY OF MILFORD

DELAWARE



“THE GARDEN CITY OF TWIN COUNTIES”

OFFICE OF THE CHIEF OF POLICE
E. KEITH HUDSON

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

DATE: January 6, 2012

TO: Mayor and Council
Richard D. Carmean, City Manager
Jeff Portmann, Finance Director

FROM: Chief E. Keith Hudson

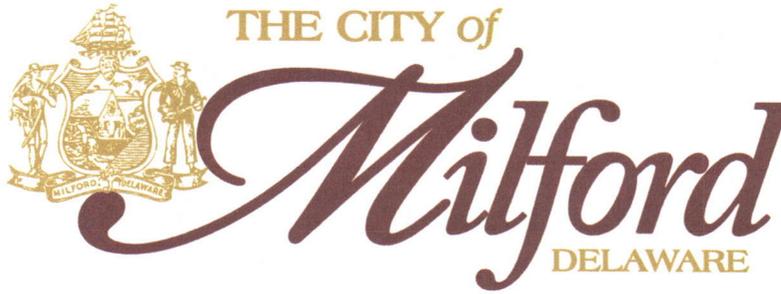
RE: Budget Line Item Increase Request for FY 2011-2012 Funds

Due to the influx of Legal Expenses this fiscal year, it is apparent that the amount budgeted for the Police Department's Legal Expense Line Item is not going to be sufficient enough to fulfill our current and remaining (estimated) legal fees for the balance of this fiscal year. Therefore, I respectfully request Council to approve a \$10,000 increase to our Legal Expense Account (101-1610-421.30-20).

Thank you in advance for your prompt attention in this matter.

Chief E. Keith Hudson

cc: Terri Hudson



PUBLIC WORKS DEPARTMENT
302.422.6616, FAX 302.422.1119

180 VICKERS DRIVE
MILFORD, DE 19963

MEMO

TO: Richard D. Carmean
City Manager

FR: Brad Dennehy *BD.*
Director of Public Works

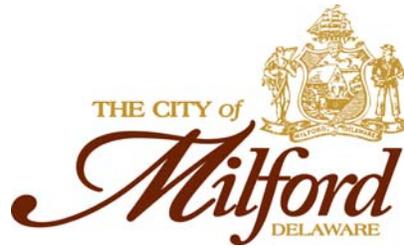
DA: January 6th, 2012

RE: Request for funds for Legal Fees

I am respectfully asking on behalf of the Public Works Department an amount of \$3,500 to cover legal fees for the remainder of the fiscal year. A line item did not exist for legal fees at the time of the budget; however legal advice has been utilized by Public Works in the last six months. I anticipate further legal advice will be required during the remainder of the fiscal year.

As always, if you require further information please don't hesitate to contact me.

Thank you.



PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3559

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

MEMO

TO: Richard D. Carmean, City Manager

FR: Don Williams, Building Inspector

DA: January 6, 2012

RE: **BUDGET ADJUSTMENT**

It has come to my attention the Enforcement & Inspection section legal fees are exceeding what was budgeted for this fiscal year.

We respectfully request an increase of \$6,000 to the Enforcement & Inspection section legal fees line item (Account 101-1045-429-30-20) to cover not only the last month's fees, but the remaining second half of the fiscal year.

Please contact me if you have any questions. Thank you.

Don Williams

Don Williams
Building Inspector

Terri Hudson

From: Richard D. Carmean
Sent: Monday, January 09, 2012 4:21 PM
To: Terri Hudson
Subject: FW: Additional Funds Required for Asbestos Removal on 203 & 207 NW Front St

From: Donald T.. Williams
Sent: Wednesday, December 28, 2011 10:34 AM
To: Richard D. Carmean; Jeffrey Portmann
Subject: Additional Funds Required for Asbestos Removal on 203 & 207 NW Front St

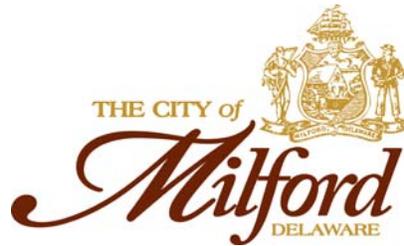
Chief / Jeff,

I have 2 bills in front of me for the removal of the Asbestos from the 2 units (1 City owned & 1 Owned by Doukas) that I plan on demolishing on 9 Jan 12. I currently have \$628 remaining in my Demolition line. The 2 bills I have for the testing and abatement of the asbestos totals \$1194.00 minus the \$628 equals \$566 needed in additional funds. Please advise...

Don Williams

Don Williams
Building Insector, City of Milford
dwilliams@milford-de.gov
(302) 422-6616 Ext 176
(302) 422-1120 Fax

From Wawa Lease Acct
into Demolition
101-1045-429-68-10



ENFORCEMENT & INSPECTIONS DEPARTMENT
302.422.6616, FAX 302.424.3559

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

MEMO

TO: Richard D. Carmean, City Manager

FR: Don Williams, Building Inspector

DA: January 6, 2012

RE: **BUDGET ADJUSTMENT**

I am in possession of a bill from DBF for the updated Engineers report needed for the condemnation of 201-207 NW Front Street in the amount of \$786.00. Presently, the Enforcement & Inspection Department was not allocated any funds for Engineering. We would request that funds in the amount of \$786.00 be place in line item 101-1045-429-30-50 to cover this expense to be transferred from general fund reserves.

Please contact me if you have any questions.

Don Williams

Don Williams
Building Inspector

FY 2011-2012 Budget Amendment

\$572.00

Increase Employee Recognition
101-1110-411-68-14 (Council)

and

Decrease Discretionary Account
101-1010-413-67-11 (Administration)

PUBLIC NOTICE

Notice is hereby given the following ordinance is under review by the
Milford Planning Commission and Milford City Council:

ORDINANCE 2012-01

Conditional Use/Key Properties Group

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AUTHORIZING A CONDITIONAL USE PERMIT FOR FIRST STATE SIGNS, INCORPORATED ON BEHALF OF KEY PROPERTIES GROUP TO ALLOW TWO BILLBOARDS IN A C-3 DISTRICT ON THE WEST SIDE OF STATE ROUTE 1 AND COUNTY ROAD 206 (WILKINS ROAD). TAX MAP 3-30-11.00-405.00; 4.81 +/- ACRES.

Whereas, the City of Milford has been requested by Dale McCalister of First State Signs, Incorporated on behalf of Key Properties Group to allow a conditional use for two billboards; and

Whereas, the Planning Commission reviewed the application at a public hearing on January 17, 2012 and has presented the item to be considered by the City Council; and

Whereas, the City Council held an advertised public hearing on February 27, 2012 to allow public comment on the application.

Now, Therefore, the City of Milford hereby ordains:

Section 1. Upon the adoption of this ordinance, Key Properties Group is hereby granted a conditional use permit to allow two billboards in accordance with the application, approved plans and any conditions set forth;

Section 2. Construction or operation shall be commenced within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council: 01-09-12

Planning Commission Review & Public Hearing: 01-17-12

City Council Review & Public Hearing 02-27-12

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

Ordinance 2012-01 is scheduled for adoption, with or without amendments, at the Council Meeting on February 27, 2012. Should you have questions, please contact the City of Milford Planning and Zoning Department at 302-424-3712 Extension 308.

**CITY OF MILFORD
FUND BALANCES REPORT**

November 2012

Cash Balance - General Fund Bank Balance	\$2,848,203
Cash Balance - Electric Fund Bank Balance	\$5,020,583
Cash Balance - Water Fund Bank Balance	\$1,429,630
Cash Balance - Sewer Fund Bank Balance	\$420,429
Cash Balance - Trash Fund Bank Balance	\$516,003

	<u>General Improvement</u>	<u>Municipal Street Aid</u>	<u>Real Estate Transfer Tax</u>	<u>Water Bond Escrow</u>
Beginning Cash Balance	266,480	814,322	435,852	412,461
Deposits	26,884		12,679	
Interest Earned this Month	12	37	19	8
Disbursements this Month	(31,168)	(10,560)	(41,667)	
Investments			1,600,000	
Ending Cash Balance	\$262,208	\$803,799	\$2,006,883	\$412,469

	<u>GF Capital Reserves</u>	<u>Water Capital Reserves</u>	<u>Sewer Capital Reserves</u>	<u>Electric Reserves</u>
Beginning Cash Balance	656,325	1,179,771	1,193,049	2,877,981
Deposits				
Interest Earned this Month	5,013	5,524	3,141	10,066
Disbursements this Month		(4,250)		(1,250)
Investments	1,000,000	2,960,000	2,245,000	7,484,000
Ending Cash Balance	\$1,661,338	\$4,141,045	\$3,441,190	\$10,370,797

	<u>Water Impact Fee</u>	<u>Sewer Impact Fee</u>	<u>Electric Impact Fee</u>
Beginning Cash Balance	77,206	\$43,729	\$10,953
Deposits			
Interest Earned this Month			
Disbursements this Month			
Investments	850,000	\$625,000	\$250,000
Ending Cash Balance	\$927,206	\$668,729	\$260,953

INTEREST THROUGH THE FIFTH MONTH OF THE FISCAL YEAR:

General Fund	458	Water Fund	456
GF Capital Reserves	17,466	Water Bond Escrow	12
General Improvement Fund	115	Water Capital Reserves	25,229
Municipal Street Aid	306	Water Impact Fees	4,250
Real Estate Transfer Tax	6,012	Sewer Fund	119
Electric Fund	1,545	Sewer Capital Reserves	19,637
Electric Reserves	54,599	Sewer Impact Fees	3,125
Electric Impact Fees	1,250	Trash Fund	209

TOTAL INTEREST EARNED TO DATE \$134,788

REVENUE REPORT

Page Two

November 2011

42% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%
Budgeted Fund Balance	421,235	61,826	325,458	77.26%
General Fund Capital Reserves	255,500	10,092	146,171	57.21%
Municipal Street Aid	195,000	0	0	0.00%
Property Transfer Tax-Police	500,000	41,666	208,333	41.67%
Real Estate Tax	3,004,155	69	2,983,927	99.33%
Business License	35,000	250	3,400	9.71%
Rental License	85,000	450	1,500	1.76%
Building Permits	50,000	450	27,933	55.87%
Planning & Zoning	20,000	3,500	14,548	72.74%
Misc. Revenues	262,035	13,098	87,669	33.46%
Transfers From	3,215,480	267,958	1,339,784	41.67%
Police Revenues	287,000	15,723	88,385	30.80%
Total General Fund Revenues	\$8,330,405	\$415,082	\$5,227,108	62.75%
Water Revenues	2,187,255	1,079	869,373	39.75%
Sewer Revenues	1,907,725	47,803	713,677	37.41%
Kent County Sewer	1,350,000	40,582	505,897	37.47%
Solid Waste Revenues	1,126,000	1,382	363,170	32.25%
Electric Revenues	27,885,500	30,595	10,486,435	37.61%
TOTAL REVENUES	\$42,786,885	\$536,523	\$18,165,660	42.46%
YTD Enterprise Expense		31,067		
YTD Enterprise Revenue		31,193		
LTD Carlisle Fire Company Building Permit Fund		43,179		

EXPENDITURE REPORT

Page Three

November 2011

42% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	420,655	\$24,697	139,779	33.23%	280,876
O&M	107,850	\$12,814	42,054	38.99%	65,796
Capital	0	\$0	0		0
Total City Manager	\$528,505	\$37,511	\$181,833	34.41%	346,672
Planning & Zoning					
Personnel	123,335	\$9,547	47,608	38.60%	75,727
O&M	34,935	\$3,160	12,290	35.18%	22,645
Capital	0	\$0	0		0
Total P, C & I	\$158,270	\$12,707	\$59,898	37.85%	98,372
Code Enforcement & Inspections					
Personnel	130,715	\$9,762	49,497	37.87%	81,218
O&M	37,100	\$5,396	20,930	56.42%	16,170
Capital	0	\$0	0		0
Total P, C & I	\$167,815	\$15,158	\$70,427	41.97%	97,388
Tax Department					
Personnel	74,155	\$0	\$44,008	59.35%	30,147
O&M	15,265	\$322	\$9,489	62.16%	5,776
Capital	0	\$0	\$0		0
Total Tax Department	\$89,420	\$322	\$53,497	59.83%	35,923
Council					
Personnel	31,225	\$2,584	11,595	37.13%	19,630
O&M	27,600	\$3,880	13,936	50.49%	13,664
Council Expense	17,000	\$1,837	10,291	60.54%	6,709
Contributions	447,735	\$0	307,733	68.73%	140,002
Codification	4,000	\$0	0	0.00%	4,000
Employee Recognition	8,000	\$1,375	1,375	0.00%	6,625
Insurance	16,000	\$0	7,807	48.79%	8,193
DMI-Tree and Grate Project	175,000	\$61,827	79,226	45.27%	95,774
Wawa-Sale Expenses	15,000	\$2,925	4,443	29.62%	10,557
Total Council	\$741,560	\$74,428	\$436,406	58.85%	\$305,154
Finance					
Personnel	321,855	\$24,373	122,906	38.19%	198,949
O&M	54,600	\$2,165	13,965	25.58%	40,635
Capital	0	\$0	0		0
Total Finance	\$376,455	\$26,538	\$136,871	36.36%	239,584
Information Technology					
Personnel	165,870	\$12,731	64,168	38.69%	101,702
O&M	173,250	\$4,925	42,818	24.71%	130,432
Capital	13,000	\$0	12,990	99.92%	10
Total Information Technology	\$352,120	\$17,656	\$119,976	34.07%	232,144

EXPENDITURE REPORT

Page Four

November 2011

42% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	3,526,670	\$261,917	1,335,187	37.86%	2,191,483
O&M	440,120	\$22,286	223,850	50.86%	216,270
Capital	71,500	\$0	64,134	89.70%	7,366
Total Police	\$4,038,290	\$284,203	\$1,623,171	40.19%	2,415,119
Streets & Grounds Division					
Personnel	407,665	\$30,752	156,606	38.42%	251,059
O&M	447,400	\$24,491	154,916	34.63%	292,484
Capital	225,000	\$0	0	0.00%	225,000
Debt Service	46,115	\$0	0	0.00%	46,115
Total Streets & Grounds	\$1,126,180	\$55,243	\$311,522	27.66%	814,658
Parks & Recreation					
Personnel	474,915	\$31,283	192,001	40.43%	282,914
O&M	236,875	\$8,864	107,967	45.58%	128,908
Capital	55,000	\$0	28,769	52.31%	26,231
Total Parks & Recreation	\$766,790	\$40,147	\$328,737	42.87%	438,053
Total General Fund					
Operating Budget	\$8,345,405	\$563,913	\$3,322,338	39.81%	5,023,067

EXPENDITURE REPORT

Page Five

November 2011

42 % of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	217,500	\$15,987	82,991	38.16%	134,509
O&M	1,141,565	\$58,907	458,907	40.20%	682,658
Capital	25,000	\$24,877	24,877	0.00%	123
Debt Service	803,190	\$0	0	0.00%	803,190
Total Water	\$2,187,255	\$97,771	\$566,775	25.91%	1,620,480
Sewer Division					
Personnel	217,500	\$15,985	82,986	38.15%	134,514
O&M	1,033,500	\$118,841	490,060	47.42%	543,440
Capital	0	\$0	0		0
Debt Service	656,725	\$9,811	9,811	1.49%	646,914
Sewer Sub Total	\$1,907,725	\$144,437	\$582,857	30.55%	1,324,868
Kent County Sewer	1,350,000	\$127,819	633,750	46.94%	716,250
Total Sewer	\$3,257,725	\$272,256	\$1,216,607	37.35%	2,041,118
Solid Waste Division					
Personnel	335,485	\$24,324	124,657	37.16%	210,828
O&M	722,320	\$53,546	326,987	45.27%	395,333
Capital	68,195	\$0	0	0.00%	68,195
Total Solid Waste	\$1,126,000	\$77,870	\$451,644	40.11%	674,356
Total Water, Sewer Solid Waste					
	\$6,570,980	\$447,897	\$2,235,026	34.01%	4,335,954
Electric Division					
Personnel	947,130	\$71,603	373,224	39.41%	573,906
O&M	1,784,105	\$137,755	736,903	41.30%	1,047,202
Transfer to General Fund	2,500,000	\$208,334	1,041,667	41.67%	1,458,333
Capital	986,710	\$9,598	115,139	11.67%	871,571
Debt Service	667,555	\$0	61,278	9.18%	606,277
Electric Sub Total	\$6,885,500	\$427,290	\$2,328,211	33.81%	4,557,289
Power Purchased	21,000,000	\$1,461,470	8,331,537	39.67%	12,668,463
Total Electric	\$27,885,500	\$1,888,760	\$10,659,748	38.23%	17,225,752
TOTAL OPERATING BUDGET					
	\$42,801,885	\$2,900,570	\$16,217,112	37.89%	26,584,773

INTERSERVICE DEPARTMENTS REPORT

Page Six

November 2011

ACCOUNT	AMOUNT BUDGETED	MTD	42% of Year Expended		UNEXPENDED BALANCE
			YTD	YTD%	
Garage					
Personnel	91,865	5,167	26,114	28.43%	65,751
O&M	61,940	3,927	26,522	42.82%	35,418
Capital	0	0	0		0
Total Garage Expense	\$153,805	9,094	\$52,636	34.22%	101,169
Public Works					
Personnel	338,940	26,000	130,025	38.36%	208,915
O&M	187,370	7,045	56,751	30.29%	130,619
Capital	0	0	0		0
Total Public Works Expense	\$526,310	33,045	\$186,776	35.49%	339,534
Meter Department-Water					
Personnel	120,315	8,855	47,312	39.32%	73,003
O&M	68,950	1,381	15,067	21.85%	53,883
Capital	60,000	0	3,806	6.34%	56,194
Total Water Meter Expense	\$249,265	10,236	\$66,185	26.55%	183,080
Meter Department-Electric					
Personnel	229,635	12,688	85,465	37.22%	144,170
O&M	99,550	2,972	25,074	25.19%	74,476
Capital	0	0	0		0
Total Electric Meter Expense	\$329,185	15,660	\$110,539	33.58%	218,646
Billing & Collections					
Personnel	435,195	31,784	166,562	38.27%	268,633
O&M	210,790	13,637	80,368	38.13%	130,422
Capital	0	0	0		0
Total Billing & Collections	\$645,985	45,421	\$246,930	38.23%	399,055
City Hall Cost Allocation					
Personnel	0	0	0		0
O&M	58,000	1,590	23,490	40.50%	34,510
Capital	0	0	0		0
Total City Hall Cost Allocation	\$58,000	1,590	\$23,490	40.50%	34,510

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
November 14, 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, November 14, 2011

PRESIDING: 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, Esquire

CALL TO ORDER

Mayor Rogers called the Monthly Meeting to order at 7:01 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Pikus to approve the minutes of the October 10, October 12, October 17, October 24 (council meeting and workshop) and November 1 Committee and Council Meetings as presented. Motion carried.

RECOGNITION

No special guests in attendance.

MONTHLY POLICE REPORT

After presenting the monthly police reported on behalf of Chief Hudson, Mr. Morrow moved to accept the police report as submitted, seconded by Mr. Pikus. Motion carried.

CITY MANAGER REPORT

Mr. Baird then read into the record 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
Sept 2010	384.78	37.83	41.52	-	464.13	17.1
Sept 2011	368.29	50.41	23.94	52.47	495.11	25.6%

	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)	3,143.51	358.21	328.13	285.14	4,114.99	23.6%

Impact Fee Waivers-

Since the waiver of impact fees was implemented in June 2010, the City has waived \$332,523 in fees. This waiver has allowed property owners in Milford to retain this money and has helped to support a total investment of \$17,168,038 (based on building permit values) during the months of June 2010 through October 2011.

I&I Construction Work Continues-

Construction work continues on the I&I project with the bulk of the work being completed by Teal Construction. Over the past two weeks, the focus of their work has been on N. Washington Street.

10th Street Water Tower Cleaning and Painting-

Residents are now able to see the progress on the 10th Street Tower. Approximately 50% of the Tower has been painted and crews are expected to return this week to complete the painting, weather permitting.

Electric Rate Analysis-

Mr. Kumar has prepared a number of options for the City to consider and I feel there are 3-4 that are worthy of more consideration. With this said, I am planning a time for Mr. Kumar to come to Milford and present the options to a committee comprised of the Chairman of the Public Works Committee, Finance Committee and Economic Development Committee to review and make a recommendation to the full Council. The meeting will be open to everyone and I will advise of the date and time once it has been established.

Wawa Settlement-

City Solicitor Rutt advised he received the fully signed contract from Wawa; he received all the signatures from the city prior to the meeting. He noted that the settlement should occur before the end of this week.

Public Referendum—Washington Street Water Plant-

The City will be holding a public referendum on Saturday, Nov. 19 from 12pm to 8pm at City Hall for the purpose of voting on a loan to reconstruct the existing water plant and office building on Washington Street. The proposed project cost is \$4,000,000 and will be funded through the Drinking Water State Revolving Fund. Upon loan closing the State will forgive \$1.4 million (35%) of the loan leaving a loan balance of \$2.4 million with 1% interest to be paid over 20 years. Water user rates will not have to be increased as a result of this project. Anyone registered to vote in the City election is eligible to vote in the referendum.

Ms. Wilson moved to accept City Manager Report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Community Affairs-

Chairman Johnson reminded council the Holiday Stroll is Friday, December 2nd. City Hall will be decorated and a couple of groups will provide entertainment.

Economic Development-

Chairman Grier advised the Advisory Panel will provide a presentation later this evening. He acknowledged Chair Valenzulez and panel members and thanked them for their effort and time in helping out our city.

Public Works-

Chairman Brooks advised that Police Committee Chairman Morrow met with Chief Hudson and City Manager Baird

regarding the one/two hour designated parking areas on Walnut Street. It was agreed the matter will be presented to Downtown Milford President Irv Ambrose to survey the downtown merchants for their input. Chief Hudson plans to have his police officers also discuss the matter with the staff at the State Service Center.

Christmas Dinner-

Mr. Starling reminded council that his church will again provide free Thanksgiving and Christmas dinners to the community. He appreciates anyone able to donate time or items to these efforts.

COMMUNICATIONS

All communications included in packet.

UNFINISHED BUSINESS

Certification of Voter Registration List/November 19, 2011 South Washington Street Water Plant Referendum

Mr. Pikus moved for certification of the November 19, 2011 Voter Registration list, seconded by Mr. Grier. Motion carried with no one opposed.

NEW BUSINESS

Utility Agreement with MBT Land Holdings LLC

City Manager Baird recalled that city council ratified the MBT Land Holdings agreement on October 24, 2011. He reported that since that time, Economic Development Director Carmean was informed the agreement was unacceptable. In addition, Mayor Rogers, council members, Mr. Carmean and City Solicitor Rutt received a related letter dated November 7, 2011. A copy of the letter is included in the council packet.

He reported that November 10, 2011 was the deadline for the MBT agreement; the agreement was then signed on behalf of Mr. Fannin and delivered to Mayor Rogers that afternoon.

Mr. Baird advised that since that time, he has informed council members the agreement had been signed though he planned to discuss it this evening. He then deferred to the city solicitor for additional information.

City Solicitor Rutt explained the proposal council adopted two weeks ago was a contract of an offer to MBT. He reported that MBT sent a letter rejecting the offer and making a counteroffer. He said that under the law, once that counteroffer and rejection has been made, there is no longer a contract to accept. Therefore, the offer is no longer available for MBT to accept. However, council can ratify the document or offer. However, at this point, the acceptance under the law is not effective.

Attorney James Griffin of Griffin and Hackett stated he represents MBT Land Holdings LLC. He noted that the LLC was formed March 16, 2011. He said that with all due respect to Mr. Rutt, he has a different view of the matter. He referenced the letter from Mr. Rutt, dated October 25, 2011, stated the agreement will be valid until 4:30 p.m. on November 10, 2011. If Mr. Fannin did not execute the agreement prior to that time, the terms of the agreement would become null and void and there would be no obligation of either party.

Mr. Griffin said it is true that Mr. Fannin did send the letter with different terms. The counteroffer was not accepted so his view of the law is that a counteroffer that is not accepted dies, for lack of acceptance, rejection, etc.

Mr. Griffin said he goes back to Mr. Rutt's letter and the agreement, both of which state the agreement shall be valid until November 10, 2011. He feels that Mr. Fannin executed the agreement, within the legal time frame, thereby making it a two-part agreement because it had already been approved by the city.

He emphasized that over the past couple of years, the city has been working on a master plan that recommends the water

tower be placed on Route 1 on the Mills property or that vicinity. He is also aware that DNREC has advised the city that the aquifer is on the Mills and Isaacs property.

He stated that council approved this location on October 24th because they were convinced that was the right place for the water tower. Mr. Griffin asked council to consider that fact. He said if council still believes the water tower should go on the Mills Farm, he does not think we should be rankling about the counteroffer that rejected. It was open for acceptance by Mr. Fannin until 4:30 p.m. on November 10, 2011 and accepted by that date and time.

Mr. Griffin said that the agreement was signed by Mary Ann Fannin instead of Elmer Fannin because he was out of state at that time. Mrs. Fannin is a member of the LLC, and Mr. Griffin has the document which gives her the right to sign the agreement. He stressed it is a valid agreement executed by an authorized member of the LLC.

He encouraged council to put the water tower on the correct site. By the LLC member signing the agreement, Mr. Fannin has indicated he is willing to follow the conditions of the agreement. The conditions are for the successful results of the test well program on the Mills farm for both water quantity and quality as determined by the city and approval by USDA for the installation of future water facilities.

Mr. Griffin noted that if the conditions are not met and the USDA disapproves the project, then other possibilities will need to be investigated.

The attorney concluded by stating that Mr. Fannin has accepted the agreement and is willing to donate 6.5 acres and easement over the fifty-foot road. He is unaware of a special meeting when council would have withdrawn his prior approval of this agreement. Because it was signed and returned prior to the deadline, all the conditions were followed.

Mr. Brooks asked why the signed agreement was not delivered to city hall. Mr. Griffin said he believes it was given to the mayor to ensure it was accepted by an authorized representative of the city before 4:30 p.m. The next day was a holiday and city offices were closed.

Mr. Brooks pointed out that most business occurs in city hall; Mr. Griffin said the agreement did not stipulate that location for its return.

Mr. Brooks also noted that originally, the agreement stated 5:00 p.m. but changed to 4:30 p.m. because that is the time city hall closes.

Mayor Rogers confirmed he received the agreement after 3:00 p.m.; Mr. Baird added that city hall was closed Friday and he was informed on Saturday.

When asked the status of the easements, Mr. Baird advised the easements needed to connect where the water stops to the Mills Farm have not been obtained. They are required to be in placed before the loan is approved by the USDA.

Mr. Brooks is concerned that nothing could be happening again this time next year. Mr. Grier stressed that will not happen and reminded council the project was stimulated only a month ago though it had been sitting idle for more than a year. His problem is council was unaware of this possibility until today.

Mr. Grier said he received the letter from Mr. Griffin which persuaded him to consider another plan. He feels it is important to have a discussion that includes any and all correct information.

Ms. Wilson agrees that clarification is needed. Mr. Morrow questioned the easement and its relation to the loan. Also, if the well testing comes back positive, it appears we may need to negotiate the easements. If that cannot be worked out, that scraps the entire project for now.

Mr. Baird stated that if we are unsuccessful in the second round of negotiations and end up with no connection, we will need to go farther south and come up Sharps Road which is not within the budget.

Mr. Pikus recalled the discussion between our economic development committee chairman, economic development director and Mr. Fannin. Mr. Grier and Mr. Carmean were under the impression everyone was on the right page at that point. He asked the reasoning behind the rejection letter, which was followed by a signed contract being submitted.

Mr. Griffin advised he was not at the meeting and must act on the information provided. He repeated that Mr. Fannin sent the letter, changed his mind, then accepted the offer made within the required time frame. He feels the focus should be on where the city feels is the best place for the water tower. He said when council approved the offer, it was agreed it should be placed on the Mills property. If something else has occurred, they should be informed. Otherwise, the master/comprehensive plan states it should be on that site with everything falling in place as it should.

When questioned, Mr. Baird stated it does support the comprehensive land use plan and master plan.

Mr. Griffin pointed out that if it is not placed there, the land as it was zoned is unusable. The owners of those properties that were annexed may have an argument they are not getting services. He noted the annexations are somewhat of a promise that city services will be provided.

Mr. Grier asked what needs to be done; the city manager said a status needs to be given on the second property (Hall). He explained that Mr. Rutt has been handling the associated negotiations. He advised there are several owners—Mr. Hall, his two sons and the contractual owner, Mr. Bolis. Mr. Rutt confirmed that all four have executed the agreement.

Mr. Baird explained that this gives the city the ability to proceed with no further negotiations. This agreement allows the city to proceed with the full project. He advised that at the October 24th meeting, council agreed that if Mr. Fannin was not in agreement, the second option would be presented for action tonight.

Mr. Baird confirmed that all easements (including those on other properties) must be obtained for this to occur on the Mills farm. Mr. Griffin restated the agreement was signed by the LLC which is owned by the Fannin family. He stated he is unsure who prepared the utility agreement though it may have been Mr. Rutt. The utility agreement only addresses the test well. He feels that was probably based on the results of the test well. If the test well is successful, the agreement has been secured for 6.5 acres to be donated for the well site and easement (right of way) to get to it.

He noted he did not prepare the agreement which did not address all the easements between the terminus of the present city water and the tower site, and they accepted what the city provided. He assumes those will be done in the same manner as is normally done. If someone does not agree to the terms through negotiations, they can be obtained through condemnation.

Mr. Pikus said he was under the impression we would be granted all easements. Mr. Baird explained that was in the original proposal. Mr. Griffin explained there are a number of land owners involved.

Mr. Rutt noted that Mr. Griffin's letter to him dated November 7, 2011 states Mr. Fannin's position has been consistent and has not changed. He has made it clear on a number of occasions that if the city should grant him usable monetary credits equal to the appraised value of the land and easements he offered to transfer to the city and agrees to install water and sewer lines to the tower site during the Southeast Expansion Project he would adhere to the three conditions that followed.

Mr. Rutt said the question is how this would be done; the answer is the city will have to grant Mr. Fannin monetary credits equal to the appraised value of the land. Mr. Griffin said that is one possible method adding it would be acquired like any other easement between the municipality, county or state and private property owner. He said the process requires the land to be appraised and the appraisal has to be presented to the land owner through the process of negotiations. The easements not acquired through negotiation will follow state law which specifies the method of acquisition is condemnation.

Mr. Gleysteen stated that a couple of weeks ago, council unanimously agreed this was the direction we should go. He does not feel there is anything unusual about a counteroffer being presented. He said it happens all the time and he believes they are simply trying to improve their position. He said that was turned down after which they agreed to the terms originally presented by the deadline. He said that other than having a second option on the table, he does not see anything that has

changed from this being the city's first choice.

Mr. Baird said he agrees though once Mr. Fannin informed the city he would not agree with the proposal, they began negotiations in good faith with the second property owner. They have proceeded to the point where all those parties have signed which is before council tonight for ratification.

Mr. Gleysteen pointed out that negotiations were also started with the second party before the deadline for the contract. Mr. Baird said only after the offer was rejected.

Ms. Wilson then commented. She stated that council is considering their constituents and is why a little more time may be needed because of the new information council is receiving this evening.

She thanked Mr. Fannin for considering this agreement though she was confused by the letter stating he was rejecting the agreement and why negotiations began with the second property owner. However, she agrees it was always their intent to go with the first option on the Mills farm.

Mr. Grier asked if this should be tabled noting this is a major investment. In his opinion, this is a shotgun type approach which is not how this should be handled.

Mr. Gleysteen agrees asked for the city engineer's opinion. Mr. Baird advised that Randy Duplechain at Davis, Bowen and Friedel has handled the matter for the city. He asked if Mr. Duplechain wants to discuss this tonight. He also asked if council wants to hear this tonight or would rather wait until they have time to digest it.

Mr. Brooks asked that Mr. Rutt reiterate what he stated at the beginning of the meeting. He believes he said that when Mr. Fannin rejected it, the contract became null and void.

Mr. Rutt stated that is what he said. He referenced a 2007 case in the Chancery Court of Delaware—Centreville Veterinary Hospital versus Butler-Baird. He noted that Vice Chancellor Parsons stated that once an offer has been rejected, the offeree no longer has the power to accept and cannot revive the offer by tending acceptance.

Mr. Rutt stated that the Vice Chancellor Parson has properly stated it and has cited 'Restatement (Second) of Contracts that once an offer has been rejected, there is no offer. He said if council wishes to accept and go with the MBT Land Holdings LLC offer, the city would have to vote to ratify that. Mr. Rutt said it is a different vote than saying we want to make an offer.

At this point, Mr. Rutt feels there is no offer on the table and Vice Chancellor Parsons restated that in 2010 in a lengthy decision that "in order to constitute an acceptance, a response to an offer must be on identical terms and must be unconditional. A response to an offer that is not on the identical terms constitutes a rejection of the original offer."

Mr. Grier asked if both can be accepted; he feels in that manner council is not leaving without a site. In the meantime, Mr. Carmean can continue to work on it as was directed by his committee. He said that is the only option he can think of because he is unwilling to make a decision on one or the other site at this point.

Mr. Rutt advised Mr. Grier not to accept both because the city would then have two contracts. He explained that both parties could then require the city to drill a test well.

Mr. Grier emphasized there have been meetings after meetings on this one topic. He agrees the city decided and stated on numerous occasions that the Mills farm was the best location. He explained this is needed for economic development purposes in addition to other reasons. Though it is \$700,000 to \$800,000 more, the city is gaining a substantial amount of infrastructure in the ground east of Route 1. The water tower will be out of sight and it opens the possibility for many new jobs. He noted this is part of the master plan and its construction can coincide with the overpass being built.

Mr. Grier agrees we can build the water tower on the Hall property and stub water up east of Route 1, but this extends the water into what is a very developable area. He pointed out that if we decide to extend these utilities to the Mills farm, the

Hall property will still be served with water.

Mr. Brooks said that in 2008, the city held a successful referendum for this purpose. The money has been sitting for almost four years. If a decision is not made soon, the money will be gone.

Mr. Griffin then said if council tables this decision, he asked that both be tabled so that all options are left open.

Randy Duplechain of DBF then commented on the benefits of one site versus the other. Mr. Duplechain stated that from an economic development standpoint, Mr. Grier said it correctly. For future development and the ability to have water on property that is potential development, the Mill property is the location that would provide the maximum benefit in relation to economic development.

Mr. Duplechain stated from a financial standpoint in relation to placement and initial expense, the Hall property is a less costly alternative for several reasons. He explained that instead of extending 10,000 feet of water main to the Mills property, only 3,800 feet will be extended. The Hall property is approximately 15 to 20 feet higher in elevation, so there is another cost savings in the height of the tank.

Regardless, he feels the tank can go anywhere in the southeast area. They have run water system models for the entire area. He recalled a discussion related to aesthetics and whether it should be in a prominent location or in a more secluded, wooden area. The Hall property would be a more prominent location; the Mills property would be in a wooden area off Route 1.

Mr. Duplechain emphasized that the location for the water, treatment facility and tank can go anywhere in the southeast area.

Mr. Gleysteen asked about the quality of the wells on the different sites; Mr. Duplechain said they have not done test wells at either site so that cannot be answered until that is completed which is the first step in the process. Three years ago they did a test well across the street from the Hall property and the water quality and quantity turned out well; they expect similar results at the Hall property. However, they are unsure of the results at the property east of Route 1.

Mr. Duplechain confirmed it is less expensive to place it on the Hall property; he then added that depending on where you stop the water main, it will cost somewhere between \$.5 million to \$.75 million. He explained this would tie into the West Shores subdivision next to Hearthstone though the connection between the two has never been made. Therefore, the water main will be tied back into Hearthstone. He explained there are some cost discrepancies that involve some easements along Wilkins Road which have not yet been secured. The water main will most likely end up in the right of way which is more costly due to pavement restoration and similar issues.

Mr. Brooks said he has discussed this for four to five years; he emphasized the importance of getting this project done considering the many others that need to be addressed.

Mr. Grier agrees with Mr. Brooks but feels that additional information is needed to make this decision.

Mr. Duplechain then explained that when the Hall property is developed, the water main will need to be extended at either the city or developer's expense.

Mr. Grier agreed the Mills farm was always option 1. This provides an opportunity to run water out to this site which could open the door for many new jobs which can ultimately change our local economy. Mr. Brooks agreed noting the \$15 million referendum was passed almost four years ago and the money is still sitting there. We have another referendum for more borrowing this Saturday and nothing has happened with these previous projects.

Mr. Grier assured Mr. Brooks he will not allow this to die. Mr. Grier recommends a special meeting be scheduled to allow time for additional information to be obtained.

Mr. Duplechain said that Mr. Rutt stated that both agreements cannot be accepted even though the water quality and quantity are unknown on either site. He understands it will cost more money to do both sites, but recommends council

consider that. A decision can be made based on the outcome. He said that will keep the project moving.

Mr. Brooks asked how much it will cost to do both test sites; Mr. Duplechain said \$25,000 more. Mr. Rutt said if both sites test positive, both parties can say it tested positive and require the tank be built on their site. Mr. Duplechain said the one agreement did not require the facility be built on their site though it addresses the test well and donation of property. He said if something occurs east of Route 1, one of two wells will not serve the entire area anyway. Additional wells will be needed depending on the size of the development.

Mr. Baird asked how long it will take to install the test well and get results; Mr. Duplechain said depending on the contractor though he anticipates three weeks to a month.

Mr. Grier asked Mr. Rutt's opinion; Mr. Rutt stated his concern is the intent to have a tank and storage facility on the land. If both come back positive and the city chooses one, the other party could argue that their site meets the criteria and because they are willing to donate the land, the city needs to place the tank there.

Mr. Duplechain then added that we still need to get USDA's approval before they approve the site and that all easements must be in place. He said that part of the battle over this has been how to obtain the easements. If we do not get the easements, the property becomes non-viable whether water is available or not.

Mr. Duplechain noted that they were trying to get easements from Mr. Fannin for water and sewer in that area which was a stumbling block in many of the cases.

Economic Development Director Carmean then addressed council stating he has been involved in this for a few weeks. Two weeks ago there was no site and now we have two sites. He does not want council to leave here tonight with no site. Mr. Carmean asked the city solicitor if he was sure that if we hit water on the Mills property, we were required to place the tower there according to the agreement Mr. Fannin signed. He did not interpret the agreement in that manner.

Mr. Rutt then reread the agreement. The solicitor explained the agreement states the city would install a well; in exchange for the installation of the well, the owner agrees to deed the property to the city and donate the right of way. That is contingent upon the well program or successful results of the well and approval by USDA of the Mills farm for installation. He said it does not require a tank to be installed.

Mr. Carmean stated to that point, he has been involved with both parties and has known Mr. Hall a long time. He feels he is smart enough to realize he is donating his land. He recommends that be voted on tonight and council accept his proposal. He said that tomorrow, Mr. Hall may learn he would have gotten water right in front of his land without donating anything. He may question why he was asked to give up four or five acres if the water will end up in front of him anyway.

He noted that initially, the tower was going in not for growth, but because we needed the supply, storage and pressure on that end of our community. He highly recommends council end this meeting without making a decision on one of the sites. He agrees there are some concerns with regard to the easements to the Mills farm. With a second option, the only risk is that the city will pay for a test well on the Mills farm. If that test well is successful and a decision is made to put the tower and treatment plant there but the easements are not obtained, the city has only lost the cost of the test well. At that point, the city can proceed on the Hall property.

Though there will be additional cost for testing both sites, the potential benefits of economic development must be considered.

He asked Mr. Rutt to consider recommending both agreements be approved.

Mr. Rutt then stated that council can accept both agreements though it is a risk. In addition, council could make it a conditional acceptance.

Mr. Baird agrees with Mr. Rutt there is a risk noting the Hall agreement states that in return for allowing the test well,

subparagraphs 2, 3 and 4 state there will be a minimum of one production well and associated treatment facility on the property, one elevated storage tank and associated mains. As a result, he feels that is a hard commitment.

Mr. Carmean again emphasized that he feels the Halls will not push donating 6.5 acres of their land for a water tank if they know they can still obtain water services. He agrees the agreement was written to require the city to build the tank on their site if it tested properly.

Mr. Garrett asked why that provision was in the Hall agreement but not in the Mills Farm agreement; he feels they should mirror one another.

Mr. Carmean said he has been directed by council to find a location for the water tower and finalize the deal. He reiterated that both agreements are ready to be signed; however, if we are unable to obtain the easements, we will not be able to place this on the Mills farm site despite the fact it was our first choice.

Mr. Duplechain then added that if the southeast area of Milford grows as is proposed, the city will need multiple well sites and multiple wells. He believes that two well sites will be an advantage to the city in the future as development occurs.

Dave Markowitz of 8 East Thrush Drive, Meadows at Shawnee, stated that he does not know how to make a decision on two options without at least a cost benefit analysis as any business would require. He asked council to think like a business and act like a business and consider that option.

Ms. Wilson asked if the associated documents related to the referendum provided the cost analysis; Mr. Baird explained we know the cost of the two options and have discussed the pros and cons of each. He said in the long term, they will be about the same. He said location will not have an impact on the long term costs. Mr. Duplechain alluded to the elevation of the property having a slight savings on the higher elevated land during the initial construction though that is not a deal breaker. He agrees that both sites are viable.

The city manager said from a cost standpoint, the differences have been discussed and \$500,000 to \$750,000 is realistic. From a long term operating cost standpoint, both sites are very similar with an additional 6,500 feet of water main which will eventually be used to serve properties as they are developed. As a result, it will be installed either now or in the future.

Ms. Wilson then referenced Mr. Carmean's comments and asked for confirmation it is possible to accept both. She said it may be a little risky because of the language relating to the water tower in the Hall agreement.

When discussing how quickly a decision can be made, Mr. Brooks said we need all the facts. Ms. Wilson said the problem is council was just informed about this other option today.

Mr. Grier asked if we approve the Hall agreement, are we required to install all three items on their land; Mr. Baird replied that council has not yet approved that agreement so it can still be amended. However, he noted it was negotiated in good faith after the city received the letter from Fannin stating their offer was rejected.

Mr. Rutt stated council could make a counter offer and change the terms of the Hall agreement. Mr. Brooks pointed out that in 2008, the citizens voted favorably in a referendum to do this project. Almost four years later, this is still being argued. Mr. Grier noted that in two months, there are two viable options on the table for consideration.

Mr. Brooks wants it done correctly to prevent any further legal action.

Mr. Rutt noted that there was an offer to MBT and a rejection. Since then, MBT has signed the contract which is being presented to council to accept or reject it. In the case of the Hall agreement, all parties have signed the agreement, though city council has not yet voted on it. Thereby, city council could state that the Hall contract could be accepted subject to the amended terms. It would then go back to the Hall property owners for their review and approval. The Hall agreement could also be accepted as written which contains provisions about the installation of the tank, well and water main extensions.

Mr. Griffin said he has not seen the Hall agreement and did know that it contained different terms. It appears to him, under

Mr. Fannin's agreement, they bargained for the right to put a test well there. In the Hall agreement, the city bargained for that though they promised if the test well proved out, the city would install these other three things. He said the city can keep the options open by doing a test well on both, though he is unsure why that is necessary when the city now has the preferred site and the additional test well will cost another \$25,000.

In his opinion, it makes no difference the opinion of a judge in relation to a rejection and its effect. He said the agreement has been signed and this land is now available for use by the city. Council has the right to waive any objections even if it were a rejection. It can be revitalized by saying that is what we will do, However, if council wants the extra backup and are willing to spend an additional \$25,000, council does not have to accept the Hall offer as signed. Instead, a motion could be made to authorize the city's representative to return to Mr. Hall with a counteroffer and amend his agreement to read just like the MBT agreement.

Mr. Morrow asked Mr. Baird to explain why the agreements are different; Mr. Baird advised that Mr. Hall's agreement is similar to what was proposed to Mr. Fannin originally a year ago and was rejected. There were negotiations that took place and a different agreement created. They tried to accomplish everything in the Hall agreement to prevent any further negotiations. This would streamline the process so it could proceed.

Mr. Baird said the language is consistent in both agreements in item A(1):

Installation of one test well for the purpose of determining the water quality and long term production capacity of the aquifers at the Hall property. Results of the water quality capacity testing will be the basis for determining the feasibility for installation of the additional improvements listed below.

The city manager asked if that language is strong enough to allow the city to determine whether it is feasible or not to choose one site over another.

Mr. Rutt said that the water quality and capacity is an engineering question. They will need to determine if it would fit the needs of the installation for the water system improvements.

Mr. Baird stated that both agreements allow us to proceed with test wells, but an engineer needs to determine which site is better. However, the Hall agreement contains additional stipulations which could be removed. He said that could allow both agreements be ratified this evening if council is comfortable with the language not committing the city to complete the improvements in A2-A4.

Mr. Brooks pointed out we have the signed Hall agreement and asked if we will offer MBT the same terms. Mr. Baird said Mr. Fannin was originally offered the same terms which he rejected. The amended agreement for MBT is the result of the discussions between Mr. Fannin and city officials.

Mr. Duplechain stressed that the key difference with the Mills property is the city cannot commit to a well, treatment facility and tank because the easements are not in place. At the time, Mr. Fannin was unwilling or unable to provide those easements. Because this would stay in DeIDOT's right of way with the Hall property, the city has the ability to put those facilities there. If the test well comes in, he feels there is no problem with getting the water main extended to the property and facilities so it can be connected into the city system.

He said if the test well comes in on the Mills farm, that does not ensure the ability to put the tank and treatment facility out there because there are no easements.

When asked, Mr. Rutt confirmed that council has the right to accept the MBT contract. There was concern expressed about the lack of easements needed to place the improvements on the MBT property.

Mr. Grier said the agreement was amended because the bank needed a positive test well. After a positive test well and a commitment for the water tower, the bank needed to release the easements because it impacted the Mills farm, Isaacs farm and other properties. Therefore, there are other entities involved including other banks. As a result, Mr. Fannin was unable to commit easements without the positive results.

Mr. Griffin recalled that council approved the MBT contract two weeks before because that was the preferred site. Mr. Pikus explained it was predicated on getting the test well approved and all the state and federal agencies to accept it. However, in order for the city to do a test well, a commitment was needed.

Mr. Baird also reminded Mr. Griffin that council has had reservations from their previous commitment and the response he prepared for Mr. Fannin which suggested some doubt.

Mr. Griffin said if the city is no longer interested in the MBT site, they need to be informed and the conversation will end. However, the agreement was signed and has been presented to council for action.

Mr. Baird then reported that in October of 2010, an agreement was prepared for Mr. Fannin addressing the exact items noted in the Hall agreement. That was denied and refused by Mr. Fannin. Subsequent conversations have taken place over the past 30 days where the agreement was broken up and made weaker in order to move forward.

The consensus of council was to keep both contracts active; Mr. Pikus asked Mr. Rutt if that can be done legally noting there are some issues that need to be cleared up adding that he is confident Mr. Grier's committee will ensure that.

Mr. Pikus asked for Mr. Rutt's help with a motion. Mr. Rutt asked if council wants to accept the Hall property without amendment; Mr. Gleysteen and Mr. Pikus said no they want it accepted with proposed amendments. Mr. Rutt said that would be a counteroffer to the Halls which would have to go back to them for further review and approval.

Mr. Rutt said council can move to accept both contracts but if one needs to be amended, that constitutes a counteroffer to MBT or Hall and would have to go back to them.

Mr. Baird referenced the language in A(1) stating that will be the basis for determining the feasibility for the installation and asked if it is really necessary to amend the Hall agreement. He said additional decisions will be made by the city based upon the test results. Mr. Rutt agrees noting that Mr. Duplechain explained why the other conditions were in the agreement and that the city does not need subsequent easements because every thing is in place to proceed with a valid test. He said the engineering decision is a condition. The results will become the basis for moving forward with the improvements.

Mr. Gleysteen moved to accept the MBT Land Holdings utility agreement as originally offered and is now signed. Mr. Rutt explained that this action would not be needed if they had originally signed the agreement, but because of the rejection and the agreement now being signed, it needs to be accepted in order to become a valid agreement. Mr. Johnson confirmed that this motion does that; Mr. Rutt stated yes.

Ms. Wilson seconded motion. Motion carried by the following 7-1 vote:

Yes-Grier, Pikus, Gleysteen, Brooks, Morrow, Starling, Wilson
No-Johnson

Mr. Johnson votes no adding that he feels council needs to listen to our city solicitor though keep our options open.

Mr. Grier votes yes based on this site being the first choice and having made it available which allows us to move forward.

Mr. Pikus votes yes noting we need to get the project moving and noted Mr. Brooks' concerns. He said we have an economic development committee dedicated to getting these programs moving and an economic development director working hard toward this effort.

Mr. Gleysteen votes yes adding it is necessary for the economic development of the southeast portion of the city.

Mr. Brooks votes yes.

Mr. Morrow votes yes for the reasons stated.

Mr. Starling and Ms. Wilson vote yes.

Utility Agreement with W. Nelson Hall, Trustee of Revocable Trust of W. Nelson Hall, Stephen K. Hall and Gregory D. Hall, Co-Trustees of the Irrevocable Trust of Dorothy I. Hall, All Owners in Fee, Gary W. Bolis, General Partner of Bolis Partners, LP, Equitable Owner

Mr. Morrow moved to accept the Hall agreement with the elimination of subparagraphs A(2), A(3), A(4).

When asked about jeopardization, Mr. Duplechain stated those conditions were in the initial agreement on the MBT site. He said we have all the ability based on the discussions with DelDOT to extend the utilities to this property. That is why he feels it is important that should the test well come in with the water quality, we move forward with the facilities there. His recommendation is to leave the conditions in.

Mr. Morrow moved to amend his motion to reflect Mr. Duplechains' comments and accept the agreement as presented. Mr. Brooks seconded the motion.

Motion carried by the following 7-1 vote:

Yes-Johnson, Grier, Pikus, Brooks, Morrow, Starling, Wilson

No-Gleysteen

Mr. Gleysteen votes no because provisions A(2), A(3) and A(4) should be eliminated and both contracts should mirror one another.

Introduction of Ordinance 2011-26/Approval of Borrowing/DWSRF Loan/Washington Street Treatment Facility

The city charter requires that an ordinance be adopted to allow any borrowing.

Mr. Pikus moved to introduction Ordinance 2011-26, approving the DWSRF loan to fund the Washington Street Water Plant, pending a successful November 19, 2011 Special Election, seconded by Mr. Brooks:

AN ORDINANCE AUTHORIZING THE BORROWING OF FUNDS TO FINANCE THE CITY OF MILFORD'S SCADA IMPROVEMENTS AND THE DEMOLITION AND RECONSTRUCTION OF THE WASHINGTON STREET WATER TREATMENT FACILITY PLANT AND OFFICE BUILDING LOCATED ON THE SAME SITE.

Section 1.

WHEREAS, the City Council of the City of Milford, Delaware ("Council") has been advised that up to \$4,000,000 is required to finance SCADA improvements and the demolition and reconstruction of the Washington Street Water Treatment Facility Plant and office building located on the same site.

Section 2.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

- 1. The City of Milford, Delaware operates its public water system in accordance with the provisions of the State of Delaware and the Charter of the City of Milford.*
- 2. The Council has determined that it is advisable, necessary and in the best interest of public health, safety and welfare to improve the system.*
- 3. The Council hereby proposes unto the electors of the City that an amount of money not exceeding \$4,000,000 be borrowed to pay for the costs of the Capital Improvements and to pay the costs associated with the financing.*
- 4. Said borrowing is expected to be accomplished through the issuance of a loan ("DWSRF loan") from the State of Delaware Drinking Water State Revolving Fund, acting by and through Delaware Health and Social Services, Division of Public Health, Office of Drinking Water.*
- 5. The DWSRF loan proceeds will be used for SCADA improvements and the demolition and reconstruction of the Washington Street Water Treatment Facility Plant and office building located on the same site.*

6. *The terms of the loan shall be as follows:*
 - *Interest Rate 1%*
 - *Principal Forgiveness 35% (\$1,400,000)*
 - *1% Original Fee Due at Closing (Waived)*
 - *Twenty Year Term*
7. *A Public Hearing was held in the Council Chambers at City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 12, 2011 following which time City Council voted favorably upon the final authorization for the DWSRF loan.*
8. *A Special Election on the borrowing was held on Saturday, November 19, 2011 at Milford City Hall, where by majority vote, the electors in the City of Milford determined in favor of the loan.*
9. *The DWSRF loan shall be secured by the full faith and credit of the City.*
10. *The DWSRF loan shall be paid or funded from water revenues and reserve accounts of the City.*

Section 3.

Dates.

Introduction to City Council: November 14, 2011

Adoption Date: November 28, 2011

Effective Date: December 8, 2011

Motion carried.

Introduction of Ordinance 2011-28/Chapter 193-Solid Waste/Yard Waste

Mr. Baird said this ordinance clarifies the definition of yard waste. It also requires yard waste be contained and put into containers for pickup. Those containers would be offered by the city at a cost to residents who want to participate in the yard waste program. It also addresses loose leaf collection.

The ordinance will be discussed during the next workshop session.

Mr. Brooks moved to introduce Ordinance 2011-28, seconded by Mr. Pikus:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 193, THEREOF, ENTITLED SOLID WASTE, BY AMENDING CHAPTER 193, SOLID WASTE, TO INCLUDE A DEFINITION FOR YARD WASTE IN ARTICLE I AND AMENDING §193-9 TO §193-12 AS CONTAINED IN ARTICLE II.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 193, Article I, Collection and Disposal, Section §193-1, entitled Definitions, is hereby amended by adding thereto the following definition:

YARD WASTE-- The part of solid waste consisting of leaves, grass clippings, twigs, small branches (less than 4 ft. in length), shrubbery, prunings, and other garden material.

Section 2. Chapter 193, Article II, Yard Waste, Section §193.9, entitled Unlawful Acts; Containment Required, is hereby amended by deleting and adding thereto the following new §193-9:

§193-9 - Unlawful Acts; Containment Required.

It shall be unlawful to deposit or place any leaves, grass trimmings, tree trimmings or other vegetative debris or matter into *any garbage container, recycling container, or a City street or drainage gutter. Said materials shall be deposited in adequate containers /receptacles or confined in such a manner as to prevent said material from being blown or washed into adjoining yard areas or streets except as allowed in §193-10.*

Section 3. Chapter 193, Article II, Yard Waste, Section §193.10, entitled Containers, is hereby amended by deleting and adding thereto the following new §193-10:

§193-10 - Containers. Leaves, grass clippings, tree trimmings, shrubbery or other garden and yard waste or matter for collection by the City shall be placed in adequate containers so as to confine said materials, except as allowed in §193-11. The container shall ~~not exceed 30 gallons in capacity~~ *be provided to the homeowner by the City and the homeowner will be responsible for the cost of said container.*

Section 4. Chapter 193, Article II, Yard Waste, §193.11, entitled Loose Leaf Curbside Collection, is hereby deleted and repealed:

~~§ 193-11. - Loose leaf curbside collection:~~

~~Loose leaves may also be raked and placed behind the curb for removal by the City's leaf vacuum at no additional cost.~~

~~Leaves must be free of stones, branches, brush and grass clippings or they will not be collected in this manner.~~

~~It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.~~

Section 5. Chapter 193, Article II, Yard Waste, is hereby amended by adding a new §193.11, entitled Collection Procedures, to read as follows:

§193-11. – *Collection Procedures.*

- A. *The City will provide for the collection of leaves, branches and tree trimmings from April 1 through October 31 of each year, provided that such refuse is deposited into the yard waste containers as provided for in §193-10. Disposal of leaves, branches and tree trimmings that will not fit into the container shall be the responsibility of the property owner.*
- B. *The City will provide for loose leaf curbside collection from November 1 through January 31 in accordance with the following conditions.*
 1. *Loose leaves shall be raked and placed behind the curb for removal by the City's leaf vacuum.*
 2. *Leaves must be free of stones, branches, brush and grass clippings or they will not be collected.*
 3. *It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.*

Section 6. Chapter 193, Article II, Yard Waste, is hereby amended by renumbering §193-12 to §193-13.

Section 7. Chapter 193, Article II, Yard Waste, is hereby amended by adding a new §193.12, entitled Collection Schedule, to read as follows:

§193-12. – *Collection Schedule.*

- A. *The City will collect yard waste as described in §193-11A once every other week.*
- B. *The loose leaf curbside collection as described in §193-11B will be collected once each week.*
- C. *The City Manager shall divide the City into districts and shall schedule the collection of yard waste in these districts on the day or days and at the times that shall be most efficient and convenient to the City. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.*

Section 8. Dates.

Introduction to City Council 11-14-11

Council Review: 11-28-11

Projected Adoption Date: 12-12-11

Ordinances are in effect ten days following adoption by City Council.

Motion carried.

Mr. Brooks agrees the changes are needed as the previous method was much more complicated.

FY 2011-12 Budget Transfer/Water Department/Capital Reserves

The following request was received from City Manager Baird:

The proposed amendment will allow for the redevelopment costs of Well 12 at Seabury Avenue to not adversely impact the Water Department Operating Budget for well maintenance. Not making the transfer will leave the account without sufficient funds to cover normal operating costs associated with the City's 11 drinking water wells. The costs associated with Well 12 total \$51,262. Therefore, I recommend the transfer of \$51,262 from account 202-0000-390-20-10 Water Reserves to account 202-2020-432-40-11 Wells.

Mr. Baird advised the Seabury Avenue well was only producing 15% of its capacity. He said the well was filled with grit and grime and we were unable to tap the aquifer as needed. The city opted to redevelop the well versus drilling a new well which caused some budgetary problems. This allows the water department to continue with their normal O&M for the remainder of the year.

Mr. Pikus moved for the transfer of \$51,262 from Account 202-0000-390-20-10 Water Reserves to Account 202-2020-432-40-11 Wells, seconded by Mr. Pikus. Motion carried by unanimous roll call vote.

Approval of 2012 Community Parade Date

Mr. Brooks moved to approve the date of October 17, 2012 for next year's Community Parade, seconded by Mr. Gleysteen. Motion carried.

Economic Development Advisory Panel (EDAP) Presentation

Chair Sher Valenzuela advised this is the second progress update for EDAP. She noted Councilman Grier's leadership on the panel adding that he puts in a lot of extra time and effort to aid our community.

EDAP Member Bill Pilecki, Workforce Development Subcommittee Chairman, then read the following report into record:

The Economic Development Advisory Panel's Workforce Development Subcommittee's mission statement is as follows:

It is the mission of the Workforce Development Subcommittee to create a positive relationship with the business community and all levels of education.

The committee has developed a program that brings High School Students and businesses together. This program provides benefits to the students as follows:

- 1. It gives the student the opportunity to develop marketable skills and a work history that can be used to successfully compete in the job market.*
- 2. He/she will participate in the growth of an educational fund for their use.*
- 3. They will learn what is expected of an employee in a real world environment.*
- 4. The student will acquire a sense of pride in earning an income.*

Participating Businesses will benefit as follows:

- 1. They will have an additional pool of labor to fill in the gaps of their existing workforce.*
- 2. Businesses can hire high school graduates with their business specific job skills.*
- 3. They will have the potential to receive training funds. (This option is currently being investigated).*

The Workforce Development Subcommittee has received an application from the Delaware Community Foundation. This application needs to be submitted by a recognized body. It was agreed that the City of Milford could submit the application and have an appointed board oversee the operation of the program.

As Chairman of the Workforce Subcommittee and representing the wishes of the subcommittee and having received approval of the Economic Development Advisory Panel, request the City Council to consider creating a Workforce Development Commission.

Mr. Pilecki stated the advantage of the Delaware Community Foundation is they will oversee the money raised. This would also open some donation opportunities and allow some grants to be filed on their behalf. Plans are also to profile the program throughout the state.

Bob Connelly then commented on the conclusions taken from the Survey of Business Environment recently completed by the Economic Development Advisory Panel reporting the following:

We mailed approximately 600 surveys to the City's electric utility customers. Some were returned to us or were out of state addresses. We made the assumption that 500 were received and with a return of 16% (84). We are confident we have a valid survey. In some areas the survey confirms what we already know and in others provides a fresh perspective.

According to respondents the top four "Hindrances" to businesses expanding are: The Economy, Financing, Utility Rates and Finding Qualified Employees. There is little to nothing Milford can do to impact the first two hindrances.

We know that Milford's electric rates are perceived as a problem for businesses and 54% of respondents confirm that opinion. The Economic Development Director and City Staff have spent many hours addressing this issue from a structural cost perspective. We recommend an educational program that can help businesses better understand the workings of the rate structure and what they can do to lower their costs by adjusting their operations or practices within that rate structure.

Fifty percent of respondents state that finding "Qualified Personnel" is a detriment to their ability to do or expand business in Milford. EDAP is actively pursuing a Workforce Development Program in cooperation with the Milford School District to address this shortcoming.

Only 8% of respondents feel that it takes "Too Much" time to process and receive the required licenses and permits necessary to operate their business. Sixty-six percent (66%) report a "Reasonable" amount of time and 13% wrote in "No Problem". Based on these numbers it is clear that business owners do not feel the City's regulatory process is a burden.

We asked what "Measures the City can undertake to make it easier for your business to expand." The respondents' top three answers are Lower Electric Rates, Market Milford and Economic Development.

An active effort at marketing Milford would/should go hand-in-hand with the creation of an Economic Development Office as a fully budgeted department of the City to implement these needs. When asked what their business can do to contribute to the Economic Dev. of Milford they said; Buy Local, Hire Local and Hire New Employees.

An advertising/marketing campaign by the Milford Economic Development Office encouraging "Buy/Hire Local" and the benefits to the local community would support and encourage this approach. The City should set an example by publicly committing to "Buy Local" whenever possible.

Our next step is to survey the citizens of Milford regarding their opinion and attitudes on Milford's Economic Development needs.

Mr. Connelly advised they have already surveyed the high school students and completed the business survey. When the citizens' survey is complete, the final step will be a public forum where the EDAP reports back the findings.

Mr. Brooks asked the radius when considering hiring local; Mr. Connelly said they did not ask though they sent the survey to every business who is a city electric customer. He then deferred to Mr. Baird.

Mr. Baird advised the survey was limited to customers using city services. Mr. Grier added there was nothing clarified though there was a common response to hire locally.

Mr. Gleysteen asked if Mr. Connelly had a number in mind for a marketing or advertising budget in order to be effective. Mr. Connelly said his intention is to aim high and his first thought was approximately \$30,000 per year. He feels that is needed for quality marketing which would include literature, travel and hotel expenses, etc. Also, a full blown economic development website would need to be updated regularly. He feels the return would be worth the initial costs.

He feels the chamber and downtown groups fit well into this concept whose results will become a total partnership.

Mr. Pikus said it would require a full-time Economic Development Director at least to get the program started. Mr. Grier recommends that be discussed at budget time. He recalled the funding established this year for that position. Next, we will review what has been done, what is needed and determine any budgetary needs.

Economic Development Director Richard Carmean reported the city contracted with John Rhodes to construct an economic development strategy for the city. One of the key points he made was for the city to hire an economic development director. Most of the council had concerns about establishing a new position in this financial environment. He was asked if he would take the position on a part-time basis to assist the city in bringing jobs to Milford or help businesses expand their present work force. He attributed that to the time Milford was experiencing its growth boom and he had the opportunity to sit down with several large corporation to discuss bringing businesses here. In addition, he was familiar with the city infrastructure and what could be offered.

Mr. Carmean agrees the city needs a really good economic development website which he feels can be tied into the city website.

The economic development director then referenced Mr. Rhodes' suggestion for an economic development advisory panel that reflects a wide variety of interests, experience and skills. He said this was accomplished shortly after Mr. Carmean was hired. He works with this panel by keeping them aware of his activities and contacts, as well as carrying out some of their suggestions and ideas. He said that the panel has taken many parts of the strategy and implemented them as were noted in their previous reports.

Mr. Carmean has assisted several small businesses with start-up problems and questions. He has given people leads on where they can find leases or properties for sale. He has also walked several businesspeople through the permitting process with the city. He said many times start-ups are simply looking for answers to questions regarding demographics or the lay of the land for their type business.

He recently contacted several financial institutions, many of whom provided contact information to be given to potential business owners or businesses that may need loans today. They offered to work with people on business plans, working on going to the Small Business Administration.

He noted that WSFS Milford Manager Brian Warnock, the newest member of EDAP, is one that has provided these opportunities.

Mr. Carmean has made cold calls to leads given to him by council, EDAP members and citizens in Milford.

The economic development chairman had developed relationships with Kent and Sussex County Economic Development representatives and directors. He meets with developers on a regular basis to stay current on anticipated projects. In turn, he pitches ideas to them.

He reported that Sea Watch International recently added another complete processing shift. It brought 90 jobs to Milford which results in more jobs for US Cold Storage who freeze and store their products. Overall, there is increased sales for all types of retailers.

They are currently working with Sea Watch to bring a co-pack to their location which means another 40 to 50 jobs. Because this is not clam related, it could lead to other opportunities during the off (fishing) season. He is meeting with county officials for some possible incentives. Sussex County has stepped up and is offering some low-interest loans if they are willing to construct here.

He agrees that electric and other utility costs can be the roadblock to economic development. Jay Kumar, City Electric Consultant has been contacted about some potential incentives to new and expanding businesses. He explained that anything on a new load is not an additional cost to Milford and has the potential to be sold at an economic rate which can be very attractive. He said the electric tariff gives permission for the city to negotiate those rates in these situations.

He agrees the city electric rates need to be reviewed though he has found our rates to be competitive with residential customers though we are unable to compete with Delaware Co-Op. He recalled hearing that we need to be as low as Delmarva Power for 30 years until we matched their rates and actually became lower. He said the industrial and commercial rates are higher than our competitors. He agrees that hurts us when a business is considering relocating.

Mr. Carmean has also spent some time on the infrastructure expansion project in the southeast area of Milford. He said it has been ongoing for several years and the city has a referendum scheduled for this Saturday to approve the borrowing for a major rehab of our water facilities.

Chair Valenzuela thanked council for allowing them to serve on the advisory panel noting the importance of reviving this economy and support the initiatives that John Rhodes presented. She said the advisory panel has existed for six to seven months though it has created a stir throughout Delaware. She said people are talking about what is happening in Milford. Also, Mr. Rhodes claims that Milford is an example of how a panel supports a city council in achieving its economic initiatives.

MONTHLY FINANCE REPORT

Chairman Pikus reported that through the third month of Fiscal Year 2011-2012 with 25% of the fiscal year having passed, 34% of revenues have been received and 24% of the operating budget expended.

He noted that our cash balances are up and revenues are 10% over what was expected for this month.

Mr. Grier moved to accept the March 2011 Finance Report, seconded by Ms. Gleysteen. Motion carried.

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.

Mr. Johnson moved to go into Executive Session reference Personnel Matters, seconded by Ms. Wilson. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:20 p.m. for the purpose of an Executive Session to discuss personnel matters.

Return to Open Session

City Council returned to Open Session at 10:24 p.m.

Executive Session/Personnel Matter

No action required.

ADJOURN

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

The Council Meeting adjourned at 10:25 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
November 28, 2011

The Milford City Council held a Public Hearing on Monday, November 28, 2011 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware to hear the application of:

Bob Nash of Bob Nash Associates, Incorporated on behalf of Patricia Arost
Change of Zone of 1.76 +/- Acres from C-1 (Community/Neighborhood Commercial) to C-3 (Highway Commercial)
837 S. DuPont Boulevard, Milford, Delaware
Present Use and Proposed Use: Music Center; Tax Map 1-30-3.15-11.00

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

Mayor Rogers called the Public Hearing to order at 7:01 p.m.

City Planner Gary Norris advised that the main reason for the change of zone request is because the applicant wishes to install an electronic messaging board which is only permitted in the C-3 District and not the C-1 District in which the business is currently located.

The applicant is aware of the electronic signage regulations. The proposed zoning is consistent with the city's comprehensive plan.

The city planner reported that by a vote of 5-0, the planning commission recommended approval of the change of zone.

Mr. Norris then noted the differences in the C-1 and C-3 zone.

Bob Nash followed up on the city planner's comments noting it is directly south of Walls Farm Store and its use will remain the same.

He confirmed that uses permitted in a C-3 zone such as gas stations, convenience stores are inappropriate for the property due to its narrow shape.

Mr. Pikus confirmed the property has been used commercially for approximately 15 years; prior to that it was a residence.

Mayor Rogers then opened the floor for public comment. No one responded.

Mr. Pikus then moved for approval of the change of zone from C-1 to C-3 and adopt Ordinance 2011-25 as follows:

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.

Council Approval: 11-28-11

Effective: 12-08-11

Mr. Gleysteen seconded motion. Motion carried by unanimous roll call vote. Mr. Gleysteen stated it is a reasonable request and coincides with the comprehensive plan.

With no additional applications, the Public Hearing was adjourned by Mayor Rogers at 7:06 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

*MILFORD CITY COUNCIL
MINUTES OF MEETING
November 28, 2011*

The City Council of the City of Milford met in Workshop Session on Monday, November 28, 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 convened at 7:06 p.m.

Review of Ordinance 2011-28/Chapter 193-Solid Waste/Yard Waste

City Manager Baird read portions of the following proposed solid waste code amendment:

ORDINANCE 2011-28

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1. Chapter 193, Article I, Collection and Disposal, Section §193-1, entitled Definitions, is hereby amended by adding thereto the following definition:

YARD WASTE-- The part of solid waste consisting of leaves, grass clippings, twigs, small branches (less than 4 ft. in length), shrubbery, prunings, and other garden material.

Section 2. Chapter 193, Article II, Yard Waste, Section §193.9, entitled Unlawful Acts; Containment Required, is hereby amended by deleting and adding thereto the following new §193-9:

§193-9 - Unlawful Acts; Containment Required.

It shall be unlawful to deposit or place any leaves, grass trimmings, tree trimmings or other vegetative debris or matter into *any garbage container, recycling container, or a City street or drainage gutter*. Said materials shall be deposited in adequate containers ~~/receptacles or confined in such a manner as to prevent said material from being blown or washed into adjoining yard areas or streets~~ *except as allowed in §193-10.*

Section 3. Chapter 193, Article II, Yard Waste, Section §193.10, entitled Containers, is hereby amended by deleting and adding thereto the following new §193-10:

§193-10 - Containers. Leaves, grass clippings, tree trimmings, shrubbery or other garden and yard waste or matter for collection by the City shall be placed in adequate containers so as to confine said materials, except as allowed in §193-11. The container shall ~~not exceed 30 gallons in capacity~~ *be provided to the homeowner by the City and the homeowner will be responsible for the cost of said container.*

Section 4. Chapter 193, Article II, Yard Waste, §193.11, entitled Loose Leaf Curbside Collection, is hereby deleted and repealed:

~~§ 193-11. - Loose leaf curbside collection:~~

~~{Added 10-11-2004 by Ord. No. 2004-102 [26] }~~

~~Loose leaves may also be raked and placed behind the curb for removal by the City's leaf vacuum at no additional cost.~~

~~Leaves must be free of stones, branches, brush and grass clippings or they will not be collected in this manner. It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.~~

Section 5. Chapter 193, Article II, Yard Waste, is hereby amended by adding a new §193.11, entitled Collection Procedures, to read as follows:

§193-11. – *Collection Procedures.*

- A. *The City will provide for the collection of leaves, branches and tree trimmings from April 1 through October 31 of each year, provided that such refuse is deposited into the yard waste containers as provided for in §193-10. Disposal of leaves, branches and tree trimmings that will not fit into the container shall be the responsibility of the property owner.*
- B. *The City will provide for loose leaf curbside collection from November 1 through January 31 in accordance with the following conditions.*
 1. *Loose leaves shall be raked and placed behind the curb for removal by the City's leaf vacuum.*
 2. *Leaves must be free of stones, branches, brush and grass clippings or they will not be collected.*
 3. *It is illegal to place, sweep or blow leaves and other yard waste into the street, storm drains or catch basins.*

Section 6. Chapter 193, Article II, Yard Waste, is hereby amended by renumbering §193-12 to §193-13.

Section 7. Chapter 193, Article II, Yard Waste, is hereby amended by adding a new §193.12, entitled Collection Schedule, to read as follows:

§193-12. – *Collection Schedule.*

- A. *The City will collect yard waste as described in §193-11A once every other week.*
- B. *The loose leaf curbside collection as described in §193-11B will be collected once each week.*
- C. *The City Manager shall divide the City into districts and shall schedule the collection of yard waste in these districts on the day or days and at the times that shall be most efficient and convenient to the City. Adequate notice of the collection schedules shall be given to the residents of the times and schedules and any changes thereto.*

He advised the city will continue loose leaf pickup curbside with the leaf vacuum. However, a major change to the ordinance is the container requirement for yard waste. In addition, yard waste will only be collected from April 1st thru October 31st; leaves will be collected from November 1st thru January 31st.

Mr. Baird reported this is the result of our crews being unable to keep up with the leaves, yard waste and recycling. There will be no leaf or yard waste collection in February and March to allow downtime for our crews and equipment. He said this is the result of heavier than expected pickup and the wear and tear on our associated equipment.

Public Works Director Brad Dennehy was present and asked to highlight some of the reasons for the proposed changes.

Mr. Dennehy then provided a slide presentation (see attached).

The public works director recalled the state law enacted that prevents dumping yard debris at landfills. As a result, it must be separated from regular trash. At that time, it was agreed to allow residents to provide their own 33-gallon container. Because we had the equipment and personnel, our crews continued to pick up that debris at no additional cost to the customer. The intent was to pickup the entire city every Wednesday which became very difficult.

He then referenced the slides showing large volumes of yard waste throughout the city. Following Hurricane Irene, crews picked up everything put out on the street for two weeks. At one point, there were twelve employees picking up yard debris; trash trucks, dump trucks and even backhoes were being used during that time. Should a similar situation occur, he recommends that some perimeters will need to be set. He noted that as items were being picked up, customers were dragging out additional items. This was occurring at the same residences over and over which made it very difficult for our crews to keep up.

Mr. Dennehy said they learned from their mistakes and that practice will not be repeated.

He then referenced a slide showing the amount of yard waste put out at a typical residence. A brochure was even provided explaining the need to use the one 33-gallon container. However, cardboard boxes, bags and other items are being used on a regular basis.

Currently, we take the yard waste to Blessings Farm at Argos Corner who charge the city \$20 a ton (versus \$84 a ton at the landfill). He said though our crews are traveling to Argos Corner, it is still a substantial savings. The yard waste is then mulched and chipped. As a result, cardboard boxes, plastic bags and normal household trash must be separated.

He also reported that because of the type containers the yard waste is being put in, our crews must manually pick it up and toss it in the back of the trucks. This is placing the city in a liability situation because of the potential injury to our employees.

Mr. Dennehy also pointed out that if the containers are left out a day or two without a lid and it rains, they become extremely heavy.

He noted the piles of debris placed curbside; in some cases, the recycling containers are being filled up and the balance is placed on the sidewalk or in another area of the yard.

He pointed out the city's rate of \$23 a month covers household trash and recycling. They are now picking up commercial dumpsters while Wednesdays are dedicated to yard debris pickup for the entire city. They do not want to increase the rates though Mr. Dennehy recommends the residents purchase their own container at a cost of \$55 to \$60. Nothing will be picked up that cannot be placed in the container.

The public works director explained that he is proposing a rollout container be used which can be mechanically lifted. This would be similar to the current container used for household trash. He feels that anyone who is physically able to cut limbs, should be able to place them on a truck and to the transfer station in Milford.

Previously, Wednesdays were downtime for the crews and allowed for maintenance on the trash trucks. He said that no longer occurs because the trash crews are running five days a week. When someone calls in sick, a street department employee is used to supplement the crews. As a result, that interferes with leaf pickup. Other times, it interferes with patching streets, curb work or similar work that should be performed by the street department employees.

Mr. Dennehy feels that if the city continues to pick up yard debris, the current method cannot be continued. He said the other option is to purchase a grapple loader at a cost of \$125,000 to \$165,000. However, that is not his choice noting that would require additional maintenance.

His preference is to offer a limited yard waste program that will prevent potential injuries to the solid waste employees. The customer will have one container purchase with no rate increase. Any limbs must be shorter than four feet and able to fit in the container. Landscapers that cut down a tree will be required to haul it off.

Mr. Dennehy advised that the city receives the bulk of phone calls about trash and very little in regard to water or sewer. They do receive calls when there is an electrical outage though the majority of calls are related to trash pickup, yard waste pickup and recycling.

He advised the current procedure has been in place the past eleven months though originally there was a trial period of six months. He said they could have requested \$300,000 to supply every customer with another container though some residents do not want the second container. By buying the container, he feels they will take some pride and ownership in the program.

Mr. Brooks said he agrees with the program. However, he has eight trees and 95 bushes. He maintains his leaves on a regular basis and his tractor is able to cut them up. He asked if the other debris will only be picked up every other week; Mr. Dennehy emphasized they are unable to get around the city with one brush truck and three employees.

Mr. Brooks said when he begins cutting his pyracantha, he will be required to use a specific can. Mr. Dennehy reiterated that his preference is for another container that can be mechanically lifted. He stressed that he and the street superintendent have struggled to lift these other containers together.

Mr. Brooks explained that when he starts cutting his bushes and trimming evergreens, he needs weekly pickup until he is finished. Otherwise, it will be difficult to store and he does not want it laying around his yard. He further explained that once the container is full, he is no longer able to use plastic bags and asked what he should be done with the balance of the debris.

Mr. Dennehy said if the city wants to continue to pick the yard debris up, a truck with the grapple arm will need to be purchased. He is willing to do that if council agrees to provide the funding.

Mr. Brooks said he is willing to pay for the container even though it may only be used six or so times a year. He emphasized that he will endorse the program.

Mr. Dennehy said this is his recommendation though council will need to decide how to proceed. He feels the pictures speak for themselves and the problems they are facing.

He said the city has to be somewhat ruthless and advised council that City Manager Baird had informed him the trash rates outside the city have significantly increased. He said many waste haulers are refusing to pickup yard waste since the new law was passed.

Mr. Dennehy is also concerned that Blessings could discontinue accepting the city's yard waste because of the number of contaminated trucks that contain household trash. He emphasized there is no obligation and this is being done without a contract. The only option left would be to take the yard waste to the transfer station at a cost of \$84 a ton.

Mr. Pikus asked how large the bigger trash containers are; Mr. Dennehy believes they are 65 and 95 gallon containers though he recommends the bigger container.

Mr. Morrow then asked if a resident is able to purchase two containers. Mr. Baird said the ordinance does not address that though it would be allowed. He feels most residents will have a problem with storing them on their property.

Mr. Morrow referenced the proposal which states collection will only occur every two weeks and only for those customers who have purchased containers. He asked if it is possible to collect every week because not every customer will participate; Mr. Dennehy said his superintendent claims it is impossible to cover the entire city every week and this will mirror the recycling schedule. Trash pickup would occur every week, recycling every other week and yard debris every other week.

Mr. Dennehy noted we receive a large number of complaints of residents asking why their yard debris has not been picked up. It is simply because our crews are trying to cover too large a territory in a short amount of time (7:00 a.m. to 3:30 p.m.) with limited personnel and equipment.

Mr. Brooks said the goal is to keep a clean town and is concerned with the number of residents who refuse to do any type of cleanup which this may encourage.

Mr. Dennehy said they have considered several options. He provided Mr. Baird an eleven-page report he had hoped would be provided to council. His initial proposal was to purchase a grapple truck that would only be used a few months a year. However, they could find other uses such as bulk pickup for mattresses and similar items. However, his concern is whether we should be providing that type service while continuing to charge \$23 a month. He understands no one wants to raise trash rates or taxes. As a result, he believes this is the best option.

Mr. Morrow asked how noncompliance issues will be handled. Mr. Baird explained that if the items are not in a container, our crews will not pick them up and a notice placed on the door. If it becomes habitual, further action will be taken though no fines are permitted in this code.

He said once the city discontinues pickup, it then becomes a property maintenance issue which will be handled through code enforcement.

Mr. Dennehy said a big publicity campaign will be needed to educate our residents considering that in the past, we have picked up anything put out. However, that must be changed and some relief given to crews and street department employees who have other priorities that need to be handled. Currently, they are spending a lot of time working with solid waste.

Mr. Dennehy advised the goal is to have this in place by January 1, 2012.

Mr. Baird added that if the ordinance is effective in January, yard waste will not be collected. Leaf collection will only be permitted the first month. Yard waste will not resume until April. This will allow enough time to inform our customers of the changes and for them to purchase their containers.

Mr. Pikus said the only other option is to purchase another truck; Mr. Baird said he agrees that is not needed at this time. They do agree this is the most reasonable way to tackle the problem.

Mr. Brooks said that should we have another ice storm, for example, there is the potential that broken branches and similar debris could lay in someone's yard for three months before the city picks them up. Mr. Baird agreed that is possible because it would not be collected before April. However, special exceptions could be made in the case of catastrophic situations. He emphasized that the public works director does not want his crews picking up these items only to come back to the same house the next day for another large pile.

Ms. Wilson asked if there will be a trial period to determine if this will work; she does not want this finalized and agrees with Mr. Brooks that there is the potential of debris being piled in the yard until April. Mr. Morrow asked the possibility of monthly pickup. Mr. Pikus agrees that a major storm can cause a great deal of damage and another scenario should be considered in those cases.

Paul Goldstein of 15 West Thrush Drive, Meadows at Shawnee, suggested it be stopped December 1st instead of November 1st. He reported that people still cut their grass in November. He feels it will be a disservice to those that maintain their yards through November.

In addition, he purchased a 32-gallon container from Walmart. He likes the idea of buying a can and would be willing to place his grass clippings in the can. However, one can is not large enough and two may be needed. A personal can could also be used though the solid waste workers would have to lift it. However, it would contain leaves and cuttings which are not that heavy.

He likes the idea of using the city can (garbage can) and mark it for yard debris. In his opinion, a second container is needed and possibly three containers.

Mr. Goldstein noted that because grass was not picked up last week because of the holiday, he now has twelve plastic bags loaded with grass and plant cuttings. He explained that if the bag is open, they could dump it and leave the plastic.

Chuck Rini of 119 Ginger Lane, Knotts Landing said he favors a can. His concern is the term yard waste. Mr. Rini said that trees and large bushes should be the property owner's responsibility to remove. Or an additional fee should be charged for the city to pick up.

Mr. Baird asked if council wants any changes to the ordinance being proposed. Mr. Morrow stated he prefers one monthly collection during the off months. Mr. Brooks feels there may be too much debris for even a monthly pickup though that would be better than no pickups.

Mr. Dennehy agreed that between November and March, there is less yard waste so collection is not necessary. He reiterated that there will be no pickup in December, January and February. During that time, they will concentrate on leaf collection with the leaf vacuum.

Mr. Morrow emphasized the need for minimal pickup during the off months. Mr. Dennehy believes it is a mindshift and emphasized the transfer station is in Milford and easily accessible. He does not own a pickup truck and if his recycling container becomes full, it takes it over to the Marshall Street facility.

Mr. Grier reiterated Mr. Goldstein's suggestion to collect grass clippings through December 1st. Mr. Dennehy said he understands though every jurisdiction is trying to discourage their customers from putting yard clippings in the yard waste. They called every town in the State of Delaware and he encourages anyone to find a town that is advocating it. He said if a customer is permitted one or two 33-gallon containers, then he is back to square one with the liability issues he previously discussed and customers abusing the system.

Mr. Dennehy feels that if this ordinance is modified, any additional containers must be the roll out type. If the 33-gallon containers continue to be used, it will be difficult to enforce and police. He will not support the use of containers that need to be picked up. He said we must be adamant by stating that will only pick items up in a city-issued container. Any additional bags or boxes will be left.

Mr. Pikus asked if there is a problem with extending this to December 1st if they use a city-issued container; Mr. Dennehy said he does not believe so. His concern at this point is the street work that is needed because they are now supplementing the solid waste department. In addition to leaf pickup and yard debris collection, they are trying to beat the paving season. He does not believe the once a month pickup will be a problem either. However, he strongly advocates not using the 33-gallon containers and only the roll outs which can be picked up by the city trucks.

When asked what occurs if these deadlines fall on a weekend, Mr. Dennehy explained the language could be changed so the last pickup would occur on the last Wednesday in November.

Mr. Brooks asked about pickup during a holiday week; Mr. Dennehy explained that when this program began the first of the year, it was agreed that from the beginning it would not be picked up on a short week. Mr. Brooks asked if the yard waste can be kept up with during these weeks. Mr. Dennehy said they will mirror the recycling schedule as much as possible though he will need to review it carefully. Currently, they are not picking yard waste up on short weeks because street department employees are needed to assist with recycling because it is picked up the day before a holiday in addition to the commercial pickups.

Ms. Wilson likes the concept but is concerned about some of the seniors, those with fixed incomes and our residents who are struggling financially. The city is expecting them to pay an additional \$60 which is significant in some cases.

Mr. Baird said residents will be given the option to purchase the container outright or the cost can be added to the bill over a few months until it is paid for in full. He has no problem setting that up administratively.

Ms. Wilson also is concerned about those individuals who do not want to follow protocol which can create additional issues. She hopes it can be worked out.

Mayor Rogers also hopes it can be worked out and agrees it is inappropriate to throw items out and expect the crews to pick them up. He sees tree trimmers who place all that debris out for the city to pick up. He thought there was an ordinance against it or an additional fee but it continues to occur.

Mayor Rogers suggests this be further reviewed and agrees with Mr. Brooks that we do not want to create additional maintenance problems.

Bill Pilecki of 79 Ivy Lane, suggests making the containers mandatory for every home and assess this over a one or two year period. He feels the city will get better cooperation from the residents if everyone has the containers. He feels that making it voluntary may only involve 15 to 20% of the residents as most will not pay the \$60 container fee. He recommends adding \$3 or \$4 to their monthly bill to cover the container costs.

Mayor Rogers thanked Mr. Dennehy for his input and asked that he and the city manager consider councils' and the public input.

Electric Rate Analysis/Electric Consultant Jay Kumar

Mr. Baird advised that he contacted ETC Consultant Jay Kumar to work on a rate analysis and options. He said one of the biggest concerns from city council are the inequities in rate structures and costs. Over the past couple months, they have had a number of conversations to look at those issues.

The city manager then reported that in October (November bill), the city received a credit (over collection) in the amount of \$272,142. In the past, that was returned to the users through a modification of the purchase power cost adjustment (PPCA) which is currently one penny. He is proposing that be done again and should appear on the bill being mailed this week.

With this credit, the revised PPCA for the upcoming bill will be a negative .3 of one cent (reduction of 1.3 cents per kilowatt hour). He explained that a residential customer using 1,000 kWh per month will have a \$13 rebate that will show as a credit.

Mr. Kumar explained the city has six customer classes—residential, small general service, medium general, large general service, general service primary and contract services. Perdue, US Cold Storage and Seawatch fall under contract services class. The monthly rates spelled out in the tariff, are fixed costs which the city has to recover for power supply. The city then receives a monthly bill from DEMEC for its power supply. That is compared to the cost included in the rates. The difference, referred to as purchase power cost adjustment (PPCA).

Currently, the PPCA is about one cent per kilowatt hour which covers the difference in the cost to purchase and generate electricity. The base rate includes the majority of the power supply costs and the PPCA can be an increase or decrease in the actual power cost. For the past three to four years, it has been a plus.

He explained that for the last three to four years, DEMEC has been bidding on estimated bases. They budget every year and collect on that basis. For the past two years, they have been over collecting and in November/December will issue a credit.

Mr. Kumar advised that DEMEC is still negotiating power costs for 2012. However, he believes that cost will come down almost \$5 per megawatt hour or .5 cents per kilowatt hour which is a significant decrease.

Over the past year, DEMEC/city power costs were higher than Delmarva Power (DP&L) costs. Three to four years ago, DP&L costs were higher than Milford's costs. Delaware Cooperative (Co-Op) was less than last year. This year, their power costs are similar to Milford's costs. If this trend continues, Milford's costs should be less than Co-Op's costs.

He said that base rates have no power costs adjustment included. Base rates are the city's fixed costs and include the transfer of \$2.5 million to the general fund.

Mr. Kumar then presented a PowerPoint. The first slide shows current charges which includes the current PPCA of one cent in comparison to DP&L rates. He noted that currently, our residential rates are the only rates less than DP&L rates. With the reduced PPCA, the rates will be about 5% less. As the size of the customer increases, the difference is more. DP&L is trying to keep their large customer rates down in order to stay competitive because their customers are able to select another supplier.

He said the Co-Op has something similar but not to that extent.

Referencing the fixed cost comparison, he explained those differences are larger because the fixed costs are only .5 cents per large customer to about 5 cents for the low usage residential customer. As a result, the percentage is much higher. The reason for the higher base rates is the \$2.5 million transfer.

Mr. Kumar is unable to get DP&L's power supply cost. Residential customers are charged \$105 per megawatt hours which is 10.5 cents. Large customers are similar to the city's contract services--Perdue, US Cold Storage, Seawatch. DP&L charge their large customers very low rates though they are unable to cover their full power costs from those customers.

The average cost is \$81.5 per megawatt hours or a little more than 8 cents. This year, the city charged 9.1 cents; next year, that number will be lower.

He then compared total revenues, base rate revenues and what the city needs to recover.

Mr. Kumar pointed out the base rates do not include revenues such as city light revenues, city account revenues, meter connection fees, disconnect fees, penalty fees, etc. There is an approximate \$1.8 million surplus which includes everything.

The total expenses of \$6.8 million include the transfer to the general fund.

Mr. Kumar explained that if the \$2.5 million was eliminated, that would need to be recouped through other avenues and would require a substantial increase in property taxes.

He then reviewed a number of rate options.

In rate option 1, the attempt was to equalize the base rate differential between the city and DP&L. The percentage difference between the two range from 20% to 57% with an average of about 40% less. The equalization creates an increase for residential and small general services customers. Limiting the increase to residential customers results in a shortfall of \$1 million in revenues and \$800,000 surplus. Nothing else changes and the PPCA is the same.

Option 2 is based on current rates and equalizing the percentage between the total charges including the PPCA. The result in an increase of residential rates by 18.06% and small general services rates of 12.5%. Rates in all other classes decrease. Transfer revenues are reduced from about 27.4% to 25.7% which results in a \$1.8 million reduction. It does not show the used power supply costs.

Option 3 reduces the total charges by \$1.8 million and equalizes the difference between the city and DP&L charges. The residential and small general service rates will increase and all other classes will have lower rates.

Option 4 is based on a \$2.8 million reduction which equalizes the difference between total rate charges of the city and DP&L. Instead of transferring \$2.5 million every year, the city only transfers \$1.5 million. In addition to the loss of a \$1 million, residential rates still increase in spite of the lower PPCA. All other rates decline significantly.

Option 5 reflects a \$3.3 million reduction with the general fund reduced by \$1.5 million with \$1 million transferred every year. Under this scenario, the small general service rates decrease, but residential rates increase even with the lower PPCA.

Option 6 reflects the \$1.8 million reduction, keeps the current rate design, though the residential base rates will increase but will offset through the PPCA. A residential customer will not see any change though other rate classes will see a significant decrease.

Option 7 keeps the current rate design with the \$1.8 million reduction. The base rates are not increased in any class. Residential bills will reflect the reduction in the PPCA though there is no benefit with the \$1.8 million reduction.

Option 8 is based on reducing the overall rates by \$1.8 million in addition to the PPCA reduction. The residential and small general service rates are reduced by approximately 7%. The balance of the \$1.8 million is used to reduce the rates for all other classes.

In addition to the \$1.8 million surplus, the city can reduce its revenues by an additional \$0.5 million in option 9. The current general fund transfer will remain. There is no base rate increase for any customer. The total rate decrease is \$2.3 million. Residential rates and small general service customers will reflect the PPCA decrease with no reduction in the base rates. The \$2.3 million would be used to reduce all other rates.

Option 10 is designed with the \$2.5 million reduction though each customer class receives some reduction. The total bill for residential and small general service customers are reduced by approximately 7%. The remainder of the \$2.3 million is used to reduce the rates for other customers.

Mr. Kumar reviewed Co-Op's tariff on their website which showed their power costs to be 6.6 cents. Their annual report shows a power cost of 8.84 cents. He then went to Old Dominion Electric Cooperatives who is their power supplier to confirm their costs. They are required to file Form 1 with the Federal Energy Regulatory Commission. He reviewed the 2010 report (2011 report is filed in April of 2012) which confirmed their power cost of 8.84 cents.

Co-Op's annual report shows their rates are much lower than city rates in all classes. He then tried to compare the cost per kilowatt hour for each customer. In their annual report, they had provided costs per kilowatt hour for residential and one cost for all other classes. That is the reason he used 9.84 cents for all nonresidential customers and 11.19 for residential customers. Co-Op is lower for residential and much lower for all other classes though he feels the comparison is not correct without knowing each individual rate based on the true power cost.

He agrees it is becoming more competitive with the Co-Op; if the trend continues, next year city costs are expected to be lower than the Co-Op costs. He noted that everyone buys from the same wholesale market. DP&L buys every year and a few years back, their costs were much higher than the city power costs. The power market is currently at the lowest level it has been for a few years.

In review, Mr. Kumar explained that option 9 and option 10 are based on the rates being reduced by \$2.3 million. Option 9 reflects the reduced PPCA for residential and small general service customers, but with no benefit from the \$2.3 million reduction. Those two classes will see a slight base rate reduction under option 10 but not as much as the other classes. That is in addition to the 5% reduction in power costs.

His recommendation is that either option 9 or option 10 be adopted though his preference is option 10. After a decision is made, Mr. Kumar will develop the new rate.

Mr. Baird reiterated that Mr. Kumar is recommending option 10. He said the comparison is between option 8 and option 10. Option 8 is the same as option 10 with the exception that option 8 reduces the city revenues by \$1.8 million and option 10 reduces city revenues by \$2.3 million. He feels this is very aggressive though council may prefer to be more conservative and consider option 8.

The city manager stated that if we are aggressive and come up short, it can be easily handled through the PPCA though Mr. Kumar is very confident in his projections.

He reiterated that options 8 and 10 should be considered.

Mr. Pikus confirmed the rates are different in options 8 and 10. Mr. Kumar confirmed that option 10 is a bigger savings to the customer.

Councilman Grier concurs with Mr. Kumar's recommendation for option 10.

Mr. Johnson asked if Mr. Portmann has reviewed the figures and made a recommendation. Mr. Baird stated that Mr. Portmann is comfortable with Mr. Kumar's proposal. He said he had a few questions though they were addressed in a conference call two weeks ago.

Mr. Baird then asked the consensus of council; council sided with Mr. Grier.

Mr. Baird then confirmed there is \$10 million in reserves; Mr. Gleysteen then asked if approximately \$5 million is set aside for the new electric substation and Mr. Baird stated somewhat less. Mr. Gleysteen wants assurance that Mr. Pikus is comfortable with the reduction in the reserve fund.

Mr. Baird referred to line item 12 (capital outlay) in attachment 4. The city manager said it shows \$982,000 which in this year's budget was revenue over expenses and not true capital. He reported that Finance Director Jeff Portmann was comfortable making the \$500,000 available in addition to the \$1.8 million. Mr. Pikus said that will reduce that number to \$482,000. As a result, Mr. Baird said there are additional funds available for capital investments.

Mr. Kumar agreed there is some cushion and emphasized he did not add in other fees such as penalties, reconnection and disconnect charges and related charges which vary though they can be significant.

Mr. Baird said he will put the rates together and present them to city council at the next meeting.

With no further business, the Workshop Session concluded at 8:52 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Attachments:

Solid Waste Photos
ETC Rate Design Presentation

City of Milford

2011 -- Rate Design

COMPARISON OF TOTAL CHARGES WITH PPCA YEAR 2010-2011

CUSTOMER CLASS	CHARGES AT CITY CURRENT RATES	CHARGES AT DP&L RATES *	% DIFFERENCE
<u>RESIDENTIAL</u>			
Summer	3,622,797	3,677,814	-1.52
Winter	6,020,457	5,906,086	1.90
Total	9,643,254	9,583,900	0.62
Total with Reduced PPCA	9,101,130	9,583,900	-5.30
<u>SMALL GENERAL SERVICE</u>			
Summer	447,506	421,132	5.89
Winter	844,140	795,525	5.76
Total	1,291,646	1,216,657	5.81
Total with Reduced PPCA	1,225,796	1,216,657	0.75
<u>MEDIUM GENERAL SERVICE</u>			
Summer	1,630,292	1,287,298	21.04
Winter	3,820,177	2,723,865	28.70
Total	5,450,469	4,011,163	26.41
Total with Reduced PPCA	5,124,397	4,011,163	21.72
<u>LARGE GENERAL SERVICE</u>			
Summer	365,026	247,470	32.20
Winter	630,941	403,327	36.08
Total	995,967	650,797	34.66
Total with Reduced PPCA	930,494	650,797	30.06
<u>GENERAL SERVICE PRIMARY</u>			
Summer	1,258,368	778,354	38.15
Winter	3,131,679	1,978,452	36.82
Total	4,390,047	2,756,806	37.20
Total with Reduced PPCA	4,097,556	2,756,806	32.72
<u>CONTRACT SERVICE</u>			
Summer	1,640,422	1,081,741	34.06
Winter	3,942,493	2,610,291	33.79
Total	5,582,915	3,692,032	33.87
Total with Reduced PPCA	5,168,957	3,692,032	28.57
TOTAL	27,354,298	21,911,355	19.90
SUMMER	8,964,411	7,493,809	16.40
WINTER	18,389,887	14,417,546	21.60
With Reduced PPCA	25,648,330	21,911,355	14.57

COMPARISON OF TOTAL CHARGES AT BASE RATES YEAR 2010-2011

CUSTOMER CLASS	CHARGES AT CITY CURRENT RATES	CHARGES AT DP&L RATES *	% DIFFERENCE
<u>RESIDENTIAL</u>			
Summer	1,552,000	1,015,831	34.55
Winter	2,646,509	1,679,726	36.53
Total	4,198,509	2,695,557	35.80
<u>SMALL GENERAL SERVICE</u>			
Summer	185,982	156,575	15.81
Winter	369,343	288,899	21.78
Total	555,325	445,474	19.78
<u>MEDIUM GENERAL SERVICE</u>			
Summer	467,380	324,939	30.48
Winter	1,331,208	669,865	49.68
Total	1,798,588	994,804	44.69
<u>LARGE GENERAL SERVICE</u>			
Summer	82,432	41,820	49.27
Winter	174,307	69,337	60.22
Total	256,739	111,157	56.70
<u>GENERAL SERVICE PRIMARY</u>			
Summer	273,158	122,973	54.98
Winter	737,306	312,558	57.61
Total	1,010,464	435,531	56.90
<u>CONTRACT SERVICE</u>			
Summer	247,824	152,631	38.41
Winter	664,955	360,292	45.82
Total	912,779	512,923	43.81
TOTAL	\$8,732,404	\$5,195,446	40.50
SUMMER	\$2,808,776	\$1,814,769	35.39
WINTER	\$5,923,628	\$3,380,677	42.93

DP&L's POWER COST

CUSTOMER CLASS	BUNDLED RATES	BASE RATES	POWER COST	KWH	COST \$/MWH
	(a)	(b)	(c)	(d)	c/d*1000
<u>RESIDENTIAL</u>	9,583,900	2,695,557	6,888,343	65,316,151	105.46
<u>SMALL GENERAL SERVICE</u>	1,216,657	445,474	771,183	7,933,678	97.20
<u>MEDIUM GENERAL SERVICE</u>	4,011,163	944,804	3,066,359	39,285,764	78.05
<u>LARGE GENERAL SERVICE</u>	650,797	111,157	539,640	7,888,280	68.41
<u>GENERAL SERVICE PRIMARY</u>	2,756,806	435,531	2,321,275	35,239,920	65.87
<u>CONTRACT SERVICE</u>	3,692,032	512,923	3,179,109	49,918,800	63.69
TOTAL	21,911,355	5,145,446	16,765,909	205,582,593	81.55

REVENUE INCREASE NEEDED

<u>Line No.</u>	<u>Description</u>	<u>Amount</u>
1	Budgeted Service Billing Revenue	\$27,885,500
2	Orig. Budgeted Purchased Power Costs	21,000,000
3	Revised Budgeted Purch. Power Cost	21,280,097
4	Change In Purch. Power Cost	280,097
5	Revised Service Billing Revenue Required	28,165,597
6	Projected Sales Revenues at Current Base Rates	27,843,897
7	Revenue Increase Needed	321,700
8	% Revenue Increase in Total Rates	1.16%
9	Current Revenues at Base Rates*	8,732,404
10	Electric Operating Expenses**	5,235,635
11	Debt Service	667,555
12	Capital Outlay	982,310
13	Total Expenses without Purchased Power Expenses	6,885,500
14	Base Rate Revenue Increase (Decrease)	1,846,904

* Does not include Lighting and City Acct Revenues

** Based on FY 2011-12 Budget and includes Fund Transfer

RATE OPTION 1

EQUALIZE BASE RATE % DIFFERENCE WITH DPL

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 1 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	10,110,150	9,583,900	4.84%	5.21%
Sm Gen Ser SGS	7,933,678	1,291,646	1,428,547	1,216,657	10.60%	14.83%
Med Gen Ser MGS	39,285,764	5,450,469	5,042,694	4,011,163	-7.48%	20.46%
Large Gen Ser LGS	7,888,280	995,967	862,112	650,797	-13.44%	24.51%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	5,146,814	3,692,032	-7.81%	28.27%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,758,353</u>	<u>2,756,806</u>	<u>-14.39%</u>	<u>26.65%</u>
Total	205,538,193	27,354,298	26,348,671	21,911,355	-3.68%	16.84%

RATE OPTION 2

EQUALIZE TOTAL RATE % DIFFERENCE WITH DPL

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 2 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	11,384,651	9,583,900	18.06%	15.82%
Sm Gen Ser SGS	7,933,678	1,291,646	1,453,111	1,216,657	12.50%	16.27%
Med Gen Ser MGS	39,285,764	5,450,469	4,681,936	4,011,163	-14.10%	14.33%
Large Gen Ser LGS	7,888,280	995,967	747,240	650,797	-24.97%	12.91%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,281,551	3,692,032	-23.31%	13.77%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,185,904</u>	<u>2,756,806</u>	<u>-27.43%</u>	<u>13.47%</u>
Total	205,538,193	27,354,298	25,734,394	21,911,355	-5.92%	14.86%

RATE OPTION 3

EQUALIZE TOTAL BUNDLED RATE % DIFFERENCE FROM DPL WITH \$1.8M REDUCTION

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 3 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	10,629,388	9,583,900	10.23%	9.84%
Sm Gen Ser SGS	7,933,678	1,291,646	1,352,109	1,216,657	4.68%	10.02%
Med Gen Ser MGS	39,285,764	5,450,469	4,353,826	4,011,163	-20.12%	7.87%
Large Gen Ser LGS	7,888,280	995,967	693,701	650,797	-30.35%	6.18%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	3,897,837	3,692,032	-30.18%	5.28%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>2,923,230</u>	<u>2,756,806</u>	<u>-33.41%</u>	<u>5.69%</u>
Total	205,538,193	27,354,298	23,850,092	21,911,355	-12.81%	8.13%

RATE OPTION 4

EQUALIZE TOTAL BUNDLED RATE % DIFFERENCE FROM DPL WITH \$2.8M REDUCTION

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 4 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	10,187,092	9,583,900	5.64%	5.92%
Sm Gen Ser SGS	7,933,678	1,291,646	1,297,336	1,216,657	0.44%	6.22%
Med Gen Ser MGS	39,285,764	5,450,469	4,166,932	4,011,163	-23.55%	3.74%
Large Gen Ser LGS	7,888,280	995,967	671,752	650,797	-32.55%	3.12%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	3,760,157	3,692,032	-32.65%	1.81%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>2,822,646</u>	<u>2,756,806</u>	<u>-35.70%</u>	<u>2.33%</u>
Total	205,538,193	27,354,298	22,905,916	21,911,355	-16.26%	4.34%

RATE OPTION 5

EQUALIZE TOTAL BUNDLED RATE % DIFFERENCE FROM DPL WITH \$3.3M REDUCTION

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 5 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	9,992,138	9,583,900	3.62%	4.09%
Sm Gen Ser SGS	7,933,678	1,291,646	1,272,161	1,216,657	-1.51%	4.36%
Med Gen Ser MGS	39,285,764	5,450,469	4,080,622	4,011,163	-25.13%	1.70%
Large Gen Ser LGS	7,888,280	995,967	653,461	650,797	-34.39%	0.41%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	3,643,149	3,692,032	-34.74%	-1.34%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>2,734,772</u>	<u>2,756,806</u>	<u>-37.71%</u>	<u>-0.81%</u>
Total	205,538,193	27,354,298	22,376,304	21,911,355	-18.20%	2.08%

RATE OPTION 6

Current Rate Design, Residential Base Rate Increase With \$1.8M Reduction

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 6 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	9,590,492	9,583,900	-0.55%	0.07%
Sm Gen Ser SGS	7,933,678	1,291,646	1,225,796	1,216,657	-5.10%	0.75%
Med Gen Ser MGS	39,285,764	5,450,469	4,723,893	4,011,163	-13.33%	15.09%
Large Gen Ser LGS	7,888,280	995,967	760,726	650,797	-23.62%	14.45%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,262,752	3,692,032	-23.65%	13.39%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,243,886</u>	<u>2,756,806</u>	<u>-26.11%</u>	<u>15.02%</u>
Total	205,538,193	27,354,298	23,807,546	21,911,355	-12.97%	7.96%

RATE OPTION 7

Current Rate Design, No Increase With \$1.8M Reduction

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 7 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	9,101,130	9,583,900	-5.62%	-5.30%
Sm Gen Ser SGS	7,933,678	1,291,646	1,225,796	1,216,657	-5.10%	0.75%
Med Gen Ser MGS	39,285,764	5,450,469	4,545,972	4,011,163	-16.59%	11.76%
Large Gen Ser LGS	7,888,280	995,967	823,968	650,797	-17.27%	21.02%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,576,311	3,692,032	-18.03%	19.32%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,629,885</u>	<u>2,756,806</u>	<u>-17.32%</u>	<u>24.05%</u>
Total	205,538,193	27,354,298	23,903,063	21,911,355	-12.62%	8.33%

RATE OPTION 8

Decrease 2% At Current Rate Design With \$1.8M Reduction

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 8 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	8,928,906	9,583,900	-7.41%	-7.34%
Sm Gen Ser SGS	7,933,678	1,291,646	1,203,506	1,216,657	-6.82%	-1.09%
Med Gen Ser MGS	39,285,764	5,450,469	4,612,501	4,011,163	-15.37%	13.04%
Large Gen Ser LGS	7,888,280	995,967	839,628	650,797	-15.70%	22.49%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,643,593	3,692,032	-16.82%	20.49%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,682,324</u>	<u>2,756,806</u>	<u>-16.12%</u>	<u>25.13%</u>
Total	205,538,193	27,354,298	23,910,459	21,911,355	-12.59%	8.36%

RATE OPTION 9

Current Rate Design, No Increase With \$2.3M Reduction

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 9 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u>	<u>% Difference from DP&L Rates</u>
	(a)	(b)	(c)	(d)	= 100 * (c - b) / b	= 100 * (c - d) / c
Res. RS	65,316,151	9,643,254	9,101,130	9,583,900	-5.62%	-5.30%
Sm Gen Ser SGS	7,933,678	1,291,646	1,225,796	1,216,657	-5.10%	0.75%
Med Gen Ser MGS	39,285,764	5,450,469	4,366,521	4,011,163	-19.89%	8.14%
Large Gen Ser LGS	7,888,280	995,967	793,587	650,797	-20.32%	17.99%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,409,318	3,692,032	-21.02%	16.27%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,503,513</u>	<u>2,756,806</u>	<u>-20.19%</u>	<u>21.31%</u>
Total	205,538,193	27,354,298	23,399,866	21,911,355	-14.46%	6.36%

RATE OPTION 10

Decrease 2% At Current Rate Design With \$2.3 Reduction

<u>Rate Class</u>	<u>Kwh Sales, Projected</u>	<u>Current Revenues with PPCA</u>	<u>Option 10 Revenues</u>	<u>Revenues at DPL Rates</u>	<u>% Increase (Decrease) from Current Rates w/PPCA</u> = 100 * (c - b) / b	<u>% Difference from DP&L Rates</u> = 100 * (c - d) / c
	(a)	(b)	(c)	(d)		
Res. RS	65,316,151	9,643,254	8,928,906	9,583,900	-7.41%	-7.34%
Sm Gen Ser SGS	7,933,678	1,291,646	1,203,506	1,216,657	-6.82%	-1.09%
Med Gen Ser MGS	39,285,764	5,450,469	4,456,246	4,011,163	-18.24%	9.99%
Large Gen Ser LGS	7,888,280	995,967	805,990	650,797	-19.07%	19.25%
Gen Ser Prim Spec Contract	49,874,400	5,582,915	4,482,601	3,692,032	-19.71%	17.64%
Gen Ser Prim GSP	<u>35,239,920</u>	<u>4,390,047</u>	<u>3,603,234</u>	<u>2,756,806</u>	<u>-17.92%</u>	<u>23.49%</u>
Total	205,538,193	27,354,298	23,480,484	21,911,355	-14.16%	6.68%

Summary of Ten Options

Rate Class	--- OPTION 1 ---		--- OPTION 2 ---		--- OPTION 3 ---		--- OPTION 4 ---		--- OPTION 5 ---	
	% Increase (Decrease) from Current Rates w/PPCA	% Difference from DP&L Rates								
	Res. RS	4.84%	5.21%	18.06%	15.82%	10.23%	9.84%	5.64%	5.92%	3.62%
Sm Gen Ser SGS	10.60%	14.83%	12.50%	16.27%	4.68%	10.02%	0.44%	6.22%	-1.51%	4.36%
Med Gen Ser MGS	-7.48%	20.46%	-14.10%	14.33%	-20.12%	7.87%	-23.55%	3.74%	-25.13%	1.70%
Large Gen Ser LGS	-13.44%	24.51%	-24.97%	12.91%	-30.35%	6.18%	-32.55%	3.12%	-34.39%	0.41%
Gen Ser Prim Spec Contract	-7.81%	28.27%	-23.31%	13.77%	-30.18%	5.28%	-32.65%	1.81%	-34.74%	-1.34%
Gen Ser Prim GSP	-14.39%	26.65%	-27.43%	13.47%	-33.41%	5.69%	-35.70%	2.33%	-37.71%	-0.81%
Total	-3.68%	16.84%	-5.92%	14.86%	-12.81%	8.13%	-16.26%	4.34%	-18.20%	2.08%
	--- OPTION 6 ---		--- OPTION 7 ---		--- OPTION 8 ---		--- OPTION 9 ---		--- OPTION 10 ---	
Rate Class	% Increase (Decrease) from Current Rates w/PPCA	% Difference from DP&L Rates								
Res. RS	-0.55%	0.07%	-5.62%	-5.30%	-7.41%	-7.34%	-5.62%	-5.30%	-7.41%	-7.34%
Sm Gen Ser SGS	-5.10%	0.75%	-5.10%	0.75%	-6.82%	-1.09%	-5.10%	0.75%	-6.82%	-1.09%
Med Gen Ser MGS	-13.33%	15.09%	-16.59%	11.76%	-15.37%	13.04%	-19.89%	8.14%	-18.24%	9.99%
Large Gen Ser LGS	-23.62%	14.45%	-17.27%	21.02%	-15.70%	22.49%	-20.32%	17.99%	-19.07%	19.25%
Gen Ser Prim Spec Contract	-23.65%	13.39%	-18.03%	19.32%	-16.82%	20.49%	-21.02%	16.27%	-19.71%	17.64%
Gen Ser Prim GSP	-26.11%	15.02%	-17.32%	24.05%	-16.12%	25.13%	-20.19%	21.31%	-17.92%	23.49%
Total	-12.97%	7.96%	-12.62%	8.33%	-12.59%	8.36%	-14.46%	6.36%	-14.16%	6.68%

AVERAGE RATE COMPARISON TO DELAWARE COOPS RATES

Rate Class	Kwh Sales Projected	OPTION 9 Rate		OPTION 10 Rate		COOP Rate
		Revenues	Cent/Kwh	Revenues	Cent/Kwh	Cent/Kwh
		a	b	c=b/ax100	d	e=d/ax100
Res. RS	65,316,151	9,101,130	13.93	8,928,906	13.67	11.19
Sm Gen Ser SGS	7,933,678	1,225,796	15.45	1,203,506	15.17	9.84
Med Gen Ser MGS	39,285,764	4,366,521	11.11	4,456,246	11.34	9.84
Large Gen Ser LGS	7,888,280	793,587	10.06	805,990	10.22	9.84
Gen Ser Prim Spec Contract	49,874,400	4,409,318	8.84	4,482,601	8.99	9.84
Gen Ser Prim GSP	35,239,920	3,503,513	9.94	3,603,234	10.22	9.84
Total	205,538,193	23,399,866	11.38	23,480,484	11.42	11.23

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BUILDINGS**
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302-335-1300

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TEMPERATURE

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DIAMOND BACK

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1. Use in areas where it may be in contact with food or drink.
2. Use in areas where it may be in contact with children.
3. Use in areas where it may be in contact with pets.

WARNING
This product is highly flammable and may cause fire. Use with caution.

IMPORTANT NOTICE
This product is highly flammable and may cause fire. Use with caution.

DIAMOND BACK
5











504





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RECYCLING
COURTESY
CITY OF
SOUTH
BRITAIN









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WARNING
High Voltage
Electrocution Hazard
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When Energized

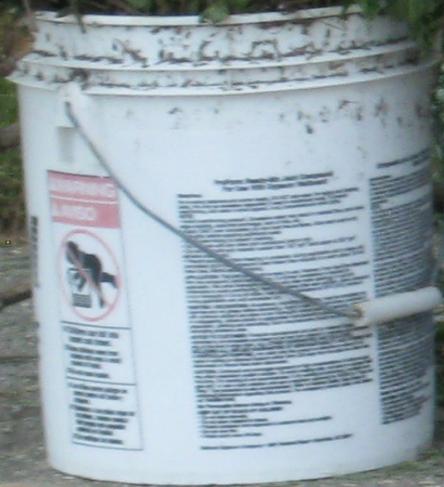
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*MILFORD CITY COUNCIL
MINUTES OF MEETING
November 28, 2011*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, November 28, 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 Council Meeting to order at 8:52 p.m.

INVOCATION AND PLEDGE

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

RECOGNITION

No special guests were in attendance.

COMMUNICATIONS

UNFINISHED BUSINESS

Per Article VIII §8.04 the City Charter, the following Certification of Results for the November 19, 2011 Referendum was read into record by the city manager:

Certificate of Results of November 19, 2011 City of Milford Special Election

CERTIFICATE OF SPECIAL ELECTION

This certifies that

A Special Election was held at Milford City Hall, 201 South Walnut Street, Milford, Delaware, on Saturday the 19th day of November 2011.

The undersigned Members of the Election Board for the City of Milford, constituted to hold the aforesaid Election, hereby certify the results thereof:

*For The Proposed Borrowing: 139
Against the Proposed Borrowing: 8*

The borrowing is thereby APPROVED.

Adoption of Ordinance 2011-26/Approval of Borrowing/DWSRF Loan/Washington Street Treatment Facility

Mr. Brooks then moved to adoption the following ordinance, seconded by Ms. Wilson:

*Ordinance 2011-26****AN ORDINANCE AUTHORIZING THE BORROWING OF FUNDS TO FINANCE THE CITY OF MILFORD'S SCADA IMPROVEMENTS AND THE DEMOLITION AND RECONSTRUCTION OF THE WASHINGTON STREET WATER TREATMENT FACILITY PLANT AND OFFICE BUILDING LOCATED ON THE SAME SITE.****Section 1.*

WHEREAS, the City Council of the City of Milford, Delaware ("Council") has been advised that up to \$4,000,000 is required to finance SCADA improvements and the demolition and reconstruction of the Washington Street Water Treatment Facility Plant and office building located on the same site.

Section 2.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

- 1. The City of Milford, Delaware operates its public water system in accordance with the provisions of the State of Delaware and the Charter of the City of Milford.*
- 2. The Council has determined that it is advisable, necessary and in the best interest of public health, safety and welfare to improve the system.*
- 3. The Council hereby proposes unto the electors of the City that an amount of money not exceeding \$4,000,000 be borrowed to pay for the costs of the Capital Improvements and to pay the costs associated with the financing.*
- 4. Said borrowing is expected to be accomplished through the issuance of a loan ("DWSRF loan") from the State of Delaware Drinking Water State Revolving Fund, acting by and through Delaware Health and Social Services, Division of Public Health, Office of Drinking Water.*
- 5. The DWSRF loan proceeds will be used for SCADA improvements and the demolition and reconstruction of the Washington Street Water Treatment Facility Plant and office building located on the same site.*
- 6. The terms of the loan shall be as follows:*
 - *Interest Rate 1%*
 - *Principal Forgiveness 35% (\$1,400,000)*
 - *1% Original Fee Due at Closing (Waived)*
 - *Twenty Year Term*
- 7. A Public Hearing was held in the Council Chambers at City Hall, 201 South Walnut Street, Milford, Delaware on Monday, September 12, 2011 following which time City Council voted favorably upon the final authorization for the DWSRF loan.*
- 8. A Special Election on the borrowing was held on Saturday, November 19, 2011 at Milford City Hall, where by majority vote, the electors in the City of Milford determined in favor of the loan.*
- 9. The DWSRF loan shall be secured by the full faith and credit of the City.*
- 10. The DWSRF loan shall be paid or funded from water revenues and reserve accounts of the City.*

Section 3. Dates.

Adoption Date: November 28, 2011

Effective Date: December 8, 2011

Motion carried by unanimous roll call vote.

NEW BUSINESS*FY 2011-2012 Budget Adjustment/Transfer of Funds Assessment Department to Code & Inspections Department*

The following request was received from Building Inspector Don Williams:

I am requesting a transfer from the Assessment Department Account 101-1085-417.50-90 (Training-\$1,000), 101-1085-417, 101-1085-417.60-10 (Supplies-\$500) and 101-1085-417.60-11 (General Expense-\$500) for a total of \$2,000 into Computer Account 101-1045-428.60-12. This will allow the Enforcement and Inspection Department to purchase a computer.

Mr. Pikus advised that he spoke with IT Director Wes Banasan to determine if there was another available computer. Mr. Banasan indicated there was none due to the amount of work done on the computer. Though it is an expensive computer, Mr. Banasan said it is needed to accommodate the work being performed by Mr. Dennis and Mr. Williams.

Mr. Pikus moved for approval of the budget transfer, seconded by Mr. Grier. Motion carried.

Certificate Requesting Termination of City of Milford Parking Authority

City Solicitor Rutt recalled informing council that the parking authority has paid all its bonds and there is nothing further for it to do in terms of purchasing and maintaining those properties. Therefore, they have requested the city proceed with the termination of the parking authority which turns the titles over the city.

The statute calls for a certificate requesting the termination of the parking authority though the Secretary of State was unable to provide the document. As a result, Mr. Rutt prepared the certificate for review by the Secretary of State. The certificate will be cross filed in both Kent and Sussex County Recorder of Deeds due to having parking authority property in both.

In addition, Mr. Rutt will follow up with a confirmatory deed that recites the certificate to ensure it shows up correctly. He will provide the names and addresses of officers and complete the form upon the approval of city council.

It was noted the request came from Chairman Harvey Marvel on behalf of the Parking Authority who voted unanimously to request the city agree to the termination and acceptance of the property.

Ms. Wilson moved to accept the Parking Authority property and approve the Certificate Requesting Termination of the Parking Authority and that the city solicitor proceed as stated herein, seconded by Mr. Starling:

STATE OF DELAWARE
CERTIFICATE REQUESTING
TERMINATION OF EXISTENCE
OF PARKING AUTHORITY
(22 Del. C. § 513)

The Corporation organized and existing under 22 Del. C. § 501, et seq., hereby certifies as follows:

1. The name of the Corporation is Parking Authority of the City of Milford, Inc.
2. The date of filing of the Corporation's original Certificate of Incorporation was September 4, 1974.
3. The Corporation is a parking authority for the City of Milford and owns certain parking lots in Kent County and Sussex County, Delaware.
4. The Corporation has paid and discharged all bonds and debts and otherwise settled all other claims against it.
5. The Board of Directors of the Corporation has voted to convey all its property to the City of Milford and to terminate its existence.
6. The date the termination of existence was authorized is _____, 2011.
7. The names and addresses of the directors and officers of the Corporation are as follows:

-
8. By recordation of this Certificate with the Office of the Recorder of Deeds in and for Kent County, Delaware, and the Office of the Recorder of Deeds in and for Sussex County, Delaware, all of the real property owned by the Corporation shall pass to the City of Milford.

9. The Corporation has paid all taxes and fees due to or assessable by this State through the end of the year in which this Certificate is filed.
10. The City of Milford approved the Certificate Requesting the Termination of the Existence of the Corporation on November 28, 2011.

/s/Authorized Officer

/s/Joseph Ronnie Rogers

Attest: City Clerk

Motion carried by unanimous roll call vote.

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.

Mr. Pikus moved to go into Executive Session reference Personnel Matters, seconded by Mr. Morrow. Motion carried.

Mayor Rogers recessed the Council Meeting at 9:00 p.m. for the purpose of an Executive Session to discuss personnel matters.

Return to Open Session

City Council returned to Open Session at 10:20 p.m.

Executive Session/Personnel Matter

Mr. Gleysteen moved to acknowledge the fact we were unable to come to a mutual agreement on the renegotiation of the city manager's contract and as a result, the contract is null and void effective immediately, seconded by Mr. Johnson.

Motion carried by the following 7-1 vote:

Yes-Johnson, Grier, Pikus, Gleysteen, Morrow, Starling, Wilson
No-Brooks

ADJOURN

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

The Council Meeting adjourned at 10:23 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
December 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, December 12, 2011.

PRESIDING: Mayor Joseph Ronnie Rogers

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

City Manager Richard Carmean, 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 7:06 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF MINUTES

Motion made by Mr. Brooks, seconded by Mr. Pikus to approve the minutes of the October 24th Public Hearing and December 5th Council Meeting as presented. Motion carried.

RECOGNITION

No special guests in attendance.

MONTHLY POLICE REPORT

After presenting the monthly police report on behalf of Chief Hudson, Mr. Morrow moved to accept the police report as submitted, seconded by Mr. Starling. Motion carried.

Mr. Gleysteen said it appears that felonies will be 15 - 20% down in comparison to 2010 and feels that is in large part due to the efforts of the police department. Chief Hudson thanked Mr. Gleysteen and explained that fortunately this year, the number of serious crimes are down.

CITY MANAGER REPORT

Though he did not submit a written report, Mr. Carmean advised he has been in office for the past five days and most of his time has been spent with department heads and staff meetings. He is catching up on the numerous projects occurring throughout the city.

He met with Public Works Committee Chairman Brooks, Mayor Rogers and DBF Engineers to discuss the number of uncompleted projects and funding issues. In particular, he was concerned about some funding that was about to expire and needed to be used before the city lost it. One of his main goals is to get these projects moving and hopefully completed.

Mr. Pikus moved to accept the city manager's report, seconded by Mr. Brooks. Motion carried.

COMMITTEE REPORTS

Economic Development Committee

Mr. Grier reported there is an Advisory Panel meeting scheduled for Wednesday night at 5:30 p.m.*

Public Works Committee

Mr. Brooks reiterated what the city manager reported and that he, along with Mayor Rogers, Public Works Director Brad Dennehy and DBF Representatives met to discuss city projects. He was very concerned about the status of the ongoing projects and in particular, Southeast Front Street. He noted that in 2009, there was \$875,000 allocated for that work and his concern we could lose that money because nothing had occurred. He also had questions related to the Northeast Front Street project. The previous city manager informed him the city was \$1 million short though he hopes we are able to find the money to complete both projects.

He announced the Tenth Street Water Tower has been painted and he is very pleased with the results. They also discussed the Washington Street Water Plant and Office Building Project whose borrowing was approved by voters at the November 19th referendum.

Also discussed is the status of the city hall basement which City Manager Carmean is currently addressing.

Mr. Carmean discussed the lower level being remodeled and set up to do business. They are still unable to determine where the water is coming from and if it is groundwater pressure coming up through the floor or there is a drain problem along the foundation of the building. He plans to have the drywall removed from the areas where the water is coming in to make that determination. He still believes the problem can be remedied and the lower level used again.

He noted that the Washington Street Water Plant building currently houses Downtown Milford and the Chamber of Commerce. When the construction begins on the new building, because DMI has a true affiliation with the city, he is willing to place them downstairs until they find a new site.

Mr. Carmean said this will not prevent planning, permitting and inspections from returning to the lower level. He feels their relocation to public works has worked out temporarily though there is a downside to permitting occurring at city hall and the inspection and code employees at another building.

His main objective is to prevent any mold issues that could shut down the entire building. This is especially a concern when considering the amount of time that has passed and nothing has been resolved. He pointed out that city hall is a historic building that needs to remain and the water problem completely remedied.

Mr. Johnson arrived at this time (7:22 p.m.).

St. Paul's United Methodist Church/Annual Christmas Dinner

Mr. Starling thanked those who have donated items for their annual Christmas Dinner on December 25th. Dinners will be served to those in need from noon until 4:00 p.m.

He reported they were very fortunate to receive 3,000 to 4,000 shirts and blankets of which half were given away this past weekend. New coats for children have also been offered.

He said they are still accepting donations. Any checks should be made out to St. Paul's United Methodist Church.

UNFINISHED BUSINESS

Adoption of Ordinance 2011-28/Chapter 193-Solid Waste/Yard Waste

Though the ordinance was introduced on November 14th and discussed on November 28th, Mr. Carmean is currently reviewing the ordinance with the Public Works Director and Solid Waste Supervisor. Some items still need to be worked out and in particular, not being able to accept yard debris for the entire winter. He also talked with City Engineer Mark Mallamo noting that he has a strong background in solid waste and spent several years working for the Delaware Solid Waste Authority.

Joe Palermo, 5 Misty Vale Court, Meadows at Shawnee, advised that their deeded restrictions prevent their containers from being stored outside their homes unless they are concealed. He also believes the time frame should be April through November because typically fall plantings are cut down and removed in November.

Mr. Palermo also stated a 33-gallon container is too small and suggests a size comparable to the current garbage container. In addition, a biweekly pickup is insufficient particularly during the summer when the heat creates an odor issue.

Mr. Carmean then recommended that any action on this ordinance be postponed. In the meantime, the service will be continued.

Mr. Gleysteen agrees with Mr. Palermo and Mr. Carmean's comments stating this will be a cultural change for our citizens who are used to regular pickup. He also does not want this to become a code enforcement issue. This is especially the case if our customers are asked to purchase a container.

He asks that we consider purchasing a truck for yard waste and any additional uses that can be considered.

Mr. Carmean explained that the purchase of a grappler truck has been discussed. He is also concerned with requiring our customers to purchase another container. It can be an expense for many of our customers though his preference would be to pay for the container over a period of time.

Mr. Pikus concurred with extending the pick up time through the end of November; Mr. Carmean is also uncomfortable with shutting that service down completely for several months. At a minimum, we could have a truck go through town to pick debris up on a periodic basis due to the number of people that work in their yards throughout the year.

Mr. Brooks moved to postpone action on Ordinance 2011-28, seconded by Mr. Morrow. Motion carried.

DBF Proposal/Amendment/Test Well Site Project

Mr. Carmean recalled the lengthy discussion by council regarding the test well location in the southeast area of Milford. At the previous meeting, city council approved two sites for test wells.

Mr. Carmean is presenting the DBF proposal for them to oversee the Wells, Treatment and Storage Facility Project which has been amended from \$29,500 to \$54,500 due to the addition of the second site.

Mr. Pikus moved to approve the amended proposal submitted by DBF in the amount of \$54,500 to be paid through the USDA loan, seconded by Mr. Grier. Motion carried by unanimous roll call vote.

NEW BUSINESS

Bid Approval/Dump Truck & Plow/State Contract/Street Department

Public Works Director Brad Dennehy submitted a bid awarded through statewide contracts administered by Government Support Services, Office of Management and Budget totaling \$129,280 for a full-size dump truck, body, spreader and plow from Barr International, Incorporated. The bid is within the \$175,000 budget that was allotted for a dump truck, salt spreader, plow and regular pickup truck.

Mr. Gleysteen noted the specs on the dump are for a single rear axle though most of the public works trucks used by the state have dual rear axles. He asked if this will be sufficient for our needs. Mr. Carmean advised that most of our trucks are single rear axle and adequate for snow removal in town because of the shorter roadways. He advised that our Street Superintendent has a long history with large equipment, dirt grading and hauling. Therefore, Mr. Carmean is confident it will meet our needs but will follow up with public works.

Mr. Pikus moved to award the bid to Barr International, Incorporated in the amount of \$129,280, seconded by Mr. Starling. Motion carried with no one opposed.

Acceptance of FY2010-2011 City of Milford Audit

Mr. Pikus referenced the audit included in the packet. He said that page three outlines the city's financial situation and concluded the revenues have increased by \$1.4 million while expenses have increased approximately \$184 thousand. This was due to an increase in utility billing due to an increase in consumption. Page six reported the city's total revenue has increased from \$40 million to \$42 million. The audit shows the city to be in extremely good condition.

Mr. Pikus emphasized this is due in large part to the good fiscal management of Finance Director Jeff Portmann and our department heads who oversee daily operations and expenses.

Mr. Pikus moved to accept the City Audit for the year ending June 30, 2011, seconded by Mr. Morrow. Motion carried with no one opposed.

Introduction of Ordinance 2011-29/Modification of Conditional Use for PUD/Davis, Bowen and Friedel, Incorporated on behalf of Siobain-VI LLC

City Planner Gary Norris advised that this ordinance relates to the former Cascades Development on Airport Road. They are submitting a revised plan which will be reviewed by the planning commission and city council in January.

This modification is needed because of the increased number and types of housing units being designed for workforce housing, elderly and handicapped individuals.

Mr. Pikus said he has received a number of comments regarding a possible turn lane into the property. Currently, vehicles are turning directly into the property. He asked that be considered when the property is developed.

Mr. Norris confirmed Mr. Pikus is referring to a deceleration lane; Mr. Pikus stated yes noting the increased and heavy truck traffic that uses the roadway on a regular basis.

The ordinance is being officially introduced with public hearings to follow:

ORDINANCE 2011-29

Conditional Use Modification/Siobain-VI, LLC

An Ordinance of the City Council of the City of Milford, Delaware Authorizing the Modification of a Conditional Use Allowing a Planned Unit Development on 19.15 +/- acres for Davis, Bowen and Friedel, Incorporated on behalf of Siobain-VI, LLC on the south side of Airport Road, 1,600 feet west of US Route 113, Milford, Delaware, formerly known as Cascades. Approved Number of Units 84; Proposed Number of Units 142. Tax Map MD 16-173.00-01 -04.03; -04.04; -04.05; -04.06; -04.07; -04.08; -04.09; -04.10; -04.11; -04.12; -04.13; -04.14; -04.15; -04.16; -04.17; -04.18.

Whereas, the City of Milford has been requested by Davis, Bowen and Friedel, Incorporated on behalf of Siobain-VI, LLC to allow a Modification to a Conditional Use for a Planned Unit Development; and

Whereas, the Planning Commission reviewed the application at a Public Hearing on December 20, 2011 and has presented the item to be considered by the City Council; and

Whereas, the City Council held an advertised public hearing on January 23, 2012 to allow public comment on the application.

Now, Therefore, the City of Milford hereby ordains:

Section 1. Upon the adoption of this ordinance, Siobain-VI, LLC is hereby granted a modification to the conditional use permitting a Planned Unit Development in accordance with the application, approved plans and any conditions set forth;

Section 2. Construction or operation shall be commenced within one year of the date of issuance or the conditional use permit becomes void.

Section 3. Dates.

Introduction to City Council: 12-12-11

Planning Commission Review & Public Hearing: 12-20-11

City Council Review & Public Hearing: 01-23-12

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

The ordinance is scheduled for adoption in January.

DBF Proposal/Washington Street Water Treatment Plant Rehabilitation & Improvements Project

Davis, Bowen and Friedel (DBF) Engineer Erik Retzlaff then referenced the plans for the new Washington Street Water Treatment plant improvements and replacement office building.

Mr. Gleysteen confirmed that DBF's percentage of the \$4 million project is approximately 15% and asked if that is standard; Mr. Retzlaff stated it is typically based on the complexity of the project.

Mr. Gleysteen then asked what type of contingency is built into the cost of the project. Mr. Retzlaff estimated \$400,000. He explained that at the end of the proposal, there is an estimated fee for inspections which will fluctuate in relation to the four different projects.

Mr. Gleysteen agrees a 10% contingency is standard for this type project. However, he feels there may be a better way to structure the arrangement for engineering services. He stated that a good contract would take advantage of those things an engineering firm can offer. He asked if performance incentives should be built in. As an example, the contract being presented includes a \$400,000 contingency; if that is removed and the cost becomes \$3.6 million, DBF could initially be offered \$400,000 versus \$600,000. An incentive could be built in where the project comes in at \$3.6 million with no additional expenses. The balance (\$400,000) would be then be split with 50% used as a performance incentive (DBF would still receive a total of \$600,000) and the other \$200,000 used to reduce the amount owed to the lender. If the project comes in less than \$3.6 million, there is some potential earnings of more than \$600,000. Should it be more than \$3.6 million, the earnings would become less.

Mr. Gleysteen believes this will better manage the contract without going to competitive bidding.

Mr. Carmean recalled the meeting with Public Works Committee Chairman Brooks and DBF representatives to review the number of outstanding projects in the city. At that time, they did not review the individual proposals or the bid processes. Mr. Pikus confirmed that no bids were presented to city council.

When asked his opinion, Mr. Retzlaff explained the costs included in the proposal will cover the services needed to start the project. However, DBF has no control of the construction costs which can range from \$3.6 to more than \$4 million. He said this will cover the costs of preparing the contract documents to determine the scope of the construction. The construction costs are only an estimate based on the current project.

Mr. Gleysteen asked if there are ways to make the project come in under budget; Mr. Retzlaff said the only way would be to remove or add items to the project. Mr. Gleysteen asked if the projects are handled through select bids; Mr. Retzlaff stated that based on the requirements of the funding. Public bidding is required with the award to the lowest responsible bid. In this case, DBF's role is to prepare the contract.

Mr. Gleysteen asked whose responsibility it is to ensure the project comes in on budget. Mr. Retzlaff explained that DBF makes recommendations to the city though it is ultimately the city's decision in terms of whether or not to proceed depending on the bid amounts. If they come in under bid, the project proceeds; if the bids are over the budget, it needs to be re-evaluated to determine the additional costs.

Mr. Gleysteen asked if DBF ensures the work is done correctly; Mr. Retzlaff stated that the contractor handles what is stated in the contract documents. However, change orders are presented to DBF to determine whether to proceed or not.

Mr. Gleysteen questioned what would create a significant change order; Mr. Retzlaff said what is in the ground at the site because of the age of the facility.

Mr. Gleysteen was under the impression DBF would ensure the job was done correctly according to the scope and that it comes in under budget. He emphasized this is a \$4 million project with a \$400,000 contingency. He felt they would jump at the opportunity to bring it under \$3.6 million and reap the rewards. Mr. Retzlaff said he has no control over the costs of the construction without removing some of the items.

Mr. Retzlaff added that the city is able to add an incentive should the project be completed earlier, etc.

Mr. Gleysteen feels that if a performance incentive cannot be added, the engineering services should be competitively bid. Mr. Carmean said that in the past, an engineering firm has overseen the project on behalf of the city. When the project is bid, the costs are reviewed and the lowest bidder able to meet the specs receives the award. At this point in the process, DBF was approved to define the scope of the project and design the facility. The project will then be bid with DBF reviewing the bid documents. He expects a \$4 million project to have some change orders which their engineers will review.

After the city accepts the bid, it was discussed whether any additional costs of the project fall under DBF's realm of responsibility; Mr. Retzlaff referenced the stipulation included in the proposal being considered tonight.

Mr. Retzlaff confirmed he has not been involved in a contract with performance incentives.

Mr. Morrow feels the performance issues involve the contractor doing the actual work and the quantity and quality of work. Mr. Carmean agrees noting that includes assurance they meet our specs and budget issues.

Once the construction bids are received and opened, Mr. Carmean will bring them back to council for the award.

Mr. Gleysteen moved that the city manager contact DBF to review the fee schedule and discuss performance incentives with the intent that this project comes in on time and as far under budget as possible with no quality issues. Mr. Pikus seconded the motion to allow for more conversation.

Mr. Carmean then suggested that once the bids are awarded, would it be possible to add an incentive program at that time. Currently, council is reviewing the engineering costs, but as we proceed it will be difficult for city staff to oversee the project on a daily basis. He believes that DBF or another engineering firm will need to be directly involved in the oversight and inspections; Mr. Gleysteen agreed.

Some concern was expressed about any additional time this could create and whether to proceed as we have done in the past.

When asked the impact of the current proposal being presented to city council, Mr. Retzlaff explained the proposal includes the preliminary work to the project being completed. However, he is unsure about where the incentives will be controlled in the design phase. He reiterated the design ensures the contract documents identify clearly what is required and what the city expects at the end of the day. Mr. Gleysteen disagrees adding it should not impact the design phase but instead the bidding process and award of contract.

Mr. Retzlaff said that would affect the project/construction management though the design phase portion of the proposal should be separated. That would allow the project to proceed. Any additional fees for construction administration and inspection costs can then be reviewed. This would allow them to begin work tomorrow.

Mr. Pikus confirmed that would allow an opportunity for Mr. Carmean to discuss the performance incentives. Mr. Carmean pointed out the design phase has already been completed by DBF. The other items will need to be considered though he will need to evaluate these possibilities before anything is finalized.

Mr. Retzlaff noted there is state and federal funding involved which requires fair bidding practices. Excluding someone based on performance criteria may be difficult and may need further review.

Mr. Carmean agrees that the city had the right to bid the design phase; Mr. Gleysteen feels the city should have. When asked what work has been completed by DBF, Mr. Retzlaff stated that only the preliminary engineering services.

To move forward, it was confirmed that the surveying services, test well installation, geo-technical investigation services, asbestos and lead inspections, architectural and engineering services and construction procurement services have not been done. Mr. Retzlaff explained that any step prior to the construction administration, project (RPR) monitoring and inspections is needed in order to bid the project.

When asked to clarify the motion, Mr. Gleysteen reiterated that he feels the city is able to do better on the overall management of the \$3.6 or \$4 million contract. The objective is to bring the project in on time and under budget.

Mr. Carmean confirmed that it is his intent to proceed with DBF's design though Mr. Carmean is directed to meet with DBF to discuss a possible incentive bonus or program during the construction phase. Mr. Gleysteen stated yes. He then amended his motion that we accept the proposal items A-H, approve DBF's design and proceed with the work needed to bid the project, with the balance of the contract (construction administration and RPR services) possibly being renegotiated while the city manager and DBF representatives consider adding performance incentives in order for the project to be completed on time and under budget to spec with quality results. Mr. Pikus seconded the amended motion.

It was confirmed this would not delay the project and the balance of the contract would be considered no later than the January meeting. Mr. Retzlaff confirmed the approved portions of the contract will take them into the early to mid spring.

Mr. Johnson pointed out this does not necessarily mean that DBF will be removed from the balance of the project but that council is only attempting to change the culture of how we do business.

Motion carried by the following unanimous roll call vote:

Mr. Grier stated he votes yes though his intent is to bring this back as soon as possible and no later than the business meeting in January in order to move forward.

Mr. Pikus votes yes and stated that this will allow the project to continue as planned and this is only a step to work closer with Davis, Bowen and Friedel in an attempt to save some funding and share in the potential savings.

Mr. Gleysteen votes yes noting it is a substantial amount of money with the intent to get the best value for the money.

Mr. Johnson, Mr. Brooks, Mr. Morrow and Mr. Starling vote yes.

Planning Commission Vacancies

Mayor Rogers advised that Commissioner Kim Stevenson resigned last month and Karen McColley's last meeting will be after the December meeting.

Planning Commission Chairman Chuck Rini reported he is the longest serving member of the planning commission. He said that over the previous years, planning commissioners have been appointed according to the ward they reside in. He emphasized they do not serve any wards though council members do.

The planning chairman feels that mandating wards for the commissioners is going in the wrong direction and believes that Mayor Rogers should appoint the most qualified person to fill that position.

He said they are a civilian, non-paid organization that serves city council and believes they are doing that well.

Mayor Rogers asked that council members provide him with the names of potential commissioners as they have done in the past. He will then make a recommendation which will be voted on by city council.

When asked the terms of the commissioners who are leaving, Mr. Rini advised that Ms. Stevenson's term was expiring in August 2014; Ms. McColley's term expires in August 2013.

City Manager Carmean said that individuals from the various areas of towns provide a flavor for the ward they are living in. He feels that by having the different wards represented, those residents have a better feel for what the people living in that ward want.

He noted that some wards may be all residential and mainly single family homes, some wards have large developments and some have a substantial amount of commercial and industry. He feels there can be an advantage to appointing them by ward.

Mr. Rini feels that is addressed when it comes back before council. To him, it is the planning commission's duty to review the documents and ensure what they are doing meets our ordinances and coincides with county and state laws. He said it is a cut and dry decision about whether it meets the legal requirements and is not based on whether someone wants or not wants a project in their backyard. However, he does favor a diverse commission.

Mayor Rogers advised this will be addressed at the January meeting.

Fiscal Year 2011-12 Budget Amendment

Finance Chairman Pikus advised we are closing out two accounts and transferring those funds to active accounts.

Mr. Pikus moved to transfer \$7,000 from the Retiree Medical Account 101-1010-413-20-80 and \$23,000 from the Tax Department Salary Account 101-1085-417-10-10 to Administration Salaries and Benefit Accounts 101-1010-413-10-10 through 413-20-70, seconded by Mr. Gleysteen. Motion carried.

Final Review and Approval/Feasibility Study for Small Business Accelerator

Mr. Carmean advised that the State of Delaware, City of Milford and First State Manufacturing collaborated as partners in response to the Jobs and Innovation Accelerator Challenge grant solicitation. It is the intent of First State Manufacturing to transform the manufacturing industry in Delaware and across the nation through this program.

Mr. Grier moved for approval of the Feasibility Study for Small Business Accelerator prepared by John Rhodes. Motion seconded by Mr. Pikus and carried by unanimous roll call vote.

It was noted that council's intention is to fill the Economic Development Director's position. In the meantime, City Planner Gary Norris will handle those duties.

Introduction of Ordinance 2011-30/Chapter 119/Electric Tariff/Rate Reduction

Mr. Carmean advised this is the culmination of City Council’s wishes and is in line with the goals of the city’s Strategic Plan for Economic Development, to review and consider a new rate study. At the November workshop meeting, Consultant Jay Kumar presented ten options for consideration by city council. It was the consensus of city council to accept option 10 whose rates are shown in the proposed ordinance.

He noted there is a 2% decrease in residential rates. Large users will receive a 17 to 19% reduction though that is only on the energy side of the bill with no impact to demand and related charges. He then explained that demand charges are not paid by small general service customers, however, medium general service up through the largest customer classes do.

The city manager said the only caveat is if we find our bottom line being impacted negatively within a few months, it may need to be pulled back in slightly.

He explained that reducing our large customers by 19% still puts us above some of our competitors by a substantial percentage.

The city manager then introduced Ordinance 2011-30 with a projected adoption date of December 29, 2011.

Ordinance 2011-30

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, ELECTRIC TARIFF, CHAPTER 119, that establishes electric standards and rates for the City of Milford.

Section 1. The City of Milford Hereby Ordains that Electric Rates and Associated Matters are hereby amended to read as follows.

Section 2. The Service Classification Section is hereby amended by repealing the current rate schedules and replacing each class as noted:

Residential Service Schedule RES

C. Monthly Rates

CURRENT:

	<u>Summer Billing Months June through September</u>	<u>Winter Billing Months October through May</u>
<u>Energy Charge</u>		
First 5 kWh or less	\$4.00 flat charge	\$4.00 flat charge
Next 495 kWh	14.18 cents/kWh	13.00 cents/kWh
Excess kWh over 500	14.18 cents/kWh	13.00 cents/kWh

PROPOSED:

	<i>Summer Billing Months June through September</i>	<i>Winter Billing Months October through May</i>
<u>Energy Charge</u>		
<i>First 5 kWh or less</i>	<i>\$4.00 flat charge</i>	<i>\$4.00 flat charge</i>
<i>Next 495 kWh</i>	<i>13.80 cents/kWh</i>	<i>12.80 cents/kWh</i>
<i>Excess kWh over 500</i>	<i>13.80 cents/kWh</i>	<i>12.80 cents/kWh</i>

Small General Service Schedule SGS

C. Monthly Rates

CURRENT:

Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
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Customer Charge	\$6.00/month	\$6.00/month
Energy Charge	15.30 cents/kWh	14.27 cents/kWh

PROPOSED:

Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
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Customer Charge	\$6.00/month	\$6.00/month
Energy Charge	15.00 cents/kWh	14.00 cents/kWh

Medium General Service Schedule MGS

C. Monthly Rates

CURRENT:

Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
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Customer Charge	\$7.00/month	\$7.00/month
Demand Charge	\$18.00/kW	\$10.50/kW
Energy Charge	9.00 cents/kWh	8.00 cents/kWh

PROPOSED:

Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
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Customer Charge	\$7.00/month	\$7.00/month
Demand Charge	\$13.95/kW	\$10.50/kW
Energy Charge	8.00 cents/kWh	7.00 cents/kWh

Large General Service Schedule LGS

C. Monthly Rates

CURRENT:

Summer Billing Months <u>June through September</u>	Winter Billing Months <u>October through May</u>
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Customer Charge	\$18.00/month	\$18.00/month
Demand Charge	\$14.40/kW	\$10.70/kW

Energy:

On-Peak	10.00 cents/kWh	9.00 cents/kWh
Off-Peak	9.00 cents/kWh	8.10 cents/kWh

PROPOSED:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$18.00/month</i>	<i>\$18.00/month</i>
<i>Demand Charge</i>	<i>\$13.00/kW</i>	<i>\$10.50/kW</i>
<i>Energy:</i>		
<i>On-Peak</i>	<i>8.00 cents/kWh</i>	<i>8.00 cents/kWh</i>
<i>Off-Peak</i>	<i>7.00 cents/kWh</i>	<i>7.00 cents/kWh</i>

General Service Primary Voltage-GSP

C. Monthly Rates

CURRENT:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
Customer Charge	\$21.00/month	\$21.00/month
Demand Charge	\$12.20/kW	\$9.00/kW
Energy:		
On-Peak	9.00 cents/kWh	9.00 cents/kWh
Off-Peak	8.00 cents/kWh	8.00 cents/kWh

PROPOSED:

	<i>Summer Billing Months <u>June through September</u></i>	<i>Winter Billing Months <u>October through May</u></i>
<i>Customer Charge</i>	<i>\$21.00/month</i>	<i>\$21.00/month</i>
<i>Demand Charge</i>	<i>\$12.00/kW</i>	<i>\$10.55/kW</i>
<i>Energy:</i>		
<i>On-Peak</i>	<i>8.00 cents/kWh</i>	<i>8.00 cents/kWh</i>
<i>Off-Peak</i>	<i>7.00 cents/kWh</i>	<i>7.00 cents/kWh</i>

Special Contract Services-SCS.

C. Monthly Rates

CURRENT:

	<i>Summer Billing Months June through September</i>	<i>Winter Billing Months <u>October through May</u></i>
Demand Charge	\$11.50/kW	\$9.20/kW
Energy:		
On-Peak	8.50 cents/kWh	8.50 cents/kWh

Off-Peak	7.50 cents/kWh	7.50 cents/kWh
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PROPOSED:

<i>Summer</i>	<i>Winter</i>
<i>Billing Months</i>	<i>Billing Months</i>
<u><i>June through September</i></u>	<u><i>October through May</i></u>

<i>Demand Charge</i>	<i>\$8.00/kW</i>	<i>\$7.00/kW</i>
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Energy:

<i>On-Peak</i>	<i>8.00 cents/kWh</i>	<i>7.00 cents/kWh</i>
<i>Off-Peak</i>	<i>7.00 cents/kWh</i>	<i>7.00 cents/kWh</i>

*Section 3. Dates.**Introduction: December 12, 2011**Adoption: December 29, 2011*

The new rates will be effective with December 2011 consumption and reflect in the January 2012 bill.

When asked if we should consider a six-month trial period, Mr. Carmean explained that if it causes our revenues to drop to the point we are unable to pay for the power costs, then council would need to make a decision. However, he does not feel we will have to rescind the entire package and in particular the 2% reduction for residential customers.

Bob Connelly of Hearthstone Manor asked about the general fund transfer and ensure profits will not be made on the peak rate. Mr. Carmean explained that the demand rates, which are determined in peak periods and are measured periodically, pay the operating costs. In addition, DEMEC is receiving a better wholesale cost which was built into the reduced rates. The demand charge is not part of the general fund transfer.

He said there are a couple other areas still being reviewed which could benefit the small general service customers and prevent them from going to medium general service at 3,500 kWh.

Mr. Grier emphasized that Mr. Kumar is confident with the rates being proposed.

MONTHLY FINANCE REPORT

Chairman Pikus reported that through the fourth month of Fiscal Year 2011-2012 with 33% of the fiscal year having passed, 41.2% of revenues have been received and 31.1% of the operating budget expended.

Mr. Pikus moved to accept the October finance report, seconded by Mr. Morrow. Motion carried.

Executive Session

Mr. Pikus moved to go into Executive Session pursuant to 29 Del. C. §10004(b)(2) preliminary discussions on site acquisitions for any publicly funded capital improvements and pursuant to 29 Del. C. §10004(b)(9) personnel matters in which the names, competency and abilities of individual employees or students are discussed. Motion seconded by Mr. Grier and carried.

Mayor Rogers recessed the Council Meeting at 9:05 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:24 p.m.

Executive Session Matter

No action needed as a result of the Executive Session discussion.

City Solicitor Rutt then reported that Wawa settled this past Thursday and demolition is scheduled for January 9, 2012 at the 201-203-205-207 Northwest Front Street.

Executive Session Matter

ADJOURN

Motion to adjourn Monthly Meeting made by Mr. Pikus, seconded by Mr. Starling. Motion carried.

Mayor Rogers adjourned the Monthly Council Meeting at 9:26 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

*EDAP meeting postponed.

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
November 15, 2011*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, November 15, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Karen McColley, George Pilla, William Lane, Marvin Sharp, Archie Campbell, Jamie Burk
ALSO: City Solicitor Jamie Sharp for David Rutt, City Engineer Mark Mallamo, PE, City Planner Gary Norris and Department Administrative Assistant Christine Crouch

Chairman Rini called the meeting to order at 7:00 pm noting Mr. Fry was absent. Mrs. Stevenson resigned from the commission following last month's meeting and her written resignation has been received.

APPROVAL OF MINUTES

The minutes for the October 2011 regular monthly planning commission meetings were approved by a motion by Mr. Lane and second by Mr. Pilla.

CHAIRMAN MONTHLY REPORT

Chairman Rini attended the October 24th City Council meeting where Milford Ponds was discussed and ultimately approved with a vote of 5-2. Mr. Rini was pleased to report several council members commended the commissioner's diligent work during that hearing and were very supportive.

With the Vice Chair position now vacant, Mr. Rini asked if the commission wished to nominate a new vice chair or wait until January to do so. A motion to wait until January to nominate a vice chair and secretary was made by Mr. Pilla and seconded by Mr. Lane. Motion carried unanimously following a poll of the commission.

UNFINISHED BUSINESS

NEW BUSINESS

**Morris & Ritchie Associates on behalf of Walter N. Thomas, II; Project No 11-175
Preliminary Major Subdivision-Hickory Glen
1335 Milford-Harrington Highway
Tax Map MD-16-174.00-01-21.00 & MD-16-174.00-01-22.00; 79.47+/- Acres; R-8 Zoning
Adoption of Resolution PC11-018**

Mr. Phil Tolliver of Morris & Ritchie Associates was present to represent the owner, Mr. PJ Thomas, who was also in the audience.

Prior to Mr. Tolliver beginning his presentation, Mr. Rini brought to everyone's attention comments received prior to the hearing:

Lewalski, Thomas L. & Burlene M.

1578 Holly Hill Road

Milford, DE 19963

November 15, 2011, 4:00 pm

Mrs. Lewalski is unable to attend the meeting tonight but wished to relay the following comments:

Right now there are 30 cars going out from Baltimore Air Coil onto Holly Hill Road, which is a two lane farm road.

A new road will be needed, which costs a lot of money.

There will be an overdose of kids in the area and will get into the BAC area.

There are plenty of other properties in Milford (i.e. Cascades on Airport Road) that have been vacant for more than 10 years that could be developed instead of this property. This is a bad location for the type of development and feels it should be developed into 2-3 acre, single family homes or a horse farm.

Mr. Tolliver explained the property is located along Route 14 and the rear of the property is along Holly Hill Road. The project is comprised of 71.92 acres and was annexed in 2010 with an R8 zoning classification, which supports townhouses and apartment units, which is also consistent with the Comprehensive Plan. The plan supports between five and sixteen units per acre, however this project is proposing 7.3 units per acre.

A number of items were discussed during the annexation process including the Comp Plan. Included in the Plan was a survey that was done which showed one of the things the residents requested as part of new development was townhouses and multifamily development. That sentiment is similar to Mr. Tolliver's findings have ascertained.

Also discussed during annexation was how many existing subdivisions have been approved. There is a perception that there is a glut of development, however in reality that is not necessarily the case. For example the Fry Farm across the street from the proposed Hickory Glen had engineering work done however the record plats were not recorded. Mr. Norris corrected Mr. Tolliver stating the plats have been recorded. Mr. Tolliver continued by stating back during the boom, property was going for about \$125,000 per acre. Trying to get those dollars to translate into a successful project today is difficult, which is why people see a lot of projects that bank foreclosures or short sales, etc. In this case, Eric Dunn reached out to the property owner, Mr. Thomas, and has worked out a much more reasonable price for the property that reflects reality. The end goal is the deliver to the consumer an affordable product that is well built and everyone likes and is extremely attractive product. Mr. Tolliver is excited about this project and the economic stimulation by waiving of impact fees that is going on right now.

In terms of the process this project will go through, it is in essence a three step process starting with the preliminary subdivision process, then the engineering process and finally the final subdivision after which the record plats may be recorded. Prior to this meeting tonight, on November 19th there was a DAC meeting where Mr. Norris and Mr. Mallamo were in attendance. During which comments were received.

The overall layout of the project consists of a mixed use, with a blend of apartments and townhouses. The main access road is off of Rt 14 and upon entering the split boulevard there is a large area of tree plantings. The first thing people will see is an existing lake and then the apartments are to the side of the project. He noted each one of the pods of development has a village green area where when residents look out their front door, they are looking out onto a green area, likewise with the townhouse areas. This is an active open space area instead of being paved for parking.

The centrally located main active open space is in the middle of the development and will be very walkable. In this area a clubhouse, pool and multi purpose game court is being proposed. It is the intention to allow everyone to walk to this area therefore a proposed walking trail is shown throughout the site and a boardwalk that goes through the wooded area. The proposed lakes are more than just stormwater management. The intention is to stock them with fish and have residents fish. The path around the lakes will also tie into the multimodal path along Rt 14 as well. The point being the lakes are recreational and not just stormwater management.

Sewer and water will be City and the roadways will be dedicated to the City as well. Mr. Mallamo has explained how the sewer will be provided to the site and a new pump station is proposed. All utilities will be located in the front of the buildings.

Landscaping berms are proposed around the perimeter. Along Holly Hill Road and Rt 14 will be a berm similar to the Rookery Golf Course which has the berms that rise and lower with the vinyl fencing and landscaping. No decisions have been made as of yet as to the types of landscaping on the western boundary of the project. The Code requires a six foot buffer and a twenty foot buffer is being proposed there.

In front of each building is a loading area, rather than parking. This will allow for a U-Haul without obstructing residents.

During the DAC review, comments were provided, as previously mentioned, and all of those comments have been addressed via a letter Mr. Tolliver submitted to the City and is included in the commissioner's packets. Of those comments, there are two in specific Mr. Tolliver wanted to elaborate on.

The first of which is how the open space for this project was calculated. Mr. Tolliver explained the zoning code requires 40% open space, specifically §230-19.4B (2)(f) and (3)(j) which states:
A minimum of 40% of the total area developed for garden apartments/townhouses shall be designated as open space. The Mayor and Council shall have the option to require all

or a portion of the open space to be public open space or dedicated open space, with appropriate conditions for maintenance and use.

And according to the definition of open space it cannot include parking and some other things, so what they have done is take the total area and deducted the rights of ways for the roads and everything else is what will be developed for either apartments or townhouses. They also deducted out the parking area and building footprints. When looking at this calculation, it ended up they are provided over 50% open space or 40.08 acres out of 71.92 acres. In that 40.08 acres, they have included the stormwater management lakes, which are 7.13 acres, because of their intent.

An important point Mr. Tolliver wanted to make was that based on his calculations they are providing way over what the code requires for open space. If the calculation is redone by not counting the ponds, rights of ways, townhouse lots, apartment footprints, stormwater management facilities and the wetlands it still leaves the open space proposed compliant with the code.

Regarding the alleys, which were discussed during the DAC meeting, Mr. Tolliver explained the subdivision ordinance states allies shall be provided if required by the City Engineer (§200-5D(5)). To date, Mr. Mallamo has not stated they will be required, however if he were to require them the project has enough space to install them. Mr. Tolliver would prefer not to include alleys for the following reasons.

First, after speaking with the builders, they do not want alleys and they also feel the market does not want them. The alleys would be a roughly 16' to 18' paved cart path that would run along the back side of the buildings and would be located within the green area shown.

Second, the alleys will increase the cost to the buyer by about \$5,000 to \$8,000 per unit. In the middle of the worst housing market Mr. Tolliver has seen in his 25 year experience, increasing the cost of a house due to an alley just doesn't seem to make sense. Currently the price point is \$150,000 to \$175,000 for the proposed townhomes.

Third, by having the alley in the rear of all the units, it takes away from the privacy in people's back yards because vehicles will travel it and people will be out back of their units washing their cars, etc.

Fourth, based on the location of the units to the southern end along Holly Hill Road the alleys would be located in the City's excellent recharge area, as that is where 49 town home units are located. The code allows for the Commission to waive the alley requirement.

Fifth, the alleys will be privately owned, so the maintenance will be the responsibility of the HOA. That will raise the cost of the HOA dues.

The only argument Mr. Tolliver can see being made in favor of alleys is the trash. If there are no alleys, trash pick up cannot be in the alley, and instead in the front of the buildings. Mr. Tolliver argues that is not a big deal. He lived in a townhome for several years and on trash day he would

roll his can from his back yard where it was stored, through his townhome, and would leave it in the front of the unit for pickup. After pick up, he would roll the trash can back through his townhome to the rear and store it for the week, and so on. According to him, it was really no big deal.

Mr. Tolliver noted there is an open space strip on the side of each townhouse building. That gives the owners the ability to cut their front yards without taking their lawnmowers through their living rooms.

As a recap, engineering approval must still be sought through Mr. Mallamo and then the application may come back through the City for final subdivision approval when it has outside agency approvals.

Mr. Norris questioned the open space calculation provided by Mr. Tolliver. Mr. Norris's interpretation of the definition of open space is to take 40% of the gross area. In this case that would be 71.92 gross acres x 40% = 28.77 acres required for open space. According to the code, §230-4:

OPEN SPACE — Areas of land within residential subdivisions or developments including planned unit developments that are available to all residents and/or the public and which have the purpose to provide active and/or passive recreational opportunities, maintain land in a predominantly undeveloped and natural state including lands used for:

- (1) Community gardens;*
- (2) Promotion of conservation and protection of wildlife;*
- (3) Perpetual conservation easements;*
- (4) Parks, plazas, walkways, and trails;*
- (5) Buffers or forested areas; and or*
- (6) Recreational uses as defined herein.*

Open space shall not include areas of land for the following unless otherwise approved by Council:

- (1) Wetlands or storm water management facilities;*
- (2) Drainage easements;*
- (3) Flagpole areas, including a 20-foot radius around the flagpole;*
- (4) Medians (unless designed as a park);*
- (5) Signage areas;*
- (6) Landscaping in parking areas;*
- (7) Predominantly impervious surfaces such as streets and parking lots;*
- (8) Required front, side, or rear yards;*
- (9) Any land included within designated lot lines; and or*
- (10) Utility facilities for uses such as sewer, water, gas or electric.*

There was a misunderstanding of the information provided on page 1 of the plans where Mr. Norris thought the stormwater management area was 14.69 acres, however Mr. Tolliver explained that acreage is actually the Excellent Recharge Area. With that explained, Mr. Norris

established and confirmed with Mr. Tolliver open space proposed is 30.30 acres. These acres do not include wetlands or stormwater areas. Mr. Norris agreed they have met the open space requirement of 28.77 acres required per his calculation.

Mr. Norris requested a more detailed diagram of the proposed buffering. While Mr. Norris acknowledged what Mr. Tolliver has explained during this meeting, Mr. Norris would prefer to see this on paper to reference. Since the details of the landscape plan are required at final subdivision review, Mr. Tolliver is prepared to off that diagram at that time as well as the grading diagram, which is where the berm that will resemble The Rookery will come into play.

Mr. Rini referenced the southern end of the property that is across the street from Baltimore Air Coil. He requested evergreen trees for that specific area be landscaped since BAC is an around the clock operation. Mr. Tolliver was agreeable.

Regarding the color rendition, Mr. Rini questioned what the pink active recreational open space will be since some of it is located in the parking areas. Mr. Tolliver explained parking in an apartment and townhome project is premium. What is shown as parking located in pink is overflow parking actually. Mr. Rini asked if as part of the 5.43 acres designated as active recreational open space, it included the parking areas. Mr. Tolliver stated no it did not include the parking spaces and all parking has been deducted from open space.

Mr. Rini asked how large the clubhouse will be, since the size of it determines the amount of parking required for it. Mr. Tolliver is not sure how big the clubhouse is yet, so it is uncertain how much parking will be needed, however he is certain it will meet the code requirement or slightly more.

Mr. Rini asked how Mr. Tolliver is proposing a trash can and lawn mower be taken from the back yard to the front yard without it going through the living room. Mr. Tolliver replied that is what he did for ten years and it's not that big of a deal. To be clear, the lawn mower is a problem. Mr. Rini confirmed there can be storage units in the back of the units, but no garages.

Mr. Tolliver had photo handouts to match a board he was displaying. These photos are not exact replicas of what is being proposed, however there are elements that can be committed to. He does not want to give a false impression of how these units will look like, but he assured the commission the Code will be met regarding the architectural changes and the depth of the front of the units varying.

Mr. Mallamo asked if the parking bays are all full and its trash day, where do people put their trash cans. If the commission notes on the pictures, there is a small annular space near the curb, outside of the parking area, that people pull their cans to. The trash truck will pick up there. Mr. Mallamo confirmed the cans will be placed at the drive curb.

Mrs. McColley commended Mr. Tolliver on his thorough presentation. Her concerns are with not having alleys for fire apparatus to access in an emergency. Mr. Tolliver assured her the streets are wide enough to negotiate the fire trucks. When asked if there will be any curbing painted yellow to signify no parking, Mr. Tolliver confirmed there will be. Mrs. McColley is

certain there will be times when people will park in those no parking zones and it could become an issue for emergency responders.

Mr. Pilla acknowledged the townhome trash issues have been explained and asked where apartment trash will be located. Mr. Tolliver explained they will have dumpsters which will be enclosed and landscaped around.

Mr. Campbell confirmed there will be two hour masonry or concrete fire walls between units and the buildings will be 2.5-ish stories high but not over 35', per code. When asked if the HOA will be responsible for lawn maintenance, Mr. Tolliver explained the HOA will handle common areas and the apartments, it will not handle the townhome lots because this is a fee simple development, meaning the owner of the townhome will own his own piece of land, not just the building itself.

Mr. Norris noted this project will be required to obtain site plan approval, at which time parking, the HOA documents, the landscaping plan and other issues raised tonight will be reviewed and addressed.

Mr. Campell stated this development will put another 1,000 cars on Rt 14 or Holly Hill Road and asked how that is being handled. Mr. Tolliver is working with DelDOT now to determine what improvements to the roadways and intersections will be required. At this point the entrance locations are not approved even, but they are in discussions and will make the necessary modifications or upgrades required. When this project comes back before the commission and council for final approvals, DelDOT approval will be in hand.

Mr. Campbell noted the plans indicate 24 units per apartment building and 4-8 units per townhome building. Mr. Tolliver explained what is planned is a twelve unit building joined to another twelve unit building via a 16' wide covered breezeway. Mr. Norris reminded Mr. Tolliver a 25' building separation is required per code between apartment buildings.

Mr. Sharp questioned the City's ability to supply water to the site since this is getting a little bit away from water towers. Mr. Mallamo confirmed there was sufficient supply for Amberwood, so he does not anticipate any issues for this development, which is slightly closer. That will be confirmed during engineering review though.

In addition, Mr. Sharp stated he did not want to affect BAC with their 1,000 to 1,200 jobs. Mr. Norris has asked Mr. Tolliver to add a note to the plat that recognizes BAC is an existing business and people that buy property within this development may be subject to noise, lighting, etc. Mr. Sharps point however is that the traffic on Holly Hill Road may get unbearable. Mr. Norris understands his point however this a DelDOT maintained roadway and is under their jurisdiction. Mr. Sharp can recall being told by a DelDOT representative that although they may have jurisdiction, they are sometimes curious as to why the City goes along with some of the proposed developments. The other commissions were unable to recall such statements although Mr. Tolliver noted about two years ago DelDOT changed their requirements so that smaller scale projects cannot sail under the radar without so much as a traffic impact study. Since the housing

boom, the changes DelDOT has implemented require more scrutiny of most all developments, regardless of size.

Mr. Sharp noted he has not asked any fire protection questions this evening is because this property is not even in Carlisle's fire district; it is in Houston's district.

In regards to the stormwater ponds Mr. Burk asked how deep the ponds are being proposed. Mr. Tolliver stated state requirements do not permit any deeper than 6' and that would be for the permanent pools. When asked if there is a permit difference in constructing a lake versus a stormwater pond, Mr. Tolliver explained he refers to them as lakes even though they are indeed stormwater ponds, because the aesthetic feel the ponds are going for and the fact they are going to stock them with fish and install fountains. They will not look like a manufactured synthetic stormwater pond that most other developments have. He continued that when entering off of Holly Hill Road, there is a small bridge in the route to make it feel like you are driving over a lake, which are in reality the stormwater ponds.

Mr. Burk asked what the cost is to maintain the lake concept versus a normal stormwater pond. Mr. Tolliver explained US Fish and Wildlife will stock them for free, it just needs to be coordinated.

Mr. Burk confirmed with Mr. Tolliver the open space requirements would still be met if the alleys are required by the City. Should they be required by the City, a new plan would be brought before the commission and council to review and approve.

In looking at the recharge area, Mr. Burk noted there are a good number of units as well as parking in the recharge area and asked why if it's not a good idea to have a multimodal path in this area, it is fine to have units and parking there. Mr. Tolliver stated there cannot be zero impervious surface because that would be a land taking and diminution of property value. The code says 35% can be impervious. What is proposed is well below. Should the City require the alleys, the project will still be below the 35% threshold as well. Those numbers have been double checked.

Mr. Rini called for public comments.

Mr. Chris Hill residing at 1243 Holly Hill Road asked why the application states 79.47 acres but everyone is referring to 71.92 acres for the site. Mr. Rini explained that was a clerical error and the correct figure is 71.92 acres. He apologized for the mistake. Mr. Hill asked what if DelDOT does a traffic impact study and determines there is too much traffic on the road and does not give their approval. Mr. Norris stated DelDOT may have an option to deny their entrance approval which means the project goes away. In addition, Mr. Hill questioned how fire trucks will get to the back side of the townhomes. Mr. Norris explained there is open space between each townhome cluster that he assumes may not be big enough to drive a vehicle through but a ladder could be brought through.

Mr. Bob Southard of 1539 Milford Harrington Hwy stated there are 72 acres that need 28.80 acres open space which leaves 43 acres of developable ground. In the R8 zoning designation, it

permits 8 units per acre of developable land, which means the gross acres minus the open space. If that is the case, only 344 units are permitted per the R8 zoning, not 512 units. Solicitor Sharp read from the R8 zoning code (§230-19.4B (2)(a), (3)(a), and (b)) where it reads the number of dwelling units per acre shall not exceed eight. He noted there is no reference to whether that is developable or gross acreage.

Mr. Southard referred to the same chapter and zoning district and read §230-19.4D (1)

District Regulations Allowable density shall be based upon the net developable land for any given parcel. Net developable land shall be equal to the gross acreage of the parcel minus nondevelopable acreage, including regulated state and federal wetland areas, the one-hundred-year floodplain as depicted on the most current FEMA panels and conservation easement areas.

According to that section of the same zoning code, the city must subtract the non developable acreage to determine the density. Mr. Norris and Solicitor Sharp reviewed the section of the code Mr. Southard was referring to and Mr. Rini stated the issue will be reviewed and addressed.

Mr. Southard pointed out there is a natural spring in area as well which looks like there are no stormwater plans for that area and a parking lot on top of it. That will create drainage problems and he is just making sure the developer is aware of the issue. Mr. Norris assured Mr. Southard Kent Conservation will be involved in the review process of this project and they will make a determination as to how best to handle the drainage of the land. That is their area of expertise the city relies upon.

Mr. Southard referred to the definition section of the zoning code where it states apartment buildings can have up to 12 units per building. Mr. Norris stated the code does not say anything about the number of units per building. Mr. Southard directed his attention to the application where it reads “Number of units per apt bldg: 6-12 permitted; 24 proposed”. Mr. Southard felt the reason for the requested higher number per building is so the developer can reduce his costs. It will cost less to build one building of 24 units instead of two buildings with 12 units each.

Mr. Norris stated according to his interpretation there is no regulation in the R8 zoning that restricts the number of apartment per building. Mr. Southard referred Mr. Norris to §230-4

MULTIFAMILY DWELLING - A building designed for occupancy by three or more families living independently of each other and containing three or more dwelling units. Such buildings shall consist of the following types:

- (a) GARDEN OR LOW-RISE APARTMENT — A multifamily dwelling containing six to 12 dwelling units and not exceeding three stories in height.*
- (b) TOWNHOUSE — A multifamily dwelling containing three to eight dwelling units and not exceeding 2 1/2 stories in height, having a solid masonry fire wall between each unit and individual separate access from the outside to each unit.*

In addition, Mr. Southard asked that the City Solicitor be made aware of this issue.

Regarding the berms, Mr. Southard asked if there will definitely be berm along the western property boundary line and in northwestern corner. Mr. Tolliver asked to address that question,

however Mr. Rini suggested the public comments be completed and then Mr. Tolliver can address all and any he wishes.

Mr. Southard questioned whether BAC had been contacted regarding this subdivision. It was confirmed BAC was included on the public notice mailing, just as Mr. Southard was, and did not provide any comments.

Referring to the annexation process for this property, Mr. Southard recalled the Planning Commission recommended the property be annexed as R1 and City Council changed it to R8. Mr. Southard really hopes the commission reviews the density numbers based on that history.

Mrs. Ann Southard also of 1539 Milford Harrington Hwy explained the proposed entrance to this subdivision is .2 mile from light at Holly Hill Road. She cannot imagine what this will be like with 300 more cars on the highway. Her driveway location creates a Russia Roulette with trying to not get hit from behind while trying to cross traffic to turn in. It will be even more dangerous with an additional 500 cars on the road. She has countless times had to quickly turn into the lane to keep from being hit, continue past her driveway to keep from being hit, and has had to veer to the shoulder to keep from being hit. Further, she is concerned with the proposed bridge coming out onto Holly Hill Rd because it can freeze which is a hazard. She recommended the commission ride to the intersection at Holly Hill and Canterbury during a shift change at BAC and just see what that intersection is like. There is a lot of traffic on those roads included loaded BAC trucks, chicken trucks and school busses, not to mention regular vehicles. In addition, she is concerned that not everyone that rents apartments is a kind and honest person and may come onto her property and things disappear.

Ms. Phyllis Morton of 1473 Milford Harrington Hwy stated she has lived there 63 years and is just now hearing it's not in the Carlisle fire district. She has received a letter from both Houston and Carlisle every year for a donation and each year she gives Carlisle money. She stated that won't happen again. She asked if she has a fire, who will come to her house. Mr. Sharp replied Houston is the department that is responsible for this area. Ms. Morton understands development will happen, but she hopes the developer understands the ground water in this area is high and she routinely has to use a sub pump in her basement.

Mr. Danny Morton of 1774 S Yellowwood Dr in Lincoln stated he lived with mom Ms. Morton for more than 20 years so he knows what he's talking about. He heard the developer say he's excited about this development. He also gets excited when goes by Cascades and sees the pipes coming out of the ground. He also gets excited when he goes by Central Parke on S Walnut Street and sees a perfectly good farmland sitting doing nothing. And he really gets excited about seeing beautiful vacant townhouses at Watergate. He gets excited about all these projects sitting doing nothing. He asks the commission to take this into consideration and not tear up even more land that is valuable and then leave it.

Noel Primos of 144 Church Hill Road questioned the waiver requested for the units per building. He is asking why the waiver is being requested if it is not needed. He also referred to the application that Mr. Southard pointed out. Mr. Norris explained those are notes that were written on the application by the City staff, which was taken from Chapter 230-4 which refers to the

definition of Multifamily Dwellings. Mr. Norris directed Mr. Primos' attention to the R8 section of the same chapter and stated nowhere does it state a limit on the number of units per building type. Mr. Primos asked why the definitions section of Chapter 230 does not apply to later sections of Chapter 230. Mr. Norris advised that will be reviewed.

Referring to another issue Mr. Southard commented on, Mr. Primos asked what the acreage of the state and federal wetlands on this parcel is. Mr. Norris replied 2.64 acres according to the information provided by the developer and Mr. Norris did not think there was any 100 year flood plain on this parcel. Mr. Primos asked if there are any other areas on the parcel that are considered non developable and Mr. Norris replied no. According to Mr. Primos' calculations 71.92 gross acres minus 2.64 non developable acres equals 69.28 acres are developable.

Mr. Rini called for any additional further comments and hearing none closed the public comment hearing at 9:00 pm.

Mr. Tolliver explained during the annexation process it was his recollection that the Planning Commission recommended R3 zoning and the City Council ultimately approved an R8 zoning designation.

Regarding the units per building, Mr. Tolliver reiterated the buildings will be 12 units per building, but will be connected by a 16' wide covered breezeway, leaving a 12 unit building connected to another 12 unit building. There will not be a shared party wall though between the 12 unit buildings. He acknowledged the plans submitted do refer to 24 units per building.

Referring to the density questions raised, Mr. Tolliver quoted 230.19-4 D:

Net developable land shall be equal to the gross acreage of the parcel minus nondevelopable acreage, including regulated state and federal wetland areas, the one-hundred-year floodplain as depicted on the most current FEMA panels and conservation easement areas

He stated that is what was done on this project. It does not say "including, but not limited to". This is a predictable, reliable code that is used by many jurisdictions. How this number is derived is by taking the gross acreage (71.92 acres) and deduct wetlands (2.64 acres) and you get the net acreage (69.28 acres) and thus the allowable density (554 units allowed).

In terms of the berm on the western property line, the details will be worked out with absolute consideration of the existing lands and the neighboring properties. Mr. Tolliver is committed to ensuring there is a landscaped area there though to provide a buffer from the adjacent property. That was agreed to a year ago, and he is honoring that agreement. Simply put, the project is not at the point where those details are known. They will be and the public will have the opportunity to review them.

Mr. Rini assured the public their concerns are being documented and the issues raised will be taken under advisement and reviewed. The public will be in loop during the remainder of this process as well.

Mr. Rini called for a motion on the application. Mr. Sharp made a motion to table the application until the December Planning Commission meeting based on the multitude of questions that were raised without detailed answers provided to the public. He personally does not feel comfortable voting on this when he feels the leadership is not 100% sure what is being done. Mr. Campbell seconded the motion. Motion carried unanimously following a poll of the commissioners.

Mr. Rini asked for the Solicitor and Mr. Norris to meet and outline the public comments raised this evening and obtain answers to those questions that went unanswered. He would like that outline and answers forwarded to the commission for the December meeting. Mr. Rini announced to the audience the application will be heard again by the commission on December 20th.

Mr. Rini called for a recess at 9:08 pm.

Mr. Rini called the meeting to order at 9:17 pm.

**Landmark JCM on behalf of Milford Plaza Enterprises LLC; Project No 11-168
Final Site Plan-Milford Plaza
600 N DuPont Blvd
Tax Map MD-16-183.09-01-04.00; 21.44+/- Acres; C-3 Zoning
Adoption of Resolution PC11-019**

Mr. Solomon McCloskey with Landmark JCM requested the commission defer this item until the December meeting. All commissioners were in agreement to add this item to the December agenda.

**Davis, Bowen & Friedel Inc on behalf of Unity Development LLC; Project No 07-009
Final Site Plan-Misphillion Landing
608 NE Front Street
Tax Map MD-16-183.07-01-24.00, -27.00, -27.01, -27.02; 6.71+/- Acres; R-3 Zoning
Adoption of Resolution PC11-020**

Mr. Ring Lardner, PE with Davis, Bowen and Friedel was present on behalf of the owner requesting final site plan approval for 102 apartment units to be known as Misphillion Landing.

The preliminary approval was for 81 units, however it received variances from the Board of Adjustment on April 14, 2011 that allowed 2.25 parking spaces per unit and permitted buildings A and B to contain 24 units each and buildings C, D and E to contain 18 units each.

By receiving those variances, it allowed the location of the building to be pulled significantly away from the Misphillion River which is obviously beneficial to both the environment and the cost of the project. Also in modifying the location of the buildings, the need for a new pump station has been eliminated as well, which is beneficial to the city.

Mr. Lardner gave a brief overview of the site include dumpster locations, the reduction of impervious surface, the location of sidewalks and general layout.

Mr. Lardner noted the four sided elevations of the buildings were not included in the submission packet and thus reviewed an electronic copy on the overhead projection system. Further, he noted there is a possible marina shown on the plans however it yet to be determined if that will be developed as a marina or a fishing pier. That will ultimately be determined by the developer upon construction, at which time the proper permits with the proper agencies will be obtained.

Mr. Rini called for public comments. Hearing none called for questions from the commissioners.

A motion by Mr. Burk to approve resolution PC11-020 was seconded by Mrs. McColley. Motion carried unanimously following a poll of the commission.

With no further business, a motion to adjourn by Mrs. McColley was seconded by Mr. Campbell. The meeting adjourned at 9:38 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary

**CITY OF MILFORD
PLANNING COMMISSION**

*Minutes of Meeting
December 20, 2011*

The regular monthly meeting of the Milford Planning Commission was held in the Joseph Ronnie Rogers Council Chambers, 201 South Walnut Street, Milford, DE 19963 on Tuesday evening, December 20, 2010.

PRESIDING: Chairman Charles Rini
IN ATTENDANCE: Karen McColley, George Pilla, William Lane, Marvin Sharp, Archie Campbell, Jamie Burk
ALSO: Solicitor Jamie Sharp on behalf of David Rutt, City Planner Gary Norris and Department Administrative Assistant Christine Crouch

Chairman Rini called the meeting to order at 7:02pm noting Mr. Fry was absent and wishing everyone a Merry Christmas and Happy New Year.

APPROVAL OF MINUTES

The minutes for the November 2011 regular monthly planning commission meetings were approved by a motion by Mr. Pilla and second by Mrs. McColley.

CHAIRMAN MONTHLY REPORT

Chairman Rini noted the hand out given to the commissioners regarding the 2012 planning commission meetings.

Again Chairman Rini reported one vacancy exists for Mrs. Stevenson and effective tomorrow Mrs. McColley's resignation takes effect. These vacancies were discussed during a recent council meeting.

UNFINISHED BUSINESS

**Morris & Ritchie Associates on behalf of Walter N. Thomas, II; Project No 11-175
Preliminary Major Subdivision-Hickory Glen
1335 Milford-Harrington Highway
Tax Map MD-16-174.00-01-21.00 & MD-16-174.00-01-22.00; 79.47+/- Acres; R-8 Zoning
Adoption of Resolution PC11-018**

Chairman Rini recalled this application was tabled at the November Planning Commission meeting due to unresolved questions that arose. A meeting between Mr. Norris, Solicitor Sharp and Chairman Rini was held where those questions were discussed at length. Solicitor Sharp drafted a confidential memo, citing attorney client privilege, explaining how the answers to the unresolved questions were determined, citing specific articles of the city code.

In summary, Solicitor Sharp explained there was a question as to whether the open space requirement was met. In Solicitor Sharp's opinion, the open space has been met.

Regarding the density of the site, in Solicitor Sharp's opinion the density is within the density allowed per code.

According to Solicitor Sharp, the number of units proposed per garden and/or low rise apartment, as provided by the applicant, is within the limits of the code. The applicant is proposing 16 apartment pad sites and from the proposal it appears there are two buildings per site that are connected by a 16' breezeway. Each building would include 12 units. There was confusion at the last meeting about whether there are 24 units per building or 12 units. It appears there are 12 units per building and there are 32 buildings. The definition section of the zoning code requires garden or low rise apartments buildings contain between six and twelve units. Based on this information, it appears the number of units per building is acceptable.

As to the question regarding whether the space proposed between the buildings is within the requirements of the code, Solicitor Sharp explained the applicant is proposing a 16' covered breezeway between the apartment buildings and their position is that this is acceptable per the code. There is not mention in the R-8 section of the zoning code regarding the distance between individual apartment buildings. It does state there must be 25' between groups of buildings and that there must be at least 16' between individual condominium buildings. It is silent as to the distance between individual apartment buildings. Due to the silence in the code on that, the R-3 zoning district was looked at, because the R-8 district states that all uses permitted in an R-1, R-2 and R-3 district, subject to its area regulations, unless otherwise indicated in the R-8 district as provided. In the R-3 district it states that each building or group of buildings must be at least 25' from any other building or groups of buildings. Using that information, it was determined the individual apartment buildings should be 25' from one another, as opposed to 16' as the applicant is proposing.

Again, Solicitor Sharp provided the commissioners and council with his reasoning for these determinations in the memo they have received.

Chairman Rini recalled the public hearing was closed on this application at the last meeting, with only the answers to the questions raised needing to be discussed this evening. Now that the commission has heard those answers, he stated no comments from either the public or the applicant will be heard tonight.

In asking for Mr. Norris' opinion on the direction the commission should take with this application, Mr. Norris advised the commission may recommend to council the approval of the application as it is proposed, recommend approval with conditions or recommend the denial of the application. Chairman Rini asked the commission to give their comments on the application.

Mrs. McColley asked why the code requires a 25' building separation. She assumes it is due to fire apparatus. Mr. Norris believed she was correct. It will allow fire apparatus, EMT units, ladders, etc to gain access completely around the building and access the higher floors. Mrs. McColley was concerned with whether a 16' building separation would inhibit such life saving efforts. Mr. Norris also commented the proposed 16' building separation will be covered.

Mr. Pilla asked if the covered breezeway between the buildings then make the two buildings actually one building. Solicitor Sharp explained the code did not appear to be as clear on that issue and he looked at it from the standpoint that there is one pad site with two separate buildings

located on it, connected by a 16' breezeway. So those buildings are considered an individual apartment building and they have a 16' building separation, but looking at the R-3 code, it should be 25' building separation. Mr. Pilla asked if the plan would need to be conditional upon a variance approval. Chairman Rini stated yes they could go to the Board of Adjustment.

Mr. Lane had the same question. He felt there may be some buildings in the City that have a 16' building separation, which is a common area to get in and out of apartments, but he is concerned with the lack of 25' building separation. Fire apparatus plays a role in this issue.

Chairman Rini explained there can be a 25' distance between buildings, but if someone plants a tree in that 25' it defeats the purpose.

Mr. Sharp referred to a fire that occurred in Claymont yesterday where because emergency responders could not get to the upper stories of the building because the buildings were so close together, there are now between 15 to 18 families left homeless. His opinion is the 25' building separation is crucial.

Mr. Campbell agreed the 25' building separation should be maintained because of the safety hazard. The ordinance states 25' and he feels the commission should stick to it.

Mr. Burk stated everyone brought up valid questions and he agrees with most of them. If the code says 25' between buildings, then we should require it. It really comes down to what is determined to be a building.

Mr. Norris asked the commissioners how they felt about the number of units per building that they would like to discuss. Do they feel 24 units is acceptable or no. The consensus was twelve units is the maximum.

Mr. Pilla again asked if the two twelve unit buildings are sharing a contiguous roof, via a 16' breezeway, is that one building? Chairman Rini stated that is to be interpreted for himself because it is not spelled out clearly in the code. To him there is no answer. Mr. Pilla stated the 25' is not only for fire apparatus to gain access to the building perimeter, but also to keep combustible material separated. He feels the contiguous roof makes the twelve unit buildings actually one building.

Solicitor Sharp referred to Chapter 230-4, Article I, Definitions. The definition of a building is any structure having a roof supported by columns or walls used for the shelter, housing or enclosure of persons, animals or property. Chairman Rini felt a breezeway is not a shelter.

Mrs. McColley stated the applicant has proposed, at the last meeting, twelve unit buildings, which means there needs to be 25' building separation between the twelve unit buildings. If the applicant wishes to amend that and make the buildings 24 unit buildings, meaning twelve units connected to another twelve units via a 16' breezeway, then the units per building are 24, which exceed code.

Mr. Norris asked that the motion be very specific if there are conditions placed on the resolution. Again Chairman Rini stated the applicant can go before the Board of Adjustment, depending on the restrictions the Commission recommends.

Mr. Sharp stated what makes the most sense to him is for them to go back and redesign the site to comply with the 25’ building separation and the twelve units per building requirement. They could come back in January or February to have the project reviewed again. That way the commission is not jumping through hoops. Mr. Sharp made a motion to table the application and to come back with a redesign. Realizing conditions could not be placed on tabling the application, Mr. Sharp then withdrew his motion.

Mr. Rini made a motion to recommend approval of resolution PC11-018 with the condition the applicant will demonstrate they meet the 25 foot building separation, inclusive of breezeways, between all low rise and garden apartment buildings as well as townhouse buildings. Mr. Campbell seconded the motion. Motion carried with the following votes:

Mrs. McColley	Yes
Mr. Pilla	Yes
Mr. Lane	Yes
Mr. Sharp	No
Mr. Campbell	Yes
Mr. Burke	Yes
Mr. Rini	Yes

Landmark JCM on behalf of Milford Plaza Enterprises LLC; Project No 11-168
Final Site Plan-Milford Plaza
600 N DuPont Blvd
Tax Map MD-16-183.09-01-04.00; 21.44+/- Acres; C-3 Zoning
Adoption of Resolution PC11-019

Chairman Rini recalled this item being deferred from last month’s agenda.

Mr. Sharp recused himself from the meeting and joined the audience.

Mr. Solomon McCloskey of Landmark Engineering was present on behalf of the owners. He explained the application is for final site plan approval to add a 15,000 square foot addition to the end of Peeble’s department store and a 42 square foot pad site in the Milford Plaza Shopping Center. Agency approvals, including the Fire Marshal, DelDOT and Conservation District have been obtained and forwarded to the City.

Chairman Rini confirmed landscaping improvements in parking lot are also part of this project.

Mr. Norris explained to Mr. McCloskey a variance may be necessary for the site signage, depending on what the tenants propose.

When asked if the commissioners had any questions, Mr. Campbell confirmed the entrance at Donut Connection is being closed as part of this project as well. Mr. McCloskey explained due to the traffic study that was performed, it was determined the accident history was higher than desired and therefore the entrance must be closed. The access points on Rt 14 and Rt 113 will remain.

Chairman Rini called for public comments.

Mr. Marvin Sharp, President of the Carlisle Fire Department, addressed the commission by stating while the fire department encourages growth, their first concern is with safety. The first concern is with the addition along side of the Peebles store. The entrance to and from the site is pretty much directly across to the entrance that goes out onto the service road from the Carlisle Fire Company's parking lot. The department has grave concerns there that tractor trailers will be zipping through the parking lot. They understand that the developer cannot control and individual driver, however a mechanism to keep tractor trailers from going out of there as guys are coming in to respond to alarms or equipment is returning and going out the side of the building.

The second issue is when 20% of the parking, which is no fault of the property owners, it is the famous DelDOT conspiracy, that traffic has got to get out somewhere. Mr. Sharp is used to going out the side by Peebles to get out to Front Street. Again, that is going to create more traffic for the fire department. The fire company's concern is down the road, after this is done, if it starts to create heartburn, if they could go back to the developer and say, as a good neighbor today, if you would consider saying something 'if it creates a hardship in the immediate future, we need to move something or come up with a solution, at your expense' so the fire company doesn't have to bear the expense.

For those that may or may not know, the parking lot entrance/exit that Mr. Sharp is referring to is a recorded easement on the fire department's property that was established when Raymond Masten, Brown Thawley and Tom Draper was involved in it.

The only problem the fire department has with the proposed plan is how it will affect the department going in and out, as far as response on a Friday nights with responders getting in because of the additional traffic because of the Donut Connect entrance being closed. Mr. Sharp recognized the entrance closing is no fault of the property owners.

He continued by stating down the road no one knows what affect this may have and if the department can come back and say 'this is affecting us, we've got to sit down and work out a solution'.

Chairman Rini asked for an elaboration on the easement Mr. Sharp referred to. Mr. Sharp explained there is an easement allowing access to the fire department from the service road that connects to Front Street. Raymond Masten and Brown Thawley gave, to the fire company, that easement through there so that the service road could never be closed, if in case the fire department got into an argument with the city or with somebody, without the fire department saying yes.

Hearing no further public comments, Chairman Rini closed the public comments.

Chairman Rini made a motion to adopt resolution PC11-019, seconded by Mr. Pilla. Mr. Campbell asked if anything Mr. Sharp stated would be included in the motion. Chairman Rini replied Mr. Sharp's was a public comment and he did not include it in his motion. Mr. Campbell asked why Chairman Rini did not include it in his motion.

Chairman Rini stated 20 years down the road if they feel the traffic flow is too much for them, who do they go back to. He sees their concerns and he has concerns with the total closure of the entrance by the Donut Connection. He feels there should be a right in at that entrance for the fire department to go zip in front of Peeble’s instead of zig sagging through the parking lots; however that is, as Mr. Sharp stated, DelDOT’s magical wisdom. Chairman Rini doesn’t know that the City can get around it or if the developer can get around it. It’s a DelDOT decision. He suggested Mr. Sharp go back to the fire department and ask them to make a formal request to DelDOT to reconsider that entrance for emergency right in before the developer gets to the point of developing or constructing that piece of property. He doesn’t know how much pull the fire department has with DelDOT. Chairman Rini stated his motion was to adopt the resolution as is because the plans were submitted, they’ve met all the requirements, and while we don’t totally like what DelDOT did but that’s not the developers fault. They did what they were asked to do.

Mrs. McColley stated if there is a fire, Mr. Sharp has a valid point. She asked if there is any way to widen the service road that runs from Front Street and behind the shopping center. Chairman Rini stated he hates to put it back on the fire department but he thinks at this time they are the only ones that can. The City cannot override a DelDOT decision. They are the supreme commander in this. Our requirements include the DelDOT approval, and this is what DelDOT approved. Chairman Rini would like to see the fire department push as hard as possible for some kind of reconsideration from DelDOT.

Mr. Sharp raised his hand in the audience to speak again however Chairman Rini stated the public comments are closed.

Chairman Rini called for a poll of the commissioners. Motion carried with the following votes:

Mrs. McColley	Yes
Mr. Pilla	Yes
Mr. Lane	Yes
Mr. Campbell	Yes
Mr. Burk	Yes
Mr. Rini	Yes

At 7:44 pm Mr. Sharp announced he is done and resigned. Directing his comments in Chairman Rini’s direction, he stated he never considers anything the fire company ever asks for, he doesn’t need him, and he doesn’t need the fire company’s input, so he is done. He then exited the building.

**Davis, Bowen & Friedel Inc on behalf of Siobain-VI, LLC: Project No 11-176
 Preliminary Site Plan and Modification of a Conditional Use-Cascades
 Airport Road
 Tax Map MD-16-173.00-01-01.03 through -04.18; 19.15+/- Acres; R-3 Zoning
 Adoption of Resolution PC11-022**

Mr. Ring Lardner with Davis, Bowen & Friedel was present to represent on behalf of the the applicant. They are seeking a conditional use modification and preliminary site plan approval for phase I of II.

He then provided a history of the project explaining the project was originally approved in 2007 as a subdivision that included pod homes, meaning multiple single family homes on one lot. Upon that approval site work began to include electric, water, sewer and streets.

Currently the roads have been constructed up to base course and curbing. Storm drain infrastructure has been installed as has the stormwater management pond and the as-built has been accepted by Kent Conservation District. The sewer infrastructure has been installed and it is his understanding only the 10" main has been accepted by the City and is currently in use. The pump station has been installed and accepted by the City, and from his understanding the warranty period has expired. The water system has been installed yet not accepted by the City. The project has substantially begun although no homes have been built.

This will be a Delaware State Housing Authority project with a construction start date of May 2012.

Mr. Lardner explained what is being proposed as part of the conditional use modification is instead of 81 single family homes, there will be 16 buildings consisting of 142 dwelling units and a clubhouse including an after school care for the development residents.

Regarding the specifics of the site, Mr. Lardner explained the electric is to run behind all the buildings and all parking is in the rear and side of the buildings and none is located in front of the buildings. As part of the amended conditional use, a reduction in required parking is being sought. The proposal is for 248 spaces (1.75 spaces per unit) instead of the required 355 spaces (2.5 spaces per unit) for the dwelling units only. The clubhouse will have 16 parking spaces, bringing the total proposed parking spaces to 265.

The open space requirements are being met and noted their location on the plans as well as the proposed bus shelter and sidewalks on both sides of the streets. There will also be a connector sidewalk between this property and the one to the west. This is a very walkable community and in walking distance to local retail stores. He also noted all electric will run behind the buildings.

There is a 4' tall undulating berm along Airport Road to screen the development from traffic and it will be a very attractive method of landscaping along the roadway.

Mr. Lardner explained there will be an increase in traffic of 12%, which equates to 127 trips. According to DelDOT this is not considered substantial. The applicant is prepared to install a bypass lane on Airport Road in order to allow westbound traffic to pass on the right of traffic turning into the site.

This application will return to the Planning Commission for final site plan approval for Phase I and will require preliminary site plan and final site plan approval for Phase II. Upon return for final site plan approval for Phase II, the approval from Public Works, Fire Marshal and Conservation District will be submitted as well.

During the final review process, Mr. Lardner proposed a lot consolidation and re-subdivision into three lots. The intent is for the phase I to consist of 10.03 acres including buildings 1- 8 and the clubhouse. Phase II will consist of 8.91 acres to include buildings 10-16. Building 9 is the clubhouse.

Mr. James Haley with Haley-Donovan, the architects for the project, reviewed the layout of the different unit types, according to the plans provided. He also explained the clubhouse, which will house the after school care center to be administered by 4H Delaware, a tot lot facility, a warming kitchen, a leasing office, a full security system, a community garden, free wifi, etc.

Mr. David Holden with Ingerman Group explained this project is similar to Colony South, just north of Milford. There are state and federal funding sources being utilized, which puts the project on a time constraint to begin construction.

Mr. Norris asked Mr. Lardner to reiterate the acceleration/deceleration lane proposed on Airport Road, since it was not included in the packet. He understands this issue was raised prior to this meeting. Mr. Lardner explained it will not be an acceleration/deceleration lane, instead a bypass lane on the westbound lane. The bypass lane will allow traffic to pass cars turning into the development so that traffic is not backed up on Airport Road. The developer is proposing to install this bypass lane at the time of construction of phase I. It will require the widening of Airport Road in that one area but will be for the benefit of all. Because Airport Road is a City maintained road, the approval of the City Engineer will be obtained.

Mr. Campbell asked if the after school care is for Cascades residents only. Mr. Lardner stated it is.

Regarding the site specifications, Mr. Campbell asked if the parking will be adequate, since the proposal is for one parking space per bedroom. Mr. Lardner felt that the parking would be adequate. He also stated there will be security cameras installed throughout the site on each building and if possible, they are willing to have those linked to the Police Department. He also stated the clubhouse will be ADA compliant.

Mrs. McColley commended the presenters on their presentation and asked if there is a written agreement between the owners of Phase I and Phase II. She would not want to see a repeat of Milford Ponds.

Mr. Rini questioned what is full time personnel, referring to the sales office staff. Mr. Lardner explained the management and maintenance staff will work Monday through Friday from 9am until 5pm and one maintenance person will be on call.

Mr. Rini called for public comments.

Mr. Randy Marvel, 4 Archers Way, stated him and his wife ride down Bowman and Airport Roads multiple times a day and have seen the traffic increase. The sidewalks proposed are great as is the screening on Airport Road. He hopes to see sidewalks installed out to the Boys and Girls Club and recreational fields one day. He is concerned with the turn lanes and the increased traffic on Airport Road, since the unit count is going from 81 units to 142 units. Since this was approved originally, there has been an increase in traffic on Airport Road due to the construction of the Veterans Home, Boys and Girls Club, Hospice, parks and recreation fields, and the City offices relocated to the business park. The adjoining apartment complex, Milford Crossing, has a dedicated turn lane and he would like to see the same for this development or at least the bypass lane.

Hearing no further public comments, Mr. Rini closed the public hearing.

Mr. Rini made a motion to approve resolution PC11-022 with the amendment to the resolution that this be for preliminary site plan approval for Phase I and with the condition that a bypass lane on Airport Road be installed.

Mrs. McColley questioned the difference between a bypass lane and an acceleration/deceleration lane? Mr. Lardner explained this location would not be suitable for an acceleration/deceleration lane. The bypass lane would be 10' wide with another 5' wide shoulder which allows cars to pass around the travel lane, which is where the two to three cars are stopped to turn into Cascades.

Mr. Burk seconded the motion. Motion carried unanimously following a poll of the commission.

Mrs. McColley	Yes
Mr. Pilla	Yes
Mr. Lane	Yes
Mr. Campbell	Yes
Mr. Burk	Yes
Mr. Rini	Yes

Davis, Bowen & Friedel Inc on behalf of Silicato-Wood Partnership LLC: Project No 08-089

Preliminary Site Plan Extension #3-Comfort Inn

104 Silicato Parkway

Tax Map MD-16-174.15-01-01.03; 2.59+/- Acres; C-3 Zoning

Adoption of Resolution PC11-023

Mr. Tim Metzner with Davis, Bowen & Friedel was present on behalf of the owner. This is the third extension request and is because the owner is in negotiations with the purchaser of the Comfort Inn. Within the last month, the developer contacted the owner to ensure the project is still valid because the funding is still working to be secured. The developer, Dr. Awayes, owns another hotel in the area and is still interested in seeing this site developed. The applicant is seeking a one year extension in order to allow time for the developer to work with the banks.

Mr. Rini felt a third extension would be the limit. He asked if this will be the last extension. Mr. Metzner was unsure.

Mr. Norris questioned how long, in Mr. Metzner's opinion, it would take to get the outside agency approvals at this point in order to obtain final approval from the City. Mr. Metzner stated the entrance approvals are in hand, but maybe another six to seven month for the remaining approvals.

Mrs. McColley stated the code does not have a limit on the number of extensions that can be approved. Mr. Rini replied she is correct, but he is referring to his past experience with extension requests and knows the commission and council begin to get concerned at three.

A motion to approve resolution PC11-023 by Mr. Pilla was seconded by Mr. Campbell. Motion carried unanimously following a poll of the commission.

Mrs. McColley	Yes
Mr. Pilla	Yes
Mr. Lane	Yes
Mr. Campbell	Yes
Mr. Burk	Yes
Mr. Rini	Yes

City Planner Monthly Report

Mr. Norris stated his intention is to have a training session sometime in the first quarter of 2012 for the commission. More news to follow.

With no further business, a motion to adjourn by Mr. Campbell was seconded by Mr. Pilla. The meeting adjourned at 8:53 pm.

Respectfully submitted,



Christine R. Crouch
Department Administrative Assistant/Recording Secretary