

City of Milford



AGENDA

Monthly Council Meeting

Tuesday, February 16, 2010

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

PUBLIC COMMENT SESSION - 7:15 p.m.

COUNCIL MEETING - 7:30 p.m.

Call to Order - Mayor Daniel Marabello

Invocation

Pledge of Allegiance

Approval of Previous Minutes

Recognition - Adoption of Resolution/Express Condolences to the People of Haiti

Monthly Police Report

City Manager's Report

Committee Reports

Communications

Unfinished Business

- Board of Adjustment Appointments & Terms

New Business

- FY2009-2010 Budget Amendment/Water Capital Reserve Funding
- FY2009-2010 Budget Transfer/General Fund - Legal Expense
- Planning Commissioner Vacancy/Appointment of Planning Commissioner
- Approval of Construction Agreement/DP&L & City of Milford

Monthly Finance Report

Adjourn

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

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

01/06/10 01/12/10 01/21/10 01/27/10 01/29/10 Rescheduled (from 02/08/10) 02/09/10 Rescheduled 02/12/10 (from 02/11/10)

City of Milford



Resolution

Expressing sincere, heartfelt sorrow to the people of Haiti in wake of the devastating earthquake which struck the island on Tuesday, January 12, 2010

WHEREAS, Milford City Council recognizes the epic devastation that has been caused by the natural disaster that hit Haiti, and the far reaching loss of life and damage that has been sustained by the victims of this tragedy; and

WHEREAS, This horrific 7.0 magnitude earthquake has destroyed schools, hospitals, government offices, roads, bridges, and railways and left the island largely without telephone service, electricity, or running water; and

WHEREAS, A shortage of medical attention, medicines, and supplies remains a major challenge almost a month after one of the worst catastrophes in modern times, and

WHEREAS, The passing days and weeks will further reveal the enormity of this tragedy and the widespread destruction of buildings, businesses and lives; and

WHEREAS, On behalf of the citizens of the City of Milford, the Mayor and Members of Council offer their deepest condolences to the families and loved ones of those who were killed or injured, and pledge their heartfelt support through this time of grief, sorrow, and rebuilding; and

WHEREAS, Over the years, the community of Milford has been enriched by the culture, traditions, and contributions of the many Haitian Americans now living here, many of whom are immediately making their way there to search for family members and aid in rescue and relief efforts; and

WHEREAS, At this time of devastation and turmoil, Milfordians, along with people across the United States and around the world, share their grief and their concern for the safety and welfare of the victims and their future; and

WHEREAS, Now, as we continue to help the people of Haiti in their struggle back from chaos to order and the rebuilding of their lives, it is appropriate to pause to reflect on this catastrophe, to profoundly mourn the tragic loss of life and livelihood, and to applaud all those who have offered, and who will continue to provide the aid and support which will be needed, not only immediately but for many years to come.

NOW, THEREFORE, be it RESOLVED, that the Mayor and Members of the Milford City Council pause in their deliberations on this 16th Day of February 2010 to express sincere, heartfelt condolences to the people of Haiti in wake of the devastating earthquake and honor the memories of those who lost their lives, remember the survivors and praise all those who are coming to their assistance, both spiritually and otherwise.

Mayor Daniel Marabello

Attest/City Clerk

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

TO: Mayor and Members of City Council

FROM: E. Keith Hudson, Chief of Police

DATE: February 3, 2010

RE: Activity Report/January 2010

Monthly Stats:

A total of 477 arrests were made by the Milford Police Department during January 2010. Of these arrests, 137 were for criminal offenses and 340 for traffic violations. Criminal offenses consisted of 26 felonies and 111 misdemeanors. Traffic violations consisted of 19 Regular Duty Radar, 7 Drunk-Driving charges, 9 Special Duty Radar and 305 other.

Police officers investigated 43 accidents during the month (6 personal injury, and 37 property damage) and issued 128 written reprimands. In addition, they responded to 1060 various complaints including city requests and other agency assistance.

A total of \$4,037.25 was collected in fines during January.

Monthly Activities:

The second Annual Milford Police Department Citizens Police Academy began January 20th with eleven participants.

During the month of January, the Milford Police Department Narcotic Unit was awarded two seized vehicles from investigations it handled.

The Community Policing Unit attended a neighborhood meeting with Meadows of Shawnee at which time a Neighborhood Watch Program was launched. This makes their subdivision the third community to sign on for the program.

Lieutenant Brown attended a week long re-certification course in Florida for the Computerized

Voice Stress Analyzer, which is a truth verification software program. He has been certified in this area for several years which has been a tremendous asset to the department.

Lieutenant Huey attended a seminar at the Dover Downs Conference Center relating to Emergency Communications that was hosted by the Delaware Emergency Management Agency.

Six incidents justifying news releases were provided to the media.

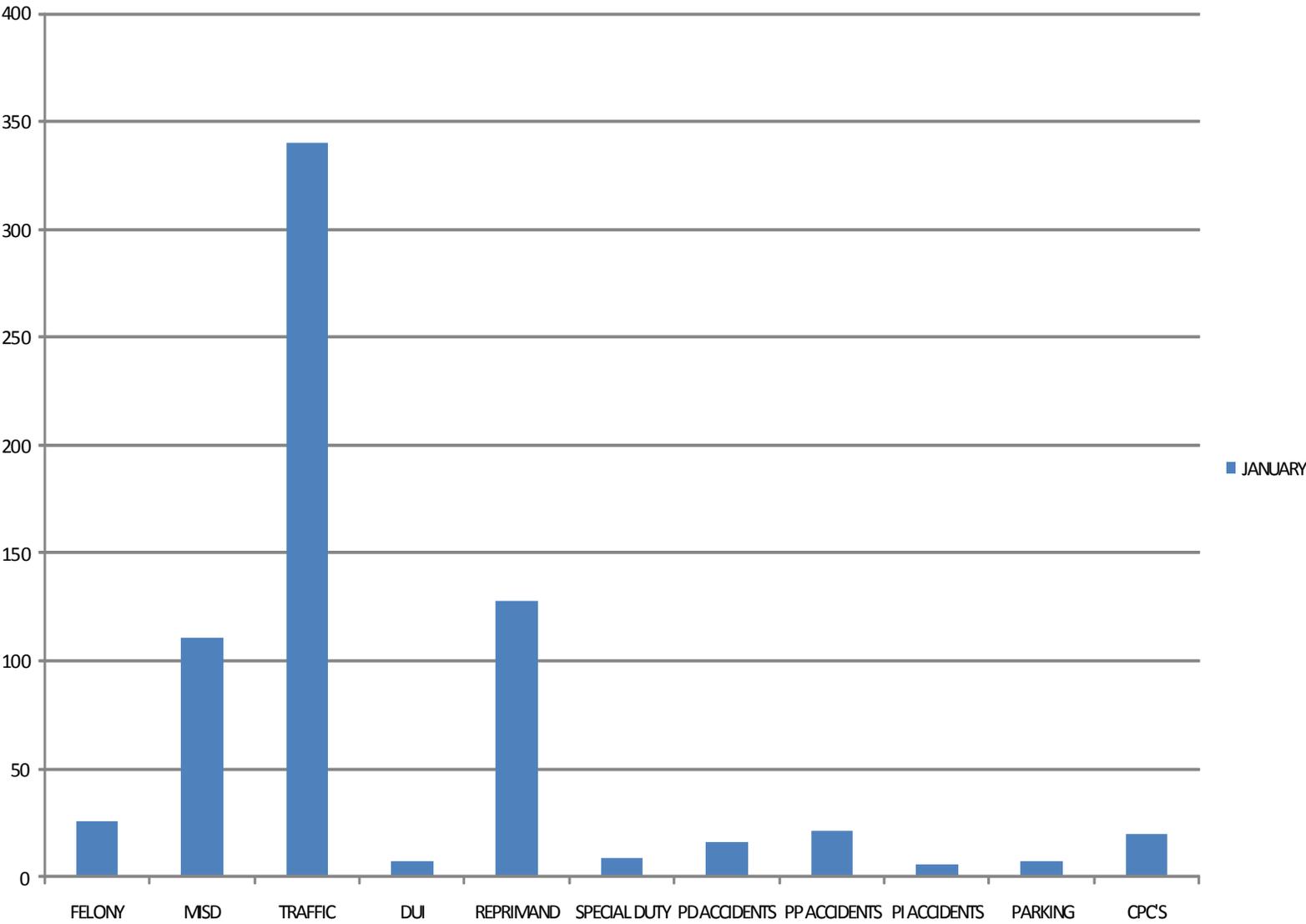
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JANUARY ACTIVITY REPORT

	<u>JAN 2009</u>	<u>TOTAL 2009</u>	<u>JAN 2010</u>	<u>TOTAL 2010</u>
<u>Complaints</u>	812	812	1060	1060
<u>Criminal Arrests</u>	275	275	137	137
Felonies	78	78	26	26
Misdemeanors	197	197	111	111
<u>Traffic Arrests</u>	348	348	340	340
Regular Duty Radar	30	30	19	19
D.W.I.	13	13	7	7
Special Duty Radar	59	59	9	9
Other	246	246	305	305
<u>Reprimands</u>	193	193	128	128
<u>Accidents</u>	40	40	43	43
Personal Injury	0	0	6	6
Property Damage	40	40	37	37
Fatal (included in PI)	0	0	0	0
<u>Parking Summons</u>	12	12	7	7
<u>Crime Prevention Checks</u>	36	36	20	20
<u>Fines Received</u>	\$7,932.45	\$7,932.45	\$4,037.25	\$4,037.25

JANUARY



City Manager's Report
February 8, 2010

- **North Front Street Sewer Project**

Work has started on the North Front Street Sewer Project with most of the work concentrated in the area of NW Front Street and Truitt Avenue and the Truitt Avenue Pumping Station. Overall, the project is proceeding as scheduled with the exception of weather delays. The first progress meeting was held on Wed. Feb. 3 between the contractor, engineer and the City. The Contractor determined that there would not be a need to increase the value of the contract to comply with the Davis Bacon Wage Rate requirement. A zero dollar (\$0.00) change order has been prepared to acknowledge this and is included in the contract.

- **Municipal Street Aid**

In FY10, the State Budget did not include any funding for Municipal Street Aid (MSA) and therefore the City's revenues dropped by \$278,000. Prior to the full reduction in FY10, the MSA statewide allocation was \$6 million. The Governor's proposed budget for FY11 includes \$4 million in MSA which would restore approximately \$183,000 in funding to Milford. I am certain there will be a great deal of debate between now and June 30 regarding this and other areas of the budget and we should not expect a final number until the General Assembly adopts a budget on June 30.

- **2009 Water Reports**

I am pleased to report that the City reduced its unaccounted water produced from 17.3% (147,396,000) in 2008 to 8.6% (67,424,000) in 2009. The City's Water and Meter Departments have done an excellent job in locating significant losses and replacing old equipment. These efforts combined with a wet 2009 have helped in reducing the City's Water losses and costs associated with the production of potable water.

- **Recycling Contract (Administration Goal)**

In anticipation of DSWA not continuing its collection of recyclables, we are preparing bid packages for the collection of recyclables beginning August 1, 2010. In addition to evaluating private contractors proposals, the City will evaluate the potential for the City to take on the responsibility to collect recycling.

- **SE Master Plan (Planning Goal)**

Mr. Norris and I have continued to work with the Office of State Planning Coordination to finalize the plan based on the comments received from the public as well as the goals outlined by the State Agencies. Additional work will include follow-up coordination with Sussex County Planners. Once the draft plan is completed, there will be a final public workshop to present the plan to the public which will then be followed by consideration of the plan by the Planning Commission and City Council.

- **GovNow Online Application (IT Goal)**

The City has launched the new online payment application for utility bills in late January. Although the site is a beta site and is operating slower than expected, it is receiving positive feedback. We encourage all City residents to visit the new site and experience what the site has to offer in the way of mapping information, tax information, and utility payment and history. We will continue to add upgrades as they become available in the coming months.

- **Recreation and Trail Plan (Parks and Recreation Goal)**

Mr. Emory has submitted a grant application for funding to complete a recreation and trail master plan. This plan will be used to identify future locations for City Parks and trail connections off of the Riverwalk to connect to key locations throughout the City. This information will be extremely helpful as the Planning Commission evaluates the proposed Open Space ordinance. We should expect to hear a final decision on our application by late February or early March.

- **Electric Substation Improvements (Electric Goal)**

The Electric Department is moving forward with discussions with property owners and preliminary survey work on potential properties for acquisition of property needed for the new electric substation and associated improvements. City Council will need to take action on the acquisition of properties as the contracts near completion over the next few months.



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
William J. DiMondi
Timothy P. Sheldon
Tonda L. Parks
Gerard L. Esposito

December 14, 2009

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

Dear David:

Enclosed please find the 'Recycle Delaware' numbers and the curbside numbers for the month of November 2009 for the City of Milford. You will be able to see the savings the City of Milford receives from sponsoring the 'Recycle Delaware' program.

Sincerely,

Rich Von Stetten
Sr. Manager of Statewide Recycling

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Attachments: City of Milford Site 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 RECYCLING REPORT

12/14/2009

Pick up Day	Town Customer Total	Total # of Households	Households picked up	weights/lbs	Tons	% PICKED UP	Avg Lbs
11/5/09		912	701	14,838	7.42	77%	21.17
11/12/09		1,061	728	17,240	8.62	69%	23.68
11/19/09		902	809	16,440	8.22	90%	20.32
11/27/09		1,062	685	15,180	7.59	65%	22.16
NOV 2009 TOTALS	1,952	3,937	2,923	63,698	31.85	75%	22

CITY OF MILFORD November-09	CARDBOARD	SINGLE-STREAM	TOTAL	USED OIL
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LOCATION	LBS	LBS	LBS	
MILFORD MIDD.SCHOOL	847	2,286	3,133	
MARSHALL ST	6,059	67,526	73,585	500
MILFORD COMMONS	2,540	16,727	19,267	
TOTAL POUNDS	9,446	86,539	95,985	
TOTAL TONS	4.72	43.27	47.99	
AVOIDED USER FEE	\$290.46	\$2,661.07	\$2,951.54	

ORDINANCE NO. 2009-13

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD, CHAPTER 230, THEREOF ENTITLED ZONING, FOR THE PURPOSE OF AMENDING THE COMPOSITION OF THE BOARD OF ADJUSTMENT TO REFLECT CURRENT STATE LAW.

WHEREAS, the City Council recognizes a need to change the composition of the Board of Adjustment to allow for further citizen involvement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MILFORD IN COUNCIL MET, HEREBY ORDAINS:

Section 1. Section 35 of Chapter 230 is hereby amended by striking the current title “Membership” and retitling section “Composition and Terms of Office”.

Section 2. Section 35 of Chapter 230, Zoning, of the Code of the City of Milford is hereby amended by striking out “consist of the Mayor, City Manager and City Solicitor or may” and adding “d” after 33 Del. C. §322 :

§ 230-35. Composition and Terms of Office.

The Board of Adjustment shall be established as provided in 22 Del. C. §322 (d).

22 Del § 322. Composition; terms of office.

(d) (1) Anything heretofore in this section to the contrary notwithstanding, any city or town, by its legislative body, may establish a board of adjustment consisting of not less than 3 nor more than 5 members who shall be residents of the city or town and who shall have knowledge of the problems of urban and rural development and who, at the time of appointment and throughout the term of office, shall not be candidates nor members of the legislative body nor employees of the city or town. The mayor or chief executive officer of such city or town shall appoint such members of the board of adjustment, and all such appointments shall be confirmed by a majority vote of the elected members of the legislative body.

(2) All appointments shall be for a period of 3 years, provided that the terms of the original members shall be established in such a manner that the term of at least 1 member shall expire each year and the successor shall be appointed for a term of 3 years. The board of adjustment so selected shall elect from among their own number a chairperson and a secretary.

(3) Any member of the board of adjustment may be removed from office by the legislative body for cause after a hearing by a majority vote of all the elected members of the legislative body of such city or town. A vacancy occurring otherwise than by the expiration of term shall be filled for the remainder of the unexpired term in the same manner as an original appointment.

Board of Adjustment Appointees:

- 1) *Sam Johnson*
104 Tenth Street

- 2) *Frank Bason*
400 Matthew Circle
Matlinds Estates

- 3) *Keith Grambling*
5 Homestead Boulevard
Hearthstone Manor

CITY OF MILFORD MEMORANDUM

TO: Mayor & City Council
FROM: David Baird
SUBJECT: Water Capital Reserve Funding
DATE: February 8, 2010

City Council is asked to increase the Water Capital budget (insert account #) by \$20,000.00 from the Water Capital Reserve Fund #202-2020-432-95-49 to replace water service lines and associated service improvements to properties on North Front Street as a part of the North Front Street Sewer Project.

The funds are being requested so that the work can be completed while the street is opened and the service lines are more accessible. The replacement of the water service lines are not an eligible expense as part of the funding from DNREC for the sewer project and therefore will need to be funded by the City. The work will replace the water service to approximately 12 properties.

CITY OF MILFORD MEMORANDUM

TO: Mayor & City Council
FROM: David Baird
SUBJECT: Transfer of Funds
DATE: January 27, 2010

City Council is asked to transfer \$25,000.00 from the General Fund Balance #101-0000-399-10-00 to Council's Legal Expense #101-1110-411-30-20 to cover the insurance deductible pertaining to the Hearthstone II legal case.

The City is subject to a \$25,000 deductible under our insurance policy and these funds were not reflected in the previous budget amendment approved by City Council on December 14, 2009. The City has been invoiced just under \$11,750 for legal services against this deductible and I have authorized this payment as we are under contractual obligation to pay.

Rec'd 01-22-10

JOHN F. KRAMLICH

419 Marshall Street
Milford, DE 19963
Phone (302) 422-9340

January 19, 2010

City of Milford
Planning and Zoning Committee
Milford, DE 19963

Dear Planning and Zoning Committee;

On December 28th of 2009 I spoke with city planner, Gary Norris, giving him my resignation. It has been my pleasure over the years to serve our city. At this time I am putting in writing that effective as of December 31, 2009, due to personal reasons, I formally resigned my seat on the Planning and Zoning Committee.

Sincerely,



John F. Kramlich

CONSTRUCTION AGREEMENT

BY AND BETWEEN

Delmarva Power & Light Company

AND

The City of Milford, Delaware

Date: _____

This Agreement sets forth terms and conditions of the construction responsibilities between Delmarva Power & Light Company and The City of Milford, Delaware for a new Milford 138kV interconnection to the Delmarva Milford to South Harrington line (circuit 13774).

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ATTACHMENT A: PROJECT DESCRIPTION AND SCOPE OF WORK

ATTACHMENT B: PROJECT SCHEDULE

ATTACHMENT C: PAYMENT SCHEDULE

ATTACHMENT D: SCOPE OF WORK AMENDMENT OR MODIFICATION FORM

CONSTRUCTION AGREEMENT

This CONSTRUCTION AGREEMENT, (“Agreement”) dated as of [date] (“Effective Date”), is by and between Delmarva Power & Light Company, (“DPL”) a Delaware and Virginia corporation and the City of Milford (“Milford”) an incorporated municipality located in the State of Delaware for construction of the project described in Attachment A to this Agreement. DPL and Milford may each be referred to herein individually as a “Party,” and together as the “Parties.”

WITNESSETH

WHEREAS, DPL is a public utility corporation that owns transmission and distribution facilities on the Delmarva Peninsula, comprising the State of Delaware and parts of the State of Maryland and the Commonwealth of Virginia; and

WHEREAS, Milford operates a municipal utility, consisting of the operation of a distribution system and the sale of electric power to end-use customers located in the Milford service territory; and

WHEREAS, both DPL and Milford have entered into an Interconnection and Mutual Operating Agreement dated November 1, 2008 ("IMOA"); and

WHEREAS, pursuant to the terms of the IMOA, Milford has requested a new 138kV interconnection with DPL; and

WHEREAS, to accommodate Milford's request, DPL will construct a new three-breaker ring bus on Circuit 13774, and Milford will construct a 138kV transmission line connecting DPL's new three-breaker ring bus and Milford's new substation (“Milford Project”); and

WHEREAS, the Parties have agreed to execute this Agreement in order to memorialize all of the requirements, terms, and conditions for the design, purchase, construction and installation of the Project Facilities and to set forth the responsibilities and obligations of the Parties with respect thereto.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, representations, warranties and agreements set forth herein, and intending to be legally bound hereby, the Parties hereby agree as follows:

ARTICLE I DEFINITIONS

Additional Work shall mean changes in the amount of Work occasioned by a Scope of Work Amendment or Modification Form.

Affiliate shall mean any other entity that directly or indirectly controls, is controlled by or is under common control with such entity. An entity shall be deemed to have control of another entity if the controlling entity owns 10% or more of any class of voting securities (or other ownership interests) of the controlled entity or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled entity, whether through ownership of stock, by contract or otherwise.

Agreement shall have the meaning ascribed to it in the Preamble.

Agreement Documents shall include collectively the Agreement, all Attachments, any modifications or amendments to the Agreement executed by the Parties in accordance with Section 22.5, and any agreed upon Scope of Work Amendment or Modification Form.

Agreement Price shall mean the price for the Work as set forth or referenced in Section 13.1.

Attachments shall mean any or all of the documents designated as “Attachments” that are attached to this Agreement.

Confidential Information shall have the meaning set forth in Section 21.2.

Construction Supervisor shall mean an employee designated by each Party as an individual who is authorized to act as that Party’s contact for all matters at the Project Site.

Design Documents shall have the meaning set forth in Section 4.1.

Dispute shall have the meaning set forth in Section 20.1.

Dispute Notice shall have the meaning set forth in Section 20.2(i).

Dispute Resolution Procedures shall mean the procedures described in Section 20.2.

Effective Date shall have the meaning ascribed to it in the Preamble.

Event of Default shall have the meaning set forth in Section 14.1.

Executive Settlement shall have the meaning set forth in Section 20.2(ii).

Facilities shall mean the facilities being designed, purchased, constructed, and installed by either Party pursuant to this Agreement as identified in Attachment A.

FERC shall mean the Federal Energy Regulatory Commission.

Final Completion shall have the meaning set forth in Section 9.1.

Final Completion Notice shall have the meaning set forth in Section 9.1.

Final Inspection shall have the meaning set forth in Section 9.2.

Final Invoice shall have the meaning set forth in Section 13.4.

Force Majeure shall have the meaning set forth in Section 17.1.

Force Majeure Event shall have the meaning set forth in Section 17.2.

Force Majeure Event Notice shall have the meaning set forth in Section 17.2.

Governmental Authority shall mean any federal, state, local or municipal government, governmental department, commission, board, bureau, agency or instrumentality, or any judicial, regulatory, administrative or quasi-governmental body having jurisdiction over the Parties.

Hazardous Materials shall have the meaning set forth in Section 10.3.

Negotiation Period shall have the meaning set forth in Section 20.2(ii).

Non-Releasing Party shall have the meaning set forth in Section 10.3.

Outage shall have the meaning set forth in Section 12.1.

OSHA shall have the meaning set forth in Section 10.1.

Partial Invoice shall mean an invoice submitted by DPL pursuant to terms of the Agreement or an Attachment which permit submission of invoices prior to Final Completion.

Party's Executive shall have the meaning set forth in Section 20.2(ii).

PJM shall mean the PJM Interconnection, L.L.C., or its successor or equivalent.

Project shall mean the overall effort of which the Work provided or performed under this Agreement will be a component.

Project Schedule shall mean the schedule for construction of the Facilities as agreed to by the Parties pursuant to Section 4.4.

Project Site(s) shall mean the site(s), location(s) and facility(ies) or area(s) of the Project.

Scope of Work shall mean a description, included in Attachment A, of any goods to be delivered, services to be performed, or Facilities to be constructed by the respective Parties under this Agreement.

Scope of Work Amendment or Modification Form shall mean the form used by the Parties to effectuate a change in the Scope of Work contemplated in Attachment A, or a change in Agreement Price.

Subcontractor shall mean an individual, firm, corporation, or other legal entity having a direct contract with either Party, or with any other Subcontractor of any tier, for the performance of a part of the Work, or any part thereof, including, without limitation, the supply of principal items of goods, services, materials, or equipment to be used in or in connection with the Work.

Taxes shall be interpreted to include all taxes, duties, tariffs, and similar levies, charges, fees or costs, other than those related to income, regardless of nomenclature and method of determination, applied by any and all authorities and jurisdictions to any and all goods and/or services furnished in accordance with this Agreement.

Third Party Inspection shall have the meaning set forth in Section 9.2.

Titleholder shall have the meaning set forth in Section 11.1.

Work shall mean all of the goods and services provided by either Party under this Agreement. The term "Work" shall include the furnishing of all labor, materials, equipment, and other incidentals. Without limiting the generality of the foregoing, the term "Work" also includes, unless the context clearly indicates otherwise, all or any part of such labor (including the services of all trades), supervision, methods, materials, equipment, and transportation, or other facilities as may be necessary to complete the Project, whether or not fully detailed in Attachment A.

ARTICLE II TERM; TERMINATION

- 2.1 **Term.** This Agreement shall commence upon the Effective Date and shall remain in effect until all payments owed by one Party to the other have been satisfied and Final Completion has been reached.
- 2.2 **Termination Upon Final Completion.** Subject to the provisions of Section 22.10, this Agreement shall automatically terminate upon Final Completion and energization of the Facilities pursuant to Article IX, and the Parties satisfaction of all other obligations under this Agreement.
- 2.3 **Termination By Mutual Consent.** The Parties may at any time mutually agree to terminate this Agreement.

- 2.4 **Termination For Cause.** Without limiting any other provision of this Agreement, either Party may terminate this Agreement in the event of the happening of any of the following:
- (i) The occurrence of an Event of Default pursuant to Article XIV that is not cured within 15 calendar days; or
 - (ii) A failure to complete construction of the Facilities outlined in Attachment A within 24 months from the Effective Date.
- 2.5 **Suspension of Performance.** In the event Milford fails to make any payment when due by the due date for such payment, DPL may, in addition to any other remedy or right it may have under the Agreement, immediately suspend its own performance of its obligations under this Agreement.
- 2.6 **Payment in the Event of Termination.** In the event of termination of this Agreement prior to Final Completion for any reason other than an Event of Default of DPL, Milford shall owe DPL a reimbursement for all costs incurred prior to the date of termination, plus any additional costs reasonably incurred by DPL as a result of such termination.

ARTICLE III REPRESENTATIONS AND WARRANTIES

- 3.1 **Representations and Warranties.** Each Party represents and warrants to the other that:
- (i) it is a legal entity validly existing and in good standing under the laws of the state of its incorporation;
 - (ii) it has full power and authority to execute and deliver this Agreement and to carry out the actions required of it by this Agreement;
 - (iii) the execution and delivery of this Agreement and the transactions contemplated hereby have been duly and validly authorized;
 - (iv) all Agreement Documents will be duly and validly executed by an authorized representative of the Party and constitutes a legal, valid and binding agreement of said Party; and
 - (v) it is not in violation of any applicable law, statute, order, rule, regulation, or judgment promulgated or entered by any federal, state, or local Governmental Authority, which violation could reasonably be expected to materially adversely affect the performance of its obligations under this Agreement.

- 3.2 **Compliance with Laws.** Each Party covenants that, during the Term of this Agreement, it will comply with all laws, rules, regulations, codes, and standards of all federal, state, and local Governmental Authorities applicable to its compliance with this Agreement.
- 3.3 **Warranty.** Either for Work a Party undertakes on its own behalf or for Work it undertakes on the other Party's behalf pursuant to Section 6.3 of this Agreement, all Work shall be performed in a good, workmanlike manner by competent, experienced workers. All Facilities shall be installed, connected, erected, used, energized and maintained in accordance with the instructions of the applicable manufacturer, fabricator, or processor, except as otherwise provided in the Agreement Documents.
- 3.4 **Project Site Conditions.** Both Parties acknowledge that they are entering into this Agreement on the basis of the condition of the Project Site of which it is aware based on its own due diligence as of the Effective Date. A Party must notify the other in writing within five working days after the discovery of any subsurface or latent physical conditions at the Project Site differing from those that were known by the Party on the Effective Date and which may reasonably affect that Party's ability to perform the Work at the Agreement Price. Upon receipt of such notice the Parties shall mutually agree upon a method of dealing with the unforeseen conditions, including, if applicable, any changes to the Agreement Price and the execution of a Scope of Work Amendment or Modification Form.

ARTICLE IV PROJECT DESIGN; PROJECT SCHEDULE

- 4.1 **Design Documents.** Consistent with the Facilities contemplated to be constructed in Attachment A, each Party shall provide the other with all available information, as required, for the completion of the Work. The drawings, specifications and other design related documents ("Design Documents") are provided to each Party by the other solely for the purpose of describing the allocation of Work that is to be undertaken by each Party. Upon termination of this Agreement for whatever reason, all sets of the Design Documents (which shall not include the as-built documents contemplated in Section 9.4) shall be returned to the Party that provided such documents. Neither Party, nor any Subcontractor, may own or claim a copyright in any of the Design Documents or any copies thereof that were prepared by the other Party.
- 4.2 **No Implied Warranty.** A Party's provision of Design Documents, or the review, approval or acceptance of the other Party's Design Documents, shall not be construed in any way as a representation or warranty to such other Party, or any other person or entity, of the adequacy, suitability, safety or reliability of the design, construction, installation or operation of the Facilities contemplated to be constructed by the other Party.
- 4.3 **Modifications to Design Documents.** After providing the final Design Documents to the other Party, a Party shall not make any significant changes to the design or

specifications of its Facilities as set forth in the Design Documents without the prior written consent of the other Party, which shall not be unreasonably withheld.

- 4.4 **Project Schedule.** No later than 20 calendar days after execution of this Agreement, but prior to the commencement of construction, the Parties shall agree upon a schedule of construction that provides for all major elements of the Project, including but not limited to the phasing of construction, and the times of commencement and completion (“Project Schedule”). The Project Schedule developed by the Parties under this Section 4.4 shall be used by the Parties as milestones towards completion of the Project. The Parties can mutually agree to alter the Project Schedule during the Term of this Agreement. The Parties agree that the Project Schedule shall be an estimate only, and neither Party shall be liable to the other for any delays in completion of the Work. Schedule B is an initial estimate of the Project Schedule.
- 4.5 **Progress Reports and Meetings.** During the Term of this Agreement, the Parties shall hold periodic progress report meetings for the purpose of coordinating the Work associated with this Agreement.
- 4.6 **Scope of Work Modifications.** Should the Parties execute a Scope of Work Amendment or Modification Form to alter the Scope of Work contemplated by this Agreement, the Parties shall mutually agree to a revised Project Schedule within a reasonable period of time after the execution of the Scope of Work Amendment or Modification Form.

ARTICLE V CHANGES OR MODIFICATIONS TO SCOPE OF WORK

- 5.1 **Changes for Additional Work.** The Parties may, at any time during the term of this Agreement, execute a Scope of Work Amendment or Modification Form providing for Additional Work to be performed. Such Scope of Work Amendment or Modification Form shall be in a format similar to Attachment D, and shall outline the Additional Work to be performed, the Party responsible for completing the Additional Work, and the Party responsible for the cost of the Additional Work to be completed. Mutual execution of the Scope of Work Amendment or Modification Form by the Parties shall constitute an authorization for the Parties to proceed with the Extra Work described therein, but shall not alter any provision of this Agreement.

ARTICLE VI PROJECT MANAGEMENT; PERSONNEL

- 6.1 **Project Management and Administration.** Prior to the commencement of any construction at the Project Site, each Party undertaking Work shall designate a Construction Supervisor as its primary contact for the Work. The Construction Supervisor shall be responsible for the conduct of all individuals, whether employees or Subcontractors, acting on behalf of its respective Party.

- 6.2 **Construction Methods.** Each Party undertaking Work shall supervise and direct the Work efficiently, and with its best skill and attention. Each Party shall be solely responsible for the means, methods, techniques, and procedures of performing the Work.
- 6.3 **Construction on Behalf of Another Party.** Should the Parties contemplate, in Attachment A, one Party performing Work on behalf of the other Party, the Party performing Work shall have the right, in its sole discretion, to determine who may perform the Work on behalf of that Party. Unless specifically agreed to otherwise in Attachment A, a Party constructing Facilities on behalf of the other Party shall have the right to use Subcontractors to perform any or all of the Work in accordance with Article VIII. The Party responsible for the costs associated with any Work performed on its behalf shall make payments to the other Party in accordance with Article XIII.
- 6.4 **Notification of Adverse Conditions.** Each Party shall give prompt written notice to the other Party whenever such Party observes or otherwise becomes aware of any development that materially affects the Work, the Project Schedule, or any defect in the Work of either Party or its Subcontractor.
- 6.5 **Labor Relations.** Each Party agrees to immediately notify the other, both orally and in writing, of any labor dispute or anticipated labor dispute of which its management has actual knowledge that might reasonably be expected to affect the operations of the other Party with respect to this Agreement.

ARTICLE VII PROJECT CONSTRUCTION

- 7.1 **Monitoring and Inspection of Construction Activities.** Once construction at the Project Site commences, either Party's Construction Supervisor or its designee may monitor the construction and installation activities of the other Party. Upon reasonable notice, authorized personnel of a Party may inspect any or all of the other Party's Facilities being installed or constructed to ensure compliance with this Agreement.
- 7.2 **Communication and Coordination.** The Parties acknowledge the importance of communication and discussion with respect to the subject matter of this Agreement, and the Parties agree to cooperate with each other and coordinate completion of the Work under this Agreement.
- 7.3 **Property Access.** The Parties agree to provide each other with any easements or access rights as may be necessary for either Party's performance of its obligations under this Agreement; provided that notwithstanding anything stated herein to the contrary, a Party performing work on the other Party's property or Facilities must abide by any applicable rules to that site as communicated by the Party's Construction Supervisor. Any rights of access granted by this Agreement shall not be exercised by a Party in any way so as to interfere with the other Party's use of its property or Facilities.

ARTICLE VIII SUBCONTRACTORS

- 8.1 **Right to Subcontract.** Subject to the terms of this Agreement, either Party may employ Subcontractors, contract employees, consultants or other non-employees, to complete any part or parts of its Work contemplated under this Agreement.
- 8.2 **No Abrogation of Liability.** No Subcontractor, or other arrangement under which either Party uses a non-employee to perform any portion of the Work, shall in any way relieve the subcontracting Party of its obligations to the other Party under this Agreement, nor purport to bind the other Party thereunder.
- 8.3 **Subcontractors Subject to Terms of this Agreement.** Each Subcontractor employed by a Party shall agree to abide by the terms and conditions of this Agreement. Upon request by either Party, the other Party shall provide written acknowledgement, executed by each Subcontractor, of compliance with this provision.
- 8.4 **No Contractual Relationship Between Parties and Subcontractors.** Except as to subcontracts expressly assumed by the other Party, this Agreement does not create any contractual relationship between any Party's Subcontractor and the other Party. Each Party shall have the responsibility to keep its Subcontractors fully informed of all aspects of Work on the Project.
- 8.5 **Each Party Responsible for Subcontractors.** Each Party shall be liable to the other Party for the acts and omissions of its Subcontractors and of persons either directly or indirectly employed by them including, specifically, an obligation to indemnify the other Party for acts and omissions of its Subcontractors as set forth in Article XVI.
- 8.6 **Subcontracting by Subcontractors.** Each Party shall ensure that its Subcontractors shall not subcontract their assigned Work or duties to any other individual, group or person not directly on their payroll without the prior written consent of the other Party at its sole discretion.

ARTICLE IX INSPECTIONS; FINAL COMPLETION

- 9.1 **Final Completion.** The Parties shall be deemed to have achieved "Final Completion" when all Work required by the Agreement Documents has been performed by the Parties and the Facilities have been energized. Each Party shall provide written notice to the other when it believes that Final Completion has been achieved for Work it has performed. The other Party will then have the option to conduct a Final Inspection of the Work within 10 calendar days pursuant to Section 9.2 of this Agreement. If required by the Agreement Documents, said Final Inspection shall include a demonstration, through

field tests, that the Work meets the requirements of the Agreement Documents. When the Parties jointly determine, based on its inspection of the Facilities and its review of all test data, that all Work has been completed in accordance with the requirements of the Agreement Documents, Final Completion shall be deemed to have been achieved (“Final Completion Notice”).

- 9.2 **Final Inspection.** Upon the completion of the installation and construction of the Facilities, each Party may have the Facilities inspected and tested by an authorized electric inspection agency reasonably acceptable to the Parties (“Third Party Inspection”). Such inspection and testing shall be held at times and on a schedule mutually agreed to by the Parties and each Party shall have the right to attend and observe, and to receive the written results of, such inspection and testing. Upon agreement, the Parties can conduct a joint third party inspection and test of the Facilities. Within a reasonable time following each Party’s receipt of the written results of the Third Party Inspection, each Party may, upon reasonable prior written notice to the other Party, perform its own inspection and test of the Facilities.
- 9.3 **Inspection Costs.** Unless agreed to otherwise in the Agreement Documents, each Party shall bear the costs of any inspection it elects to conduct on the Facilities.
- 9.4 **Final Drawings.** Each Party shall provide to the other Party a complete set of final “as-built” drawings relating to the Facilities it has constructed or installed within 90 calendar days after Final Completion.
- 9.5 **Energization of Facilities.** As soon as practicable after the Final Completion Notice, the Parties shall jointly coordinate the energization of the Facilities.

ARTICLE X SAFETY AND PROTECTION

- 10.1 **Safety Responsibilities.** Each Party shall comply with the Federal Occupational Safety and Health Act (“OSHA”) and with all other applicable laws, ordinances, rules, regulations and orders of Federal, state and local regulatory bodies who may have jurisdiction over the Work performed by either Party. In addition, both Parties shall make available to any employee or Subcontractor working on the Project available safety information and requirements, including but not limited to, material safety data sheets for all known hazardous substances to which the employees or Subcontractors might potentially become exposed.
- 10.2 **Emergencies.** In the event of an emergency affecting the safety of persons or the Facilities or other property at the Project Site or adjacent thereto, or in the event an emergency impacts PJM’s network, either Party may, without special instruction or authorization from the other, act, at its discretion, to prevent threatened damage, injury, or loss.

- 10.3 **Hazardous and Toxic Wastes.** Each Party shall indemnify and hold harmless the other Party (“Non-Releasing Party”) for any costs incurred by the Non-Releasing Party as a result of the release of any solid, universal, or hazardous waste, all as defined by federal, state, or local laws or ordinances, located at or near the Project Site (“Hazardous Materials”). Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Materials.

ARTICLE XI TITLEHOLDER; RISK OF LOSS

- 11.1 **Titleholder.** The Parties shall indicate in Attachment A which Party shall hold title to the Facilities after Final Completion (“Titleholder”).
- 11.2 **Execution of Required Documents.** The Parties agree to execute all documents required to vest title of the Facilities in the Titleholder.
- 11.3 **Risk of Loss.** Risk of loss or damage to the Facilities constructed, installed or provided under this Agreement shall not pass to Titleholder until Titleholder provides the other Party written notice of its acceptance of the Facilities. Until such point, the non-title holding Party assumes responsibility for damage to all Facilities and personnel, caused by the negligent or tortious acts or omissions of its personnel, and the personnel of its Subcontractors of all tiers, in the performance of the Work.

ARTICLE XII COORDINATION OF OUTAGES

- 12.1 **Outages.** The Parties acknowledge and agree that certain outages of the transmission or distribution facilities owned by DPL may be necessary in order to complete the process of constructing and installing the Facilities (“Outage”). The Parties shall include any known Outages within the Project Schedule developed pursuant to Section 4.4 and Attachment B.
- 12.2 **Coordination Between Parties.** The Parties acknowledge and agree that any Outage required in accordance with this Agreement must be coordinated with the operation of the PJM control area. The Parties shall coordinate such Outages with PJM and any affected generators or load at a time that would minimize the need to run off-cost generation or incur other market-related costs. Where practicable and consistent with applicable control area or PJM criteria, rules, and procedures, Milford may request that DPL delay any Outage in order to further minimize the costs for which Milford may be responsible under this Article.
- 12.3 **Cancellation of Outages.** Either Party or PJM may cancel Outages without prior notice due to an unexpected system operation condition. Should such a cancellation occur, the

Parties will endeavor to reschedule the required Outage as soon as system conditions permit.

ARTICLE XIII PRICE; PAYMENT PROCEDURES

- 13.1 **Agreement Price.** Each Party shall be responsible for the actual costs of the Work and the Facilities as allocated in Attachment A and Attachment C. The Parties agree that any estimates of the Agreement Price provided by the DPL, including those set forth in Attachment C, shall be considered to be estimates only and shall not be deemed to modify this Section 13.1, which requires that the Agreement Price shall be equal to actual costs incurred for the Work outlined in the Attachments.
- 13.2 **Cost Estimates.** DPL shall estimate the costs associated with its obligations under this Agreement, including any applicable tax gross-up, it expects to incur in designing, constructing, purchasing and installing the Facilities and performing the Work associated with this Agreement. The initial estimate is provided in Attachment C. DPL shall notify Milford if it expects its estimate to increase by the greater of: \$50,000 or 10%.
- 13.3 **Partial Invoices.** In the event that the Agreement Documents provide for invoices to be paid prior to Final Completion (“Partial Invoices”), any such Partial Invoices shall be paid within 30 calendar days of receipt.
- 13.4 **Final Invoice.** Upon Final Completion of the Work, a final invoice detailing the complete cost of the Work shall be submitted to Milford (“Final Invoice”). For Agreements that do not provide for the submission of Partial Invoices, the Final Invoice shall be for an amount equal to the Agreement Price. For Agreements that do provide for Partial Invoices, the Final Invoice shall be for an amount equal to the Agreement Price, less any Partial Invoice payments made by Milford. The Final Invoice must be paid within 30 calendar days of receipt.
- 13.5 **Billing Disputes.** To the extent there exists a good faith dispute over any amount invoiced to Milford pursuant to this Article XIII, Milford shall immediately remit payment to the other for all undisputed amounts and refer the disputed amount to the Dispute Resolution Procedures in Article XX. Milford shall be entitled to withhold payment of the disputed amount while the Parties seek to resolve the dispute. Any amount determined to be due and owing by Milford the resolution of such dispute shall include interest calculated at an interest rate equal to the prime rate in effect on the date payment of the disputed amount was made.
- 13.6 **Tax Gross-Up.** The Parties acknowledge and agree that, upon receipt of any necessary FERC approvals, DPL will include any applicable tax gross-up in invoices submitted pursuant to this Article XIII. To the extent that any portion of the payments made by Milford under this Agreement are later determined not to be subject to federal income

tax, DPL agrees to reimburse Milford for any amount already paid as soon as practicable after such determination is made.

ARTICLE XIV DEFAULT

14.1 Events of Default. An Event of Default shall include:

- (i) The failure to pay any invoiced amount when due, except as provided in Section 13.5;
- (ii) The failure to comply with any material term or condition of this Agreement, including, but not limited to, any material breach of a representation, warranty or covenant made in this Agreement;
- (iii) Insolvency of a Party, the filing of a voluntary petition in bankruptcy by a Party, the filing of a petition to have a Party involuntarily declared bankrupt, the appointment of a receiver or trustee for a Party, or the execution by a Party of an assignment for the benefit of creditors;
- (iv) Any assignment of this Agreement in violation of terms of this Agreement;
- (v) Failure of either Party to provide such access rights, or a Party's attempt to revoke or terminate such access rights, as provided under this Agreement; or
- (vi) Failure of either Party to provide any information or data to the other as required by the Agreement Documents, provided the failure to provide the information or data materially adversely impacts the recipient Party's ability to perform the Work contemplated herein.

14.2 Cure.

- (i) Any cure periods provided herein do not apply to Events of Default under Section 14.1 (iii) or Section 14.1(iv).
- (ii) Upon the occurrence of an Event of Default other than those referenced in Section 14.2(i), the non-defaulting Party shall immediately provide notice within 5 calendar days of an Event of Default ("Default Notice") to the defaulting Party. The Default Notice shall include, in sufficient detail, the nature of the Event of Default, and where known and applicable, the steps necessary to cure the Event of Default. Upon receiving a Default Notice, the defaulting Party shall have 30 calendar days to cure the Event of Default.

ARTICLE XV LIMITATION OF LIABILITY

- 15.1 **Consequential Damages.** Neither Party shall be liable to the other for any loss of profits, loss of use, loss of contracts, or for any consequential, incidental, punitive, exemplary or indirect damages arising out of or in connection with this Agreement, regardless of whether liability is based on breach of contract, tort (including negligence), warranty, statute, or other basis of liability, except in cases of gross negligence or willful misconduct.
- 15.2 **Delay in Construction.** Neither Party shall be liable to the other for any costs, expenses, losses, liabilities or damages which either Party may incur resulting from any delay in the completion of construction of any Facilities, except in cases of gross negligence or willful misconduct.

ARTICLE XVI INDEMNIFICATION

- 16.1 **Indemnification.** Each Party (an “Indemnifying Party”) shall indemnify, hold harmless, and upon request, defend the other Party, its parents, Affiliates, and its officers, directors, employees, agents, contractors, Subcontractors, invitees, and successors (each such Party, an “Indemnified Party”) from and against any and all claims, liabilities, costs, damages, fees or expenses (including, without limitation, reasonable attorneys’ fees and court costs) for any and all injury, loss or damage of any kind or nature whatsoever, direct or indirect, suffered by any person or property (which terms for the purposes of this Agreement shall respectively include, without limitation, any employees or agents of a Party, any property of either Party, or of any of its Subcontractors, or its employees or agents) and arising out of, caused by, resulting from or suffered in connection with, this Agreement except to the extent that such loss or damage is caused by the gross negligence or willful misconduct of a Party.
- 16.2 **Notice of Claims of Indemnification.** A Party seeking indemnification under this Agreement shall give the other Party notice of such claim promptly but in any event on or before the 20th calendar day after the Party's actual knowledge of such claim. Such notice shall describe the claim in reasonable detail, and shall indicate the amount (estimated if necessary) of the claim that has been, or may be sustained by, said Party. To the extent the other Party will have been actually and materially prejudiced as a result of the failure to provide such notice, such notice will be a condition precedent to any liability of the other Party under the provisions for indemnification contained in this Agreement. Neither Party may settle or compromise any claim for which indemnification is sought under this Agreement without the prior written consent of the other Party; provided, however, said consent shall not be unreasonably withheld or delayed.

ARTICLE XVII FORCE MAJEURE

- 17.1 **Definition.** Neither Party shall be considered to be in default in the performance of its obligations under this Agreement, to the extent that the performance of any such obligation is prevented or delayed by an event of “Force Majeure” which, for purposes of this Agreement, shall mean any event beyond the reasonable control of the affected Party (and the results of such events) including, but not limited to, any war, declared or not, hostilities, belligerence, blockade, revolution, insurrection, terrorism, riot, or public disorder; expropriation, requisition, confiscation, or nationalization; export or import restrictions by any Governmental Authority; closing of harbors, docks, canals, or other assistances to or adjuncts of the shipping or navigation of or within any place; rationing or allocation, whether imposed by law, decree, or regulation, or by compliance of industry at the insistence of any Governmental Authority; fire, earthquake, volcano, tide, tidal wave, or perils of the sea; typhoons, hurricanes, tornadoes, lightning, and drought; epidemic or quarantine.
- 17.2 **Notice of Event.** If either Party’s ability to perform its obligations under the Agreement is reasonably called into question by an event of Force Majeure (“Force Majeure Event”), such Party shall promptly, upon learning of such event and ascertaining that it will affect its performance under the Agreement, give notice to the other Party stating the nature of the Force Majeure Event, its anticipated duration, and any action being taken to avoid or minimize its effect (“Force Majeure Event Notice”). Such Force Majeure Event Notice shall be given no later than two calendar days after the affected Party ascertains that its performance will be affected. Failure to give such notice within the time specified shall be deemed a waiver of the relief for Force Majeure provided herein.
- 17.3 **Extension of Time for Performance.** The Party claiming Force Majeure may only extend the time for its performance for a period which compensates in time for the effect of such Force Majeure Event.
- 17.4 **Excuse From Performance.** In the event that the performance by either Party or a portion thereof is rendered impossible by a Force Majeure Event, that portion of performance so affected shall be deemed terminated and the Agreement Price shall be adjusted accordingly.

ARTICLE XVIII COMPLIANCE WITH LAWS AND REQUIREMENTS

- 18.1 **Compliance with Applicable Laws.** Each Party shall comply with all applicable international, federal, state and local laws, rules, regulations, orders, ordinances or similar provisions enacted or issued by a Governmental Authority.
- 18.2 **Compliance with Applicable Codes and Standards.** Each Party shall comply with all applicable local, state and federal codes and regulations, appropriate industry codes and standards, and accepted industry practice. Each Party shall ensure that its personnel are familiar with the above codes, standards and regulations and their appropriate application.

- 18.3 **Governmental Authorizations.** Any governmental authorizations, permits and licenses necessary for performance of the Work shall be secured by DPL and paid for by Milford, unless otherwise agreed to by the Parties. The Parties shall set forth any applicable governmental authorizations, permits or licenses required for the provision of Work, along with a schedule for receipt of such governmental authorizations, permits, or licenses, in the Project Schedule.

ARTICLE XIX INSURANCE

- 19.1 **Insurance Requirements.** Each Party shall be responsible for procuring and maintaining at its own expense the following minimum insurance, for it and any Subcontractors, in forms and with insurance companies acceptable to the other Party, or provide notice of adequate self-insurance:
- (i) Workers' Compensation insurance for statutory obligations imposed by Workers Compensation, Occupational Disease, or other similar laws;
 - (ii) Employer's Liability: \$1,000,000 per occurrence;
 - (iii) Business Automobile Liability (for all owned, non-owned, hired, and leased vehicles): \$2,000,000 per occurrence;
 - (iv) Comprehensive General Liability (including contractual liability insurance): \$2,000,000 per occurrence, and an aggregate, if any, of at least \$4,000,000. The contractual liability insurance coverage shall insure the performance of the contractual obligations assumed by DPL under this Agreement, including specifically, but without limitation thereto, the indemnification provisions of this Agreement; and
 - (v) Professional Liability (errors & omissions), where applicable, covering the professional services being delivered by DPL: \$1,000,000 per occurrence.
- 19.2 **Proof of Insurance.** Prior to the commencement of work pursuant to this Agreement, the Parties agree to furnish each other with either a statement of self-insurance or certificates of insurance evidencing the insurance coverage obtained in accordance with this Article XIX, and naming the other Party's its officers, directors, employees and agents as additional insureds.
- 19.3 **Self Insurance.** At its option, either Party may, with adequate credit assurance provided to the other Party, in conformity with established electric industry standards and practices, self-insure all or part of its insurance obligations under this Article. A Party's election to self-insure shall not in any manner result in a reduction of rights and/or benefits otherwise available to the other Party through formal insurance policies and endorsements customary in the electric utility industry.

**ARTICLE XX
DISPUTE RESOLUTION**

- 20.1 **Right to Initiate.** Disputes may arise during the performance of the Work which the Parties' representatives are unable to resolve through their normal course of business ("Dispute"). Each Party shall have the right to have such Dispute resolved through operation of the procedure ("Dispute Resolution Procedure") provided for in this Article XX.
- 20.2 **Dispute Resolution Procedure.**
- (i) Notice of Dispute. Either Party asserting the existence of a Dispute under this Agreement shall deliver a written notice ("Dispute Notice") to the other Party describing the nature and substance of the Dispute and proposing a resolution of the Dispute.
 - (ii) Executive Negotiation. During the first 30 days following the delivery of the Dispute Notice (and during any extension agreed to by the Parties, the "Negotiation Period") an authorized executive officer of each Party (the "Party's Executive") shall attempt in good faith to resolve the Dispute through negotiations. If such negotiations result in an agreement in principle among such negotiators to settle the Dispute, they shall cause a written settlement agreement to be prepared, signed and dated (an "Executive Settlement"), whereupon the Dispute shall be deemed settled, and not subject to further dispute resolution.
 - (iii) Alternative Dispute Resolution. If an Executive Settlement is not achieved, at the conclusion of the Negotiation Period, the Dispute may, by mutual agreement of the Parties, be submitted for resolution in any other manner that they may agree to at the time such Dispute arises; provided, however, that a Party's agreement to any such other dispute resolution procedure with respect to any particular Dispute shall not act as a waiver of the right of any Party to have any other Dispute resolved in accordance with the Dispute Resolution Procedures set forth in this Article XX.
- 20.3 **Tolling of Statute of Limitations.** The initiation of any Dispute Resolution Procedure under this Article XX, to the extent permitted by applicable law, shall, upon the delivery of a Dispute Notice, suspend the running of the statute of limitations applicable to the Dispute described in such Dispute Notice until 14 calendar days after the conclusion of all such Dispute Resolution Procedures.

**ARTICLE XXI
CONFIDENTIALITY**

- 21.1 **Non-Disclosure of Confidential Information.** Neither Party shall disclose any Confidential Information of the other Party obtained pursuant to or in connection with the execution or performance of this Agreement to any third party without the express prior written consent of the other Party.
- 21.2 **Definition.** The term “Confidential Information” shall include any Design Documents, or any financial, economic, business, operational, strategic, regulatory, technical or other information regarding a Party or any affiliate, including all business and marketing plans, customer lists, pricing information, policies and procedures, software, specifications, drawings, models, scopes of work, reports, forecasts, data, know-how, designs, algorithms, software programs, financial projections, research, developments, ideas and operations, including any material bearing or incorporating any such information, whether contained in or relayed by writing, electronic form, verbally, or otherwise, and whether disclosed prior to or after the Effective Date of this Agreement.
- 21.3 **Compulsory Disclosure Permitted.** Either Party may produce Confidential Information in response to a subpoena, discovery request or other compulsory process issued by a Governmental Authority upon reasonable prior notice to the Party whose Confidential Information it is. Notwithstanding anything in this Section to the contrary, and pursuant to 18 C.F.R. § 1b.20, if the FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to the FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. § 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Party prior to the release of the Confidential Information to the FERC or its staff. A Party shall notify the other Party when it is notified by the FERC or its staff that a request to release Confidential Information has been received by the FERC, at which time either Party may respond before such information would be made public, pursuant to 18 C.F.R. § 388.112.
- 21.4 **Survival.** The confidentiality provisions of this Article XXI shall survive termination of this Agreement.

ARTICLE XXII MISCELLANEOUS

- 22.1 **Non-Waiver.** No waiver by either Party of any provision of this Agreement shall be effective unless expressly contained in a writing signed by both Parties. Failure by either Party to enforce any provision of this Agreement or to exercise any right arising out of this Agreement shall not be deemed a waiver of that provision or right, or of any other provision or right, and no waiver by either Party of any breach shall be construed to be a waiver of any prior or succeeding breach.

- 22.2 **Severability.** If any term or condition of this Agreement shall be deemed to be unlawful or unenforceable by a Federal or state court or agency of competent jurisdiction, such determination shall have no effect on the validity and enforceability of the other terms and conditions of this Agreement and the challenged term or condition shall be deemed deleted or modified to the extent necessary for such term or condition to be effective to the fullest extent.
- 22.3 **Third Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties hereto, any benefits, interests, rights, or remedies under or by reason of the Agreement.
- 22.4 **Entire Agreement.** This Agreement, including all Attachments and any Scope of Work Amendment or Modification Form, shall constitute the entire agreement between the Parties, and shall supersede all prior proposals, agreements and understandings, whether oral or written, relating to the subject matter of this Agreement.
- 22.5 **Amendments.** No amendment to this Agreement shall be effective unless executed by authorized representatives of both Parties in writing.
- 22.6 **Independent Contractor.** To the extent either Party undertakes to perform Work on behalf of the other Party, the Parties agree that the relationship between the Parties shall be that of independent contractor and shall not be construed to constitute either Party, or any of its employees or Subcontractors, as an authorized representatives, agents, associates, joint venturers, or partners of the other.
- 22.7 **Choice of Law and Venue.** This Agreement is to be interpreted and enforced under the law of the jurisdiction where the Work is to be performed, without regard to the choice of law provisions thereof.
- 22.8 **Remedies.** The rights and remedies set forth in this Agreement are cumulative and non-exclusive.
- 22.9 **Assignability.** This Agreement is not assignable by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.
- 22.10 **Survival of Provisions.** Article XVI and Article XXI shall survive the termination of this Agreement and the performance of the Work contemplated by this Agreement.
- 22.11 **Interpretation.** The Article and Section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or construction of this Agreement. Ambiguities and uncertainties in the wording of this Agreement shall not be construed for or against any Party, but shall be construed in the manner that most accurately reflects the Parties' intent as of the date of this Agreement. Each Party acknowledges that it has been represented by counsel in connection with the review and execution of this Agreement, and,

accordingly, there shall be no presumption that this Agreement or any provision hereof be construed against the Party that drafted this Agreement.

22.12 **Accuracy of Information.** Each Party shall be liable for the completeness and accuracy of the information provided to the other Party pursuant to the terms of this Agreement.

22.13 **Notices.** Any notice, demand for information or document required or authorized by this Agreement to be given to a Party shall be given in writing and shall be sufficiently given if delivered by overnight mail, overnight courier or hand delivered against written receipt, or if transmitted and received by facsimile transmission addressed as set forth below, or if sent to such Party by overnight mail, overnight courier, or hand delivery to such other address as such Party may designate for itself by notice given in accordance with this Section 22.13. Any such notice shall be effective only upon actual receipt thereof by the addressee. All notices given by facsimile shall be confirmed in writing, delivered or sent as aforesaid, but the failure to so confirm shall not in any manner render ineffective the original notice. The address for the delivery of notices and bills to each Party and the respective telephone and facsimile numbers are as follows:

(i) For Milford: City Manager
David Baird
City of Milford
180 Vickers Drive
P. O. Box 159
Milford, DE 19963
T: (302) 422-6616, ext. 179
F: (302) 422-1120
E-mail: dbaird@milford-de-gov

(ii) For DPL:
Zane Rigler, Manager of Special Projects
Pepco Holdings Inc
Mail Stop #79NC37
P.O. Box 9239
401 Eagle Run Road (overnight)
Newark, DE 19714-9239
19702 (overnight)
T: (302) 454-4169
F: (302) 454-4912
E-mail: zane.rigler@pepcoholdings.com

With a copy to:

Pepco Holdings, Inc.
Attn: Legal Services Department, Suite 1100
701 Ninth Street, N.W.
Washington, D.C. 20068

Telephone: 202-872-2890

22.14 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[signature page follows]

IN WITNESS WHEREOF, DPL and Milford have caused this Construction Agreement to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

DELMARVA POWER & LIGHT COMPANY

By: _____

Name:

Title:

Date:

THE CITY OF MILFORD, DELAWARE

By: _____

Name:

Title:

Attest: _____

Title:

Date:

SEAL

ATTACHMENT A
PROJECT DESCRIPTION; SCOPE OF WORK

I. PROJECT DESCRIPTION:

DPL shall design, construct, own, operate, and maintain the new South Milford three-breaker ring bus substation between their South Harrington and Milford substations and provide a 138kV feed to the City of Milford. Milford will own and operate an interface breaker and transmission line on their portion of the station.

DPL is responsible for:

- Designing and constructing the new South Milford 138kV substation. Items of work include engineering, drafting, project management, material procurement, construction management, foundations, grounding, fencing, conduit, cable trench, interior roadways, site stoning, primary electrical construction, secondary electrical construction, testing, and commissioning.
- Making the necessary modifications to the Milford to South Harrington Transmission line to connect it to the new 138kV South Milford ring bus and making any necessary modifications to the transmission line relaying at DPL's Milford and South Harrington substations.
- Designing, constructing, owning, operating and maintaining the 138kV metering point located within the new South Milford Substation. The metering point will be located on the 138kV bus position that will provide service to the City of Milford's portion of the substation.
- Establishing a new meter point. The metering system will include a data recorder with a dial-up modem to facilitate DPL remotely obtaining metering data.
- Ensuring that accurate real-time MW, MVAR, MWH and MVARH telemetry is available to DPL for reliability and balancing and settlement calculations.
- Operating and maintaining all facilities that are owned by DPL. This includes facilities that may have been constructed by the City of Milford but later transferred to DPL. DPL will be responsible for the costs associated with ongoing operation, maintenance, and upgrade to these facilities.
- The protection and operation of all equipment in DPL's portion of South Milford Substation.
- Providing substation drawings as necessary to the City of Milford for purposes of coordinating designs.
- Providing all material and labor to cut existing circuit in and out of the new 138kV substation.
- Procuring and installing meter equipment and metering.

The City of Milford is responsible for:

- Obtaining the necessary land for the project.
- Providing topographic survey and topographic information for the substation site to DPL.
- Providing substation drawings as necessary to DPL for purposes of coordinating designs.
- Granting a perpetual lease for DPL to operate all interconnection facilities. This lease will allow DPL the right to have electrical facilities on the Rights of Way as long as the property serves a need for electric service.
- Obtaining construction and operating access to the interconnection facilities.
- All permitting associated with the property, equipment, or operation of the facilities (unless all parties agree otherwise).
- Site development work, including but not limited to clearing, grading, site entrance installation, landscaping, and necessary storm water management systems to provide DPL with a site that is completely ready for installation of foundations and other below grade facilities. The City of Milford shall provide the grading plans to DPL for review and comment for DPL's portion of the substation prior to beginning any grading activities.
- Providing any additional Rights of Way required for construction or permanent access to the DPL transmission, distribution or communications service facilities. Examples include crane access, road access, or guying necessitated by the interconnection.
- The cost of interconnection metering equipment and installation, including instrument transformers and including the metering to be owned by DPL.
- Any special requests, for example, an acceleration of an interconnection project, additional equipment, or construction of a transmission line to an interconnecting party's facility.
- Providing temporary single-phase 240/120V electric service to DPL during construction.
- Protection and operation of all equipment in the City of Milford's portion of the station.
- Providing right-of-way for the new 138kV lines which will connect to the new substation.
- Design and construction of the interface breaker and 138kV transmission line that will connect the City of Milford's load to DPL's new South Milford 138kV ring bus substation.

Both DPL and the City of Milford are responsible to:

- Jointly install current, potential and control circuits that cross over between the City of Milford's and DPL's portions of the new South Milford Substation. These protection schemes are detailed below:

Introduction

The following describes interface protection requirements for the new South Milford Substation which will be installed on DPL's Milford to South Harrington 138kV transmission line. In addition to the specifications outlined below, all customer protection requirements shall also satisfy those outlined in the "Guidelines for Wholesale Interconnections to the Pepco Holdings Systems – Atlantic City Electric, Delmarva Power & Light Company, and Potomac Electric Power Company – Revised 7/28/07".

138kV Interface Bus Protection

The 138kV bus, which interconnects DPL's portion of the South Milford Substation with the City of Milford's portion, shall be protected by two independent current differential relaying schemes. Phase currents from each of the two sets of load side CT's on the City of Milford's interface breaker will be provided to these current differential relays, which are located in the DPL relay enclosure. The primary and backup differential relays will activate independent lockout relays, which will each trip and block closing of all breakers in the protective zone. The primary and backup schemes shall be completely independent, supplied from separate CT's and independently fused DC control circuits, and shall activate separate breaker trip coils. Loss of DC control to each scheme shall be alarmed. Dry trip and block close contacts will be provided for connection to the City of Milford's interface breaker. The City of Milford shall provide 'a' contacts from their interface breaker as inputs to DPL's primary and backup differential relays.

Breaker Failure Protection

The City of Milford shall provide a breaker failure protection scheme for their interface breaker. This scheme shall be initiated by both the primary and backup transmission line protection packages. Should the City of Milford's breaker fail to trip for a fault in the City of Milford's protective zone, the breaker failure scheme shall activate a latching contact, or lockout relay, that will be used to provide trip and block close contacts to both of DPL's interface breakers. Similarly, for a breaker failure operation of DPL's interface breakers, trip and block close contacts from DPL's breaker failure lockout relays will be provided to the City of Milford for connection to their interface breaker.

- Jointly test and confirm proper operation of current and potential circuits the cross over between the City of Milford's and DPL's portions of the new South Milford Substation. Trip signals between the two portions of the substation will also be jointly tested and checked for proper operation.

II. OWNERSHIP DEMARCATION:

- A fence shall be installed between DPL's and the City of Milford's portions of the new South Milford Substation. The City of Milford shall be responsible for installation of this fence.
- DPL will own, operate and maintain all equipment within their fenced portion of the yard. The City of Milford will own, operate and maintain all equipment within their fenced portion of the yard.
- DPL will install, own, operate, and maintain a 138kV disconnect switch to which the City of Milford will connect their equipment. The point of demarcation shall be the load-side terminals of this disconnect switch.

ATTACHMENT B
PROJECT SCHEDULE

<u>Activity</u>	<u>Date</u>
DPL – City of Milford Construction Agreement finalized:	January 2010
DPL Start Substation Engineering	March 2010
DPL Start Transmission Engineering	March 15, 2010
DPL Begin Substation Material Procurement	July 2010
DPL Begin Transmission Material Procurement	September 15, 2010
DPL Begin Below Grade Construction	September 2010
DPL Issue Transmission Line Construction Package	January 15, 2011
DPL Begin Primary Substation Construction	February 2011
DPL Begin Secondary Substation Construction	February 2011
DPL Begin Testing and Commissioning	April 2011
DPL Start Cut-in Work	May 2011
Project In-Service Date	May 31, 2011
Project Complete / Close Project	August 31, 2011

ATTACHMENT C
PAYMENT SCHEDULE

<u>Payment Due Date</u>	<u>Payment Amount (estimate)</u>
February 2010	\$72,000
June 30, 2011 Final settlement payment	TBD

Detailed Estimate (Metering):

Total Material Estimated Cost	=	\$ 72,000
Construction Labor	=	\$ 26,000
Labor (Engineering, Drafting, Meter Dept.)	=	\$ 10,000
Total Estimated Cost (Material & Labor)	=	<u>\$108,000</u>
Estimated CIAC Gross Up	=	\$ 33,000
Total Estimated Project Cost	=	<u>\$141,000</u>

NOTES: The above are estimated values only. Milford will pay for all actual costs. Thirty (30) days after the new City of Milford Substation is energized, Milford will pay true-up for final DPL actual costs. CIAC rate included in the above is 30.415%, the estimated 2010 CIAC rate.

ATTACHMENT D

SCOPE OF WORK AMENDMENT OR MODIFICATION FORM

This SCOPE OF WORK AMENDMENT OR MODIFICATION, dated as of _____, is by and between Delmarva Power & Light Company (“DPL”), and the City of Milford, Delaware (“Milford”). DPL and Milford may each be referred to herein individually as a “Party,” and together as the “Parties.”

W I T N E S S E T H

WHEREAS, DPL and Milford are parties to a Construction Agreement dated [**date**]; and

WHEREAS, the Construction Agreement between DPL and Milford contemplates that the Parties may from time to time agree to certain modifications in the Scope of Work; and

WHEREAS, by execution of this Scope of Work Amendment or Modification Form the Parties intend to alter the Scope of Work provided in the Construction Agreement; and

WHEREAS, but for the modifications specifically described below, the Parties intend for all other terms and provisions of the Construction Agreement to be applicable and take precedence over this Scope of Work Amendment or Modification Form.

NOW, THEREFORE, in consideration of the foregoing, the Parties hereby agree as follows:

1.1 Additional Work to be Performed by DPL:

1.2 Additional Work to be Performed by Milford:

2.1 Cost Responsibilities for the Additional Work Contemplated in Sections 1.1 and 1.2:

IN WITNESS WHEREOF, DPL and Milford have caused this Scope of Work Amendment or Modification Form to be duly executed and delivered by their respective duly authorized officers as of the date first above written.

DELMARVA POWER & LIGHT COMPANY

By: _____

Name:

Title:

Date:

CITY OF MILFORD

By: _____

Name:

Title:

Attest: _____

Name:

Title:

Date:

SEAL

DETAILED COST BREAKDOWN FOR
CITY OF MILFORD CONSTRUCTION AGREEMENT
ATTACHMENT 'C'

January 14, 2010

Prepared by: Chris Divis, Sr. Supervising Engineer, PHI Substation Engineering

Materials

Metering Transformers, 138kV	\$16,500 ea.	X	qty. 3 =	\$49,500
Metering Structure, Steel	\$10,500 ea.	X	qty. 1 =	\$10,500
Cable, wire, junction boxes, etc.	\$ 6,500 ea.	X	qty. 1 =	\$ 6,500

Subtotal Materials **\$65,000**

Material Overhead Charges, Corporate (4%) \$ 2,600

Total for Materials, Including Overheads **\$67,600**

Construction Labor

DPL Substation Const. Crews	200 hrs	X	\$106/hr =	\$21,200
DPL Substation Relay Crews	30 hrs	X	\$106/hr =	\$ 3,180

Total for Construction Labor **\$24,380**

Engineering, Design & Support

DPL Substation Engineering	40 hrs	X	\$113/hr =	\$ 4,520
DPL Drafting	24 hrs	X	\$ 83/hr =	\$ 1,992
DPL Meter Support	32 hrs	X	\$ 89/hr =	\$ 2,848

Total for Engineering, Design & Support **\$ 9,360**

Subtotal – Materials and Labor **\$101,340**

Corporate Overheads (Supervision, Accounting, General) \$ 6,660

Grand Total (without CIAC) **\$108,000**

Estimated CIAC of 29.049% (per 2010 rates) \$ 31,370

Total Estimated Cost, Including all Overheads and CIAC **\$139,370**

**CITY OF MILFORD
FUND BALANCES REPORT**

Date: DECEMBER 2009

Cash Balance - General Fund Bank Balance	\$3,016,120
Cash Balance - Electric Fund Bank Balance	\$4,637,597
Cash Balance - Water Fund Bank Balance	\$551,373
Cash Balance - Sewer Fund Bank Balance	\$238,961
Cash Balance - Trash Fund Bank Balance	\$469,466

	General <u>Improvement</u>	Municipal <u>Street Aid</u>	Real Estate <u>Transfer Tax</u>	Water Bond <u>Escrow</u>
Beginning Cash Balance	445,710	656,617	2,470,696	207,006
Deposits			27,312	
Interest Earned this Month	334	491	1,865	27
Disbursements this Month	(6,435)	(9,640)	(43,459)	(86,261)
Investments				
Ending Cash Balance	\$439,609	\$647,468	\$2,456,414	\$120,772

	GF Capital <u>Reserves</u>	Water Capital <u>Reserves</u>	Sewer Capital <u>Reserves</u>	Electric <u>Reserves</u>
Beginning Cash Balance	663,479	2,209,602	1,893,658	2,508,608
Deposits				
Interest Earned this Month	100	6,240	6,192	21,746
Disbursements this Month		(1,628)	(1,627)	
Investments	1,000,000	1,500,000	1,500,000	5,000,000
Ending Cash Balance	\$1,663,579	\$3,714,214	\$3,398,223	\$7,530,354

	Water <u>Impact Fee</u>	Sewer <u>Impact Fee</u>	Electric <u>Impact Fee</u>
Beginning Cash Balance	834,568	622,018	245,665
Deposits	14,970	7,913	6,000
Interest Earned this Month	645	479	191
Disbursements this Month			
Investments			
Ending Cash Balance	\$850,183	\$630,410	\$251,856

INTEREST THROUGH THE SIXTH MONTH OF THE FISCAL YEAR:

General Fund	11,801	Water Fund	3,387
GF Capital Reserves	7,503	Water Bond Escrow	160
General Improvement Fund	1,840	Water Capital Reserves	14,904
Municipal Street Aid	2,734	Water Impact Fees	3,332
Real Estate Transfer Tax	10,729	Sewer Fund	1,837
Electric Fund	17,223	Sewer Capital Reserves	14,562
Electric Reserves	44,258	Sewer Impact Fees	2,515
Electric Impact Fees	950	Trash Fund	1,937

TOTAL INTEREST EARNED TO DATE \$139,672

REVENUE REPORT

Page Two

Date: DECEMBER 2009	AMOUNT BUDGETED	MTD	YTD	50% of Year Expended YTD%
ACCOUNT				
Budgeted Fund Balance	200,400	20,000	200,400	100.00%
General Fund Capital Reserves	104,600	0	104,600	100.00%
Property Transfer Tax-Capital	184,300	126	153,408	83.24%
Property Transfer Tax-Police	520,000	43,333	260,000	50.00%
Real Estate Tax	2,929,600	(3,825)	2,899,146	98.96%
Business License	48,000	56,575	60,050	125.10%
Rental License	62,500	0	4,750	7.60%
Building Permits	40,000	5,245	15,586	38.97%
Planning & Zoning	40,000	2,400	29,209	73.02%
Misc. Revenues	342,575	17,411	104,462	30.49%
Transfers From	3,215,480	267,956	1,607,740	50.00%
Police Revenues	305,000	23,437	87,486	28.68%
Engineering & Inspection Fees	50,000	0	31,860	63.72%
Total General Fund Revenues	\$8,042,455	\$432,658	\$5,558,697	69.12%
Water Revenues	2,160,130	174,113	1,178,362	54.55%
Sewer Revenues	1,864,970	136,788	943,154	50.57%
Kent County Sewer	1,600,000	99,843	717,282	44.83%
Solid Waste Revenues	1,015,000	85,659	512,484	50.49%
Solid Waste Rebate	48,000	0	46,988	97.89%
Solid Waste Budgeted Fund Balance	112,065	0	0	0.00%
Electric Revenues	28,225,431	1,745,118	13,469,505	47.72%
TOTAL REVENUES	\$43,068,051	\$2,674,179	\$22,426,472	52.07%
YTD Enterprise Expense		47,148		
YTD Enterprise Revenue		47,751		
LTD Carlisle Fire Company Building Permit Fund		18,389		

EXPENDITURE REPORT
Page Three

Date: DECEMBER 2009

50% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	378,310	\$30,964	180,534	47.72%	197,776
O&M	128,390	\$11,814	52,392	41.45%	73,998
Capital	0	\$0	0		0
Total City Manager	\$504,700	\$42,778	\$232,926	46.15%	271,774
Planning & Zoning					
Personnel	157,435	\$12,570	69,768	44.32%	87,667
O&M	66,105	\$1,406	18,306	27.69%	47,799
Capital	0	\$0	0		0
Total P, C & I	\$223,540	\$13,976	\$88,074	39.40%	135,466
Code Enforcement & Inspections					
Personnel	205,390	\$9,418	87,928	42.81%	117,462
O&M	45,205	\$3,705	13,957	30.87%	31,248
Capital	0	\$0	0		0
Total P, C & I	\$250,595	\$13,123	\$101,885	40.66%	148,710
Tax Department					
Personnel	71,940	\$5,480	\$32,811	45.61%	39,129
O&M	24,020	\$684	\$9,693	40.35%	14,327
Capital	0	\$0	\$0		0
Total Tax Department	\$95,960	\$6,164	\$42,504	44.29%	53,456
Council					
Personnel	30,150	\$2,207	17,341	57.52%	12,809
O&M	24,800	\$4,556	18,844	75.98%	5,956
Capital-Green Acres	100,000	\$0	100,000	100.00%	0
Council Expense	12,000	\$385	10,836	90.30%	1,164
Contributions	268,000	\$0	128,000	47.76%	140,000
Codification	2,500	\$0	0	0.00%	2,500
Employee Recognition	8,000	\$6,334	6,357	0.00%	1,643
Community Events	10,000	\$0	0	0.00%	10,000
Insurance	16,920	\$3,610	7,220	42.67%	9,700
Total Council	\$472,370	\$17,092	\$288,598	61.10%	183,772
Finance					
Personnel	360,565	\$31,254	169,143	46.91%	191,422
O&M	63,300	\$2,404	17,312	27.35%	45,988
Capital	0	\$0	0		0
Total Finance	\$423,865	\$33,658	\$186,455	43.99%	237,410
Information Technology					
Personnel	219,275	\$17,141	102,935	46.94%	116,340
O&M	160,360	\$6,121	41,104	25.63%	119,256
Capital	86,300	\$0	52,957	61.36%	33,343
Total Information Technology	\$465,935	\$23,262	\$196,996	42.28%	268,939

EXPENDITURE REPORT

Page Four

Date: DECEMBER 2009

50% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	3,358,535	\$283,814	1,597,056	47.55%	1,761,479
O&M	424,525	\$43,034	182,239	42.93%	242,286
Capital	98,000	\$384	98,109	98.07%	1,891
Total Police	\$3,881,060	\$327,232	\$1,875,404	48.32%	2,005,656
Streets & Grounds Division					
Personnel	397,975	\$36,948	184,529	46.37%	213,446
O&M	344,850	\$38,038	149,569	43.37%	195,281
Capital	0	\$0	0		0
Debt Service	46,720	\$41,671	41,671	89.19%	5,049
Total Streets & Grounds	\$789,545	\$116,657	\$375,769	47.59%	413,776
Parks & Recreation					
Personnel	460,730	\$30,346	228,700	49.64%	232,030
O&M	229,515	\$42,497	146,006	63.62%	83,509
Capital	110,000	\$0	110,000	100.00%	0
Total Parks & Recreation	\$800,245	\$72,843	\$484,706	60.57%	315,539
Engineering & Inspections					
Personnel	160,825	\$12,304	74,474	46.31%	86,351
O&M	43,815	\$2,397	23,117	52.76%	20,698
Capital	0	\$0	0		0
Total Engineering & Inspections	\$204,640	\$14,701	\$97,591	47.69%	107,049
Less Interdepartmental Revenue	(\$90,000)	(\$7,500)	(45,000)	50.00%	(45,000)
Net Engineering & Inspections	\$114,640	\$7,201	\$52,591	45.87%	62,049
Total General Fund					
Operating Budget	\$8,022,455	\$673,986	\$3,925,908	48.94%	4,096,547
Budgeted General Fund Balance					
City Hall Renovations	149,188	\$44,104	\$77,385	51.87%	71,803

EXPENDITURE REPORT
Page Five

Date: DECEMBER 2009

50% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	244,770	\$21,839	105,216	42.99%	139,554
O&M	1,137,400	\$93,043	515,161	45.29%	622,239
Capital	45,000	\$0	0	0.00%	45,000
Debt Service	732,960	\$447,741	447,741	61.09%	285,219
Total Water	\$2,160,130	\$562,623	\$1,068,118	49.45%	1,092,012
Sewer Division					
Personnel	246,115	\$21,834	105,207	42.75%	140,908
O&M	904,255	\$187,574	653,450	72.26%	250,805
Capital	35,000	\$0	884	2.53%	34,116
Debt Service	679,600	\$249,433	249,433	36.70%	430,167
Sewer Sub Total	\$1,864,970	\$458,841	\$1,008,974	54.10%	855,996
Kent County Sewer	1,600,000	\$99,777	716,896	44.81%	883,104
Total Sewer	\$3,464,970	\$558,618	\$1,725,870	49.81%	1,739,100
Solid Waste Division					
Personnel	322,265	\$27,155	150,363	46.66%	171,902
O&M	662,800	\$51,342	332,912	50.23%	329,888
Capital	190,000	\$0	0	0.00%	190,000
Total Solid Waste	\$1,175,065	\$78,497	\$483,275	41.13%	691,790
Total Water, Sewer Solid Waste	\$6,800,165	\$1,199,738	\$3,277,263	48.19%	3,522,902
Electric Division					
Personnel	1,110,695	\$92,760	507,077	45.65%	603,618
O&M	1,931,106	\$132,725	887,146	45.94%	1,043,960
Transfer to General Fund	2,500,000	\$208,333	1,250,000	50.00%	1,250,000
Capital	515,520	\$0	20,484	3.97%	495,036
Debt Service	668,110	\$0	66,555	9.96%	601,555
Electric Sub Total	\$6,725,431	\$433,818	\$2,731,262	40.61%	3,994,169
Power Purchased	21,500,000	\$1,783,243	10,031,867	46.66%	11,468,133
Total Electric	\$28,225,431	\$2,217,061	\$12,763,129	45.22%	15,462,302
TOTAL OPERATING BUDGET	\$43,048,051	\$4,090,785	\$19,966,300	46.38%	23,081,751

INTERSERVICE DEPARTMENTS REPORT

Page Six

Date: DECEMBER 2009

50 % of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Billing & Collections					
Personnel	428,105	32,187	195,451	45.65%	232,654
O&M	182,500	6,950	56,412	34.72%	106,088
Capital	0	0	0		0
Total Billing & Collections	\$590,605	39,137	\$251,863	42.64%	338,742
Garage					
Personnel	137,260	11,385	65,008	47.36%	72,252
O&M	29,040	2,765	14,000	48.21%	15,040
Capital	0	0	0		0
Total Billing & Collections	\$166,300	14,150	\$79,008	47.51%	87,292
Meter Department-Water					
Personnel	123,455	11,475	61,942	50.17%	61,513
O&M	93,585	2,865	21,673	23.16%	71,912
Capital	80,500	18,818	47,524	78.55%	12,976
Total Billing & Collections	\$277,540	33,158	\$131,139	47.25%	146,401
Meter Department-Electric					
Personnel	236,435	19,946	111,492	47.16%	124,943
O&M	122,405	2,841	38,859	31.75%	83,546
Capital	32,000	0	0	0.00%	32,000
Total Billing & Collections	\$390,840	22,787	\$150,351	38.47%	240,489
Public Works					
Personnel	0	0	0		0
O&M	143,480	11,805	55,067	38.38%	88,413
Capital	0	0	0		0
Total Billing & Collections	\$143,480	11,805	\$55,067	38.38%	88,413

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.

Article IV. Council Government

Article V. Administration and Appointees

Article VI. Financial Procedures

Article VII. Taxation, Assessors ad Assessment Of Taxes

Article VIII. Borrowing Of Money and Issuance Of Bonds

Article IX. Tax Increment Financing and Special Development Districts

Article X. Severance

Article XI. Transitional Provisions

Article XII. Repealer

Article I. Incorporation, Territory and Annexation

1.01- Incorporation

The inhabitants of the City of Milford (“the City”) within the corporate limits hereinafter defined in this Charter or as hereafter extended as hereinafter provided, shall be and constitute a body politic and corporate, and shall be known and identified as the City of Milford.

The solicitor pointed out the territorial limits has been changed by citing a map to be recorded in the Recorder of Deeds as was done by another town recently. He feels it is easier to record and the metes and bounds will not be included. Otherwise, every time an annexation is done, the charter will need to be amended. In this manner, the process is much simpler by having a new map recorded.

The official map would be kept by the city clerk at city hall.

1.02- Territorial Limits

The boundaries of the City of Milford are hereby established and declared as recorded on the official map of record in the Recorder of Deeds Office for Kent County (Book Page), Office and for Sussex County (Book Page) in the State of Delaware (official recorded copies to be kept by the City Clerk) as presently exists and as hereinafter amended:

~~The boundaries and limits of the City of Milford are hereby established and declared to be as heretofore, that is to say: BEGINNING at Bowen Landing on the Bowen (Dorsey) farm in Kent County; thence in a direct line in a northerly direction to the DuPont Boulevard at the intersection with it and the concrete highway leading into the City of Milford; thence continuing in the same line in a northwesterly direction across the said DuPont Boulevard a distance of Five Hundred Feet beyond the western boundary line of said Boulevard; thence in a southerly direction and parallel with and~~

~~Five Hundred Feet from the western boundary of said DuPont Boulevard to Mullet Run, thence in a northwesterly direction following said creek approximately 1,600 feet to and encompassing Parcel #1, 39.14 acres more or less between Mullet Run and County Route 407, further described by a plat prepared by Charles D. Murphy, Jr. and dated January 25, 198; thence said limits extending in westerly direction encompassing and including Parcel #2 on south side of County Route 407, and east of State Route 15 containing 91.06 acres more or less; thence north of County Road 407 and east of State Route 15 and including Parcel #3 containing 108.57 acres more or less; thence west of State Route 15 to include Parcel #4 containing 187.99 acres more or less bounded to the south by State Route 14 and to the north by County Route 404 said parcels being described on the referenced plat; thence south of Parcel #1 and Mullet Run to contain the Masten Industrial Park having right of way to State Route 14, thence in a southerly direction and parallel with and Five Hundred Feet from the western boundary of DuPont Boulevard to the Haven Lake; thence across said lake to the north side of Evergreen Lane; thence along the north side of Evergreen Lane to the intersection of the north side of Evergreen Lane and a line parallel with and Five Hundred Feet from the western boundary of the said DuPont Boulevard; and thence continuing with said line to the southern or southeastern line of what is known as the William T. Simpson property; thence in a northerly direction in a direct line to the bridge over the stream of water known as the Deep Branch (which bridge crosses said stream on the County Road leading to the Town of Lincoln); thence following the course of the aforesaid Deep Branch to the Lake known as Marshall Mill Pond; thence down the course of water or stream running from said Marshall Mill Pond to the Mispillion River; thence following the course of said River to Bowen Landing aforesaid.~~

In addition to the aforesaid, the Territorial Limits of the City of Milford shall also include all lands annexed by the City of Milford pursuant to ~~Article X~~ Section 1.04 of this Charter. The Council may, at any time hereafter, cause a survey and plot to be made of ~~said the~~ City, and the ~~said survey and~~ plot, when made and approved by ~~said the~~ Council, shall be recorded in the offices of the Recorders of Deeds in and for both Kent and Sussex Counties, State of Delaware, and the same, or the record thereof, or a duly certified copy of said record shall be evidence in all courts of law and equity in this State.

Mr. Willard then referenced the next section and asked if council wanted to keep the legal descriptions of each ward in the charter or refer to a map as is being done with the boundaries of the city. Ward maps would also need to be official and recorded.

Mr. Spillane believes it is better to handle in this manner because of the uneven nature of the ward boundaries though he is hoping that can be changed to easier identify the wards.

City Manager Baird said the drawback of adding the metes and bounds is each time you annex a property into the city,

the charter has to be amended. If it is done by referencing a map, it will not be necessary to go back to the general assembly.

The solicitor still recommends a map be done regardless of how it is referenced.

Mr. Spillane confirmed that to be in a ward, the property must be contiguous. It was questioned whether or not Meadows at Shawnee should have been placed in the first ward versus the third ward at the time of its annexation. The mayor disagreed stating the line extends down Rehoboth Boulevard eastward, then west to Southeast Second Street and McColley Street. Anything on the east side of Rehoboth Boulevard and south of Southeast Second Street is in the third ward according to the description in the charter.

The city manager pointed out there is a good chance our ward boundaries will change following the completion of the 2010 Census. The solicitor stated the U.S. Constitution dictates that voting districts have equal representation and that they be equally proportioned to a certain margin in addition to being contiguous to reduce the potential for any gerrymandering.

It was agreed there should be an official map of each ward as outlined in the charter showing all city streets and changed as needed.

1.03- Wards

The City of Milford shall ~~initially~~ be divided into four Wards and an *official map of the Wards shall be kept by the City Clerk:*

The First Ward shall consist of all the territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route I in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southwest Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by the centerline of Southeast Front Street, in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of South Walnut Street in a southerly direction to the corporate limits of the City; thence along the corporate limits in a northeasterly direction to the intersection of the corporate limit with Deep Branch; thence along the center of the meanderings of Deep Branch in a northeasterly direction through the run of Marshall Mill Pond to its intersection with Business Route 1.

The Second Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence southerly (in a line parallel to and Five Hundred Feet from the westerly

boundary of U.S. Route 113) along the westerly boundary of the City to the shore of Haven Lake; thence westerly following along the shoreline of said Lake to the north side of Evergreen Lane; (thence along the north side of Evergreen Lane to the intersection of Evergreen Lane and a line parallel with and Five Hundred Feet west of the western boundary of U. S. Route 113); thence continuing in a southerly direction along the western boundary line of the City to the southern or southeasterly line of what is known as the William T. Simpson property; thence in a northeasterly direction along the corporate limits of the City in a direct line to the intersection of the corporate limit and the centerline of South Walnut Street; thence north by the centerline of South Walnut Street to the intersection of Northwest Front Street.

The Third Ward shall consist of all territory within the City limits as follows: Beginning at a point in the center of the intersection of Deep Branch and Business Route 1; thence along the centerline of Business Route 1 in a northerly direction to the point of intersection of Southeast Second Street; thence westerly by the centerline of Southeast Second Street to the point of its intersection with McColley Street; thence by the centerline of McColley Street in a northerly direction to the point of its intersection with Southeast Front Street; thence by centerline of Southeast Front Street in a westerly direction to its point of intersection with South Walnut Street; thence by the centerline of Walnut Street in a northerly direction to the point where it intersects the centerline of U.S. Route 113; thence along the eastern boundary of the corporate limits of the City to Bowen Landing on the Bowen (Dorsey) Farm; thence along the course of the Mispillion River to the point where Deep Branch empties into said River, thence southerly by the course of waters in Deep Branch to the center of the intersection of the intersection of Deep Branch and Business Route 1.

The Fourth Ward shall consist of all territory within the City limits as follows: Beginning at a point in the intersection of North Walnut Street and Northwest Front Street; thence along the centerline of Northwest Front Street in a westerly direction to the point of its intersection with U.S. Route 113; thence along the centerline of U.S. Route 113 in a southerly direction to the point of its intersection with North Shore Drive; thence westerly by the centerline of North Shore Drive to its point of intersection with the western limits of the City (a distance of Five Hundred Feet west of the western boundary of U.S. Route 113); thence in a northeastern direction along the western boundary limit of the City to a point where said line would intersect the northerly boundary of the Third Ward, if extended, and as described herein; thence southeasterly along the aforesaid line of the Third Ward, if extended, to the point of intersection of the centerlines of North Walnut Street and U.S. Route 113; thence by the centerline of Walnut Street to its intersection with Northwest Front Street.

The City Council may provide for a fifth ward and re-arrange the boundaries of the four wards provided for herein, in the event of annexation or re-apportionment as hereinafter set forth.

1.04- Annexation

~~In the event it becomes feasible and necessary in the future for the City of Milford to enlarge its then existing limits and territory, such annexation accomplished.~~

The City may from time to time extend its boundaries through the process of annexation in accordance with 22 Del. Code, Chapter 1, Section 101 and the following procedures shall apply:

~~(a) If all the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefor. The City Council of Milford may then pass a resolution annexing such territory to the City of Milford. Such resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. Once the favorable vote for annexation shall have been case, the City Council of the City of Milford shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.~~

City Solicitor Willard referenced section (a) that addresses a traditional annexation where all property owners are in favor of the annexation

The language and process remains the same, with some reference to Title 22 and the required plan of services.

(a) All the property owners of the territory contiguous to the then existing corporate limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation. (4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, City Council may then pass a resolution annexing such territory to the City of Milford. Such

resolution shall be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. If the Resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

(5) Prior to the resolution being considered, an ordinance that is conditioned on the approval of the annexation application must be adopted to establish a zoning district for the property to be annexed.

(6) If the resolution receives a favorable vote for annexation, the City Council shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the favorable vote for annexation by the City Council. The territory considered for annexation shall be considered to be a part of the City of Milford from the time of recordation. The failure to record the description of the plot within a specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable vote of the City Council.

~~b) If five (5) or more property owners but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford by written Petition with the signature of each such Petitioner duly witnessed shall request the City Council to annex that certain territory in which they own property, the Mayor of the City of Milford shall appoint a committee composed of not less than three (3) of the elected members of the City Council to investigate the possibility of annexation. The Petition presented to the City Council shall include a description of the territory requested to be annexed and the reasons for the requested annexation; or the City Council, by majority vote of the elected members thereof may, by resolution, propose that a committee composed of not less than three (3) of the elected members of the City Council be appointed by the Mayor to investigate the possibility of annexing any certain territory contiguous to the then limits and territory of the City of Milford. Not later than ninety (90) days following its appointment by the Mayor, as aforesaid, the Committee shall submit a written report containing its findings and conclusions to the Mayor and the City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation both to the City of Milford and to the territory proposed to be annexed and shall contain the recommendation~~

~~of the committee whether or not to proceed with the proposed annexation and the reasons therefore. A resolution shall then be passed by the City Council proposing to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. If the resolution shall fail to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote. The resolution shall contain a description of the territory proposed to be annexed and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote. Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date~~

~~set forth for the said Special Election. At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed. Every citizen of the territory proposed to be annexed over the age of eighteen (18) years, who is not a property owner shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation. The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:~~

~~For the proposed annexation
 Against the proposed annexation~~

~~The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until seven o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.~~

~~Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council.~~

~~In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford~~

~~shall cause a description and a plot of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.~~

The solicitor explained section (b) has also been reorganized and addresses situations where five or more owners, but less than all, wish to become annexed. Previously, it was referred to as a hostile annexation though it is somewhat uncommon today. This process is more unique because it requires a referendum, vote and additional procedures.

(b) If five (5) or more property owners, but less than all of the property owners of a territory contiguous to the then limits and territory of the City of Milford, by written Petition with the signature of each such Petitioner duly witnessed, may request the City Council to annex that certain territory in which they own property.

(1) The petition presented to the City Council shall include the tax parcel number(s), a description of the territory requested to be annexed in electronic format, a sealed survey (dated within one year of the application), present and requested zoning, a statement of compliance with the Comprehensive Plan, and the reasons for the requested annexation.

(2) If the Planning Director deems the application complete, the Mayor of the City of Milford shall appoint a Committee composed of not less than three (3) of the elected members of the City Council and one member of the City Planning Commission to investigate the possibility of annexation. Not later than sixty (60) days following its appointment by the Mayor, the Committee shall submit a written report containing its findings and conclusions to the Mayor and City Council of Milford. The report so submitted shall include the advantages and disadvantages of the proposed annexation, both to the City of Milford and to the territory proposed to be annexed, and shall contain the recommendation of the Committee whether or not to proceed with the proposed annexation and the reasons therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code Title 22 §101. This Plan of Services must be completed for review and acceptance prior to final legislative action on the annexation.

(4) The annexation/rezoning application shall also be referred to the Planning Commission for a public hearing and review and recommendation to City Council.

(4) Within sixty (60) days of the final recommendation by the Planning Commission, City Council shall hold a public hearing to consider the annexation and zoning application. Following the public hearing and subject to the acceptance of the Plan of Services, the City Council may propose a resolution to the property owners and residents of both the City of Milford and the territory proposed to be annexed that the City proposes to annex certain territory contiguous to its then limits and territory. The resolution proposing to the property owners and residents of both the City and the territory proposed to be annexed shall be passed by the affirmative vote of two-thirds (2/3) of the elected members of the City Council. The resolution shall contain a description of the territory proposed to be annexed, requested zoning and shall fix a time and place for a public hearing on the subject of the proposed annexation. The resolution adopted by the City Council setting forth the above information shall be printed in a newspaper having a general circulation in the City of Milford at least one (1) week prior to the date set for the public hearing, or, at the discretion of the City Council, the said resolution shall be posted in four (4) public places both in the City of Milford and in the territory proposed to be annexed. If the resolution fails to receive the affirmative vote of two-thirds (2/3) of the elected members of the City Council, the territory proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date that the resolution failed to receive the required affirmative vote.

Mayor Marabello referenced the below section where both the residents and property owners of the proposed territory have a vote questioning the reasoning behind the residents' vote. He does not believe the residents of the territory should have a vote; Mr. Adkins agreed.

Mr. Workman feels that a property owner who does not want to be annexed should be eliminated from the process. He requested the solicitor consider some alternative language to prevent that from occurring.

The solicitor also recalled the discussion. He will revisit the section and provide additional information at a future meeting.

(5) Following the public hearing, but in no event later than thirty (30) days thereafter, the City Council of Milford may pass a resolution annexing such territory to the City of Milford, subject to the approval of the residents and property owners in the territory to be annexed, which approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council of Milford to annex the territory must be passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council. In the event that the resolution does not receive an affirmative vote by two-thirds (2/3) of all the elected members of the City Council, no Special Election shall be held and the territory

previously proposed to be annexed shall not again be considered for annexation for a period of six (6) months from the date the resolution fails to receive the required affirmative vote.

(6) Following the Public Hearing and the affirmative vote of two-thirds (2/3) of all of the elected members of the City Council but in no event later than thirty (30) days after said resolution has been approved, the City Council shall order a Special Election to be held not less than thirty (30) nor more than sixty (60) days after said affirmative resolution has been passed on the subject of the proposed annexation. The notice of the time and place of the said Special Election shall be printed within thirty (30) days immediately preceding the date of this Special Election in at least two (2) issues of a newspaper having a general circulation in the City of Milford, or, at the discretion of the City Council, the said notice may be posted in four (4) public places, both in the City of Milford and in the territory proposed to be annexed at least fifteen (15) days prior to the date set forth for the said Special Election.

(7) At the Special Election, every property owner, whether an individual, partnership or a corporation in the territory proposed to be annexed shall have one (1) vote. Property held by a partnership or by a corporation shall vote only by a power of attorney duly executed.

(8) Every citizen eighteen (18) years or older, who is a resident of the territory proposed to be annexed but who is not a property owner, shall have one (1) vote. An individual who is a resident and a property owner in the area proposed to be annexed shall have one (1) vote only. Property owners in the area proposed to be annexed shall have only one (1) vote regardless of the number of parcels owned. In the event that an individual holds a Power of Attorney duly executed and acknowledged specifically authorizing the said individual to vote for the owner of a property held by a partnership or by a corporation at the said Special Election, a duly authenticated Power of Attorney shall be filed in the Office of the City Manager of the City of Milford. Said Power of Attorney so filed shall constitute conclusive evidence of the right of said person to vote in the Special Election for such partnership or for such corporation.

(9) The City Council of the City of Milford may cause either voting machines or paper ballots to be used in the Special Election, the form of the ballot to be printed as follows:

[] For the proposed annexation

[] Against the proposed annexation

(10) The Mayor of the City of Milford shall appoint three (3) persons to act as a Board of Special Election. One (1) of the said persons so appointed shall be designated as the Presiding Officer. Voting shall be conducted in a public place as designated by the resolution calling the Special Election. The polling place shall be open from twelve noon, prevailing time, until eight o'clock in the evening, prevailing time, on the date set for the Special Election. All persons in the polling place at the time of the closing of the polls shall be permitted to vote, even though such votes are not cast until after the time for the closing of the polls.

(11) Immediately upon the closing of the polling place, the Board of Special Election shall count the ballots for and against the proposed annexation and shall announce the result thereof; the Board of Special Election shall make a Certificate under their hands of the votes cast for and against the proposed annexation and the number of void votes and shall deliver the same to the City Council of the City of Milford. Said Certificate shall be filed with the papers of the City Council. In order for the territory proposed to be annexed to be considered annexed, a majority of the votes cast from the territory proposed to be annexed must have been cast in favor of the proposed annexation. In the event that the Special Election results in an unfavorable vote for annexation, no part of the territory considered at the Special Election for annexation shall again be considered for annexation for a period of at least one hundred eighty (180) days from the date of the said Special Election. If a favorable vote for annexation shall have been cast, the City Council of the City of Milford shall cause a description and a plat of the territory so annexed to be recorded in the Office of the Recorder of Deeds, in and for Kent or Sussex County, but in no event shall said recordation be completed more than ninety (90) days following the date of the said Special Election. The territory considered for annexation shall be considered to be part of the City of Milford from the time of recordation. The failure to record the description or the plat within the specified time shall not make the annexation invalid, but such annexation shall be deemed to be effective at the expiration of the ninety (90) day period from the date of the favorable Special Election.

The solicitor also noted the new section for annexation agreements which will be recorded with the resolution.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to this §1.049(a) or (b) of this Charter, annexation proceedings are initiated by a property owner(s) holding record title to real property in

territory contiguous to the then existing corporate limits of the City, such petition may be made contingent upon an annexation agreement with the City which agreement may address any matters which would be relevant to the subject lands, if annexed. By way of example and not in limitation, such agreement may address zoning, subdivision approval, tax relief, public utilities, and public improvements. In the event the City Council approves such an agreement and votes to accept a petition under this §1.04 of this Charter, such Annexation Agreement shall be deemed a material part of the annexation and shall be included in all subsequent steps of the annexation procedure.

The resolutions and notices adopted by the City Council shall recite that the proposed annexation includes and is subject to an annexation agreement. The resolution and ballots (if an election is required) annexing the territory shall recite that the annexation is subject to an annexation agreement and shall incorporate the terms of such agreement by specific reference.

An annexation agreement may be modified or amended by mutual agreement of the petitioner and the City Council at any time prior to adoption of the final resolution by city council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04(g) of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

A section was added requiring a ward be designated at the time the property is annexed.

(d) Property shall be designated to a contiguous Ward when annexed into the City pursuant to Article I.

Article II. Nominations and Elections. (Previous Article IX)

Mr. Willard then referenced the amendments to the election section. The charter was updated to coincide with Title 15 of Delaware Code for municipal elections. Though much of the previous language was specific, it was agreed to reference state law to prevent having to change the charter every time state law changes.

2.01- City Elections (Previous 9.01)

(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of 12 noon and 8:00 p.m. at such places as shall be determined by the Council and in accordance with State law., ~~due notice given as required in 15 Del. C. Section 7553.~~

~~(a) The annual municipal election shall be held on the fourth Saturday in the month of April between the hours of twelve (12) noon and eight (8:00) o'clock in the evening, at such places as shall be determined by the Council, due notice of which shall be given Title 15 Chapter 7553 by an advertisement printed in a newspaper published in the City of Milford and posted in at least one public place in each Ward of the City not less than ten days before the day of the annual election.~~

(b) The election shall be held under the supervision of an Election Board, consisting of no less than three nor more than five ~~citizens~~ *electors* of the City to be appointed by the Council at the last regular meeting preceding the annual election. The Election Board shall be Judges of the election and shall decide upon the legality of the votes offered.

(c) A clerk from each respective ward will be assigned to verify the identity and residence of each prospective voter within their election district that intends to vote on the day of the municipal election. The clerk shall obtain this information from the alphabetical list of registered voters provided for this purpose. Those persons not properly registered shall not be permitted to vote at that particular election and become eligible only after being qualified before the next registration deadline. ~~At the last regular meeting preceding the annual election,~~ The City Council shall appoint an election clerk(s) for each ward in which there is a contest.

(d) Every person who resides within the City of Milford boundaries for at least thirty days prior to the registration deadline or *natural persons owning* ~~owns~~ property within the City of Milford ~~prior for~~ *at least thirty days prior to the registration deadline, and who are* ~~and who is~~ over the age of eighteen (18) years, shall be entitled to one vote at said annual municipal election or special election; provided, however, that the Council may, by ordinance, establish a reasonable procedure for the registration of voters and, in such event, compliance therewith may be a prerequisite to voting at the annual election. *A Corporation, Partnership, Limited Partnership or other legally created entity, is prohibited from registering and voting as a non-resident property owner unless property within the City is titled in an individual name.*

Mr. Spillane suggests the deadline to declare the ward in which they will vote for nonresident voters owning properties in multiple wards coincide with the candidate filing deadline of sixty days. It was clarified that any resident is only able to vote in the ward of their residency regardless of any other properties they may own.

It was confirmed the general voter registration deadline will remain at thirty days; Mr. Willard said an exception will be added for non-resident property owners to declare the ward they will be voting in (see below):

(e) *It is the responsibility of those registered voters who own property in more than one ward to ~~must~~ declare within at least [thirty (30) /sixty (60)] days prior to the election which ward they will vote in on the day of the election. In the event that a person owns property(s) in the City in addition to their place of residency, he or she may vote only where he or she resides.*

(f) Upon the close of an annual municipal election or special election, the votes shall be counted and read publicly. ~~and~~ The person having the highest number of votes, for each office, shall be declared duly elected in accordance with ~~15 Del. C. Section 7553~~ *State law*, and shall continue in office during the terms for which they are chosen, or until their successors are duly elected and qualified.

(g) The Election Board shall enter in a book to be provided for that purpose, a minute of the election containing the names of the persons chosen, shall subscribe the same, and shall give to the persons elected certificates of Election, which book, containing such minutes, shall be preserved by the Council and shall be evidence in any Court of law or equity. All ballots cast, in the event paper ballots are used, and all tabulations of votes from voting machines, if used at said election, and all other records of election shall be preserved in the Custody of the City Clerk for a period of *time as required by State law. at least ten (10) days following said election.*

(h) Any vacancy in the Election Board shall be filled by the electors present at the time of the annual election, by naming from the electors present, such person or persons as shall be necessary to fill such vacancy.

Mr. Willard pointed out the change to determine a tie; a special election will now be scheduled versus election by lot.

(i) ~~In the event of a tie vote for any office, the Election Board shall resolve the tie and determine the person elected, by lot.~~ *In the event of a tie vote for any office, a Special Election for said office(s) only shall be held within 30 days and the registration books shall remain closed until the outcome of the Special Election is determined.*

Mr. Adkins questioned the change in the deadline to file for office (from thirty to sixty days). The city clerk explained that presently thirty days before the election, voter registration closes, the candidates filing deadlines, the absentee ballots process begins and ballots must be available, non-residents must declare the ward in which they are voting and the candidate information must be provided to the commissioner of elections the following day. Having a sixty-day deadline for candidates to file and keeping the voter registration deadline at thirty days is a little less cumbersome. The solicitor feels that sixty days is reasonable noting that in state elections, as well as a number of other towns, there is a much longer period of time.

(j) Not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election, all candidates for the office of City Councilperson shall file with the City Manager a nominating petition, stating the name of the candidate, the office for which he or she is nominated, and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ *in the City of Milford* in which the candidate resides. Nominations for the office of Mayor shall be filed with the City Manager not less than ~~thirty (30)~~ *sixty (60)* days prior to the Annual Election and shall contain the name of the candidate, the office for which he or she is nominated and shall be signed by not less than ten (10) ~~registered~~ *qualified* voters ~~resident~~ *in the City of Milford.*

~~The City Manager shall cause to be printed ballots and envelopes for use by the voters at the annual election, or upon the direction of the Council, shall arrange for the use of voting machines at such election. The Council shall be empowered to make and promulgate rules and regulations governing the voting, not inconsistent with the provisions of this Charter.~~

2.02- *Emergency election postponement; declaration.*

After consultation with the City of Milford Board of Elections, the City Clerk of the City of Milford may issue a declaration postponing the date of an election as the result of civil disorder, a natural disaster, a state of emergency or any other catastrophic event. Once issuance of the declaration, the affected election is postponed. The City Clerk shall promptly set a date on which the postponed election will be held. The date of the postponed election shall not be later than fourteen calendar days after the original date of the election.

The solicitor noted that because the absentee ballot is now required to follow state law; the charter was changed accordingly.

2.03- Absentee Ballot Procedures (Previous 9.02)

Absentee voting in the City of Milford is in accordance with ~~15 Del. C. Section 7570-7585~~ State law. The Council shall prescribe by ordinance for the casting of absentee ballots by qualified voters unable to be at the polls at any election or referendum.

6.03- Council Ballots:

~~(a) Names on Ballots. The full names of all candidates who are seeking a seat on City Council, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot.~~

2.04- VOTING MACHINES FOR LOCAL OFFICE & MAYOR & COUNCIL BALLOTS (Previous 9.06)

(A) VOTING

(a) Voting machines for Mayor and City Council Elections. The City of Milford shall conduct all elections for local office using voting machines that the Department of Election of the State of Delaware provides..

(b) Names on Ballots. The Department of Elections shall prepare the voting machines for the election of members of a Municipal Government by listing the names of all certified candidates submitted by the municipality in alphabetical order by last name without political party or other designation.

Candidates are no longer allowed two persons as watchers and challengers (per state law). The section was removed because it is spelled out in Title 75 and only one challenger is permitted at a time though they can be substituted throughout the day.

6.04- Watchers And Challengers

~~A regularly nominated candidate shall be entitled, upon written application to the election authorities to appoint two persons to represent him as watchers and challengers at each polling place where voters may cast their ballots.~~

~~6.05=~~ 2.05- Ballots For Ordinances And Charter Amendments (Previous 9.05)

An ordinance or Charter amendment to be voted on by the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below such questions shall appear, in the following order, the words "yes" and "no" and to the left of each a square in which by making a cross (X) the voter may cast his vote.

~~6.06=~~ Voting Machines.

2.06 VOTING MACHINES FOR REFERENDA AND ANNEXATION ELECTIONS (Previous 9.06)

The Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

~~6.07=~~ 2.07- Council Districts; Adjustment Of Districts (Previous 9.07)

(a) Number Of Districts. There shall initially be four City Council districts to be known as Wards.

(b) Districting Commission. The City Council shall comprise the districting commission.

(c) Report; Specifications. By the first day of January *of the second year following the decennial census of every tenth year from the adoption of this Charter*, the districting commission shall file with the City Clerk a report containing a recommended plan for adjustment of the Council district boundaries to comply with these specifications:

(1) Each district shall be formed of compact, contiguous territory, as nearly rectangular as possible, and its boundary lines shall follow the center lines of streets or other natural boundaries or survey lines as required.

(2) Each district shall contain as nearly as possible the same number of qualified voters ~~; determined from the registration for the last statewide general election, but~~ AND districts shall not differ in population by more than ten (10) percent of the population in the smallest district created. The report shall include a map and description of the districts recommended and shall be drafted as a proposed ordinance. Once filed with the City Clerk, the report shall be treated as an ordinance introduced by a Council member.

(d) Procedure. The procedure for the Council's consideration of the report shall be the same as for other ordinances, provided that *the summary, including both the map and descriptions of the recommended districts, must be published in two newspapers of general circulation in the City of Milford, no less than one month prior to its adoption*

~~.if a summary of the ordinance is published pursuant to subsection 2.12(d)(1), it must include both the map and the description of the recommended districts.~~

(e) The Commission may, but is not required to establish five Wards instead of four, with two **Councilmen** *Councilpersons* to be elected from each Ward.

(f) Enact Ordinance. The Council shall adopt the ordinance at least six months before the next regular City election.

(g) Effect Of Enactment. The new Council districts and boundaries, as of the date of enactment, shall supersede previous Council districts and boundaries for all the purposes of the next regular City election, including nominations. The new districts and boundaries shall supersede previous districts and boundaries for all other purposes as of the date on which all Councilpersons elected at the regular City election take office.

ARTICLE III. Powers of the City – *Council and Mayor* (Previous Article II & Article IV)

3.01- Enumerated Powers *Powers of the City* (Previous 2.01)

The City of Milford shall have all powers possible for a city to have under the constitution and laws of this State as fully and completely as though they are specifically enumerated in this Charter. Without limiting the scope of the foregoing provision, the City is specifically empowered as follows:

(a) The City shall have the power to acquire lands, tenements, real property or interests therein by condemnation for the purpose of providing sites for public buildings, parks, sewers, sewage disposal or electric plants or the erection or construction of lines or conduits for the transmission of electricity, water, gas or sewerage, or for any other municipal purpose, whether within or without the limits of the City, and the procedure therefore shall be as contained in the Revised Code of Delaware 1953, as amended. The City of Milford may transmit electric, gas and/or water from the plant or plants owned and operated by said City to places or properties beyond the limits of said City and upon such terms, charges and conditions that the Council may determine and approve.

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

(1) A contract for any service to be rendered by the State of Delaware or any political subdivision thereof,

(2) A contract for professional services.

The solicitor advised the following section was only reworded. The increase from \$10,000 to \$30,000 was adopted during the charter change in 2008.

Mr. Spillane is uncomfortable with the \$30,000 threshold. He gave as an example five different sidewalks needing repair and two possible ways of handling it. One manner would be to make all five sidewalks one project and bid it. The way the charter is currently written would not require bidding if each individual sidewalk was below \$30,000 though potentially the entire project would total upwards of \$150,000. In that case, council would never be made aware of those costs and the job may simply be handed to one contractor without any other contractors being given a chance.

Mr. Spillane then confirmed the city manager has his own discretionary fund where such a bill could be paid from.

Mr. Workman prefers council being informed of such purchases. He agrees with Mr. Spillane that there is more control with a lower number.

Mr. Adkins asked for the city manager's opinion noting nothing prohibits a project from being bid; Mr. Baird said the \$30,000 is adequate today noting the amendment was made almost two years ago. In regard to Mr. Spillane's comments, the city manager would prefer language prohibiting that practice instead of reducing the amount. He pointed out the costs of putting together a bid package or RFP. He agrees with Mr. Adkin's comment there is nothing prohibiting the city from bidding items below \$30,000 and in many cases, buy through comparison pricing or by soliciting quotes.

Mr. Spillane recalls a similar situation with sidewalks repairs back in 2008. His other concern is that formal advertising alerts more vendors which he feels is a much fairer process. He does not want the same type of work to be given to the same contractor continuously.

When asked for a comparison with other municipalities, Mr. Baird said it is all across the board. He noted that some towns follow the state procurement and guidelines.

Mayor Marabello agrees we need to consider the aggregate and in the case of sidewalks, many sidewalks could be repaired easily over \$100,000 with each sidewalk individually below the \$30,000. The sum of those projects should be combined to obtain a true total.

Mr. Workman suggested adding aggregate cost to the language.

Mr. Willard suggested defining the word 'contract' in paragraph three. Mr. Baird will develop some additional language. He noted that in addition to the cost of the city in preparing bids, there is a cost to the contractor when putting those bids together. That cost is factored in and many times, public bidding is not as good as negotiating with a contractor.

Mr. Spillane prefers bidding the work to be fair and equitable though he understands there is a cost. Ms. Wilson agrees adding it also informs council of the work which she prefers.

When asked if everyone was comfortable with the \$30,000 threshold, Mr. Adkins said the \$30,000 is acceptable and provides the flexibility needed today.

Mayor recommends that language be added to protect any potential abuses. The mayor then confirmed the consensus of council is for the \$30,000 to remain with some additional wording added later review.

(3) ~~No contract shall be made by Council for any purpose, the~~ A contract ~~price of~~ which is ~~in excess~~ less than ~~of~~ Thirty Thousand (\$30,000).

(c) The contract shall be awarded to the lowest responsible bidder, but Council may reject any and/or all bids for any cause by it deemed advantageous to the City, and

(d) All formal contracts shall be signed by the Mayor with the Seal of the City attached and attested by the City Clerk.

Mr. Willard explained many of these changes were made by the committee and involved borrowing and bonds. The committee felt this section should reference the article that addresses borrowing and bonds.

(e) The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford *in accordance with the provision of Article VIII of this Charter.* ~~a sum or sums not exceeding in the aggregate of two times the previous year's tax revenue, whenever, in the opinion of a majority of the Council, the current receipts are insufficient to provide for the needs of the City, and the sums borrowed shall be repaid from current revenue received thereafter. The indebtedness created hereunder may be secured by a promissory note duly authorized by resolution of the Council and signed by the Mayor and City Manager, or attested by the Secretary, and no officer or member of Council shall be personally liable for the payment of said note or notes because their signatures appear thereon or because authorized by a resolution of the Council; provided, however, that no promissory note executed pursuant to the provisions of this section shall provide for payment over a term in excess of two (2) years.~~

(f) The Council shall have the authority to establish and maintain a pension system for employees of the City of Milford, to be paid to such employees, or dependents, in such amounts, at such times, and in accordance with such rules and regulations as the City Council shall from time to time ~~by ordinance~~ *resolve or decree.*

(g) Notwithstanding any of the provisions of this Section 3.01 and without complying with the competitive bidding procedures described herein, the City of Milford may enter into any contract necessary or desired in connection with a TIF District or a special development district created or designated by the City of Milford pursuant to Article ~~XIA~~ XII of this Charter except a contract in which the City of Milford is directly contracting for the procurement of the labor or material for public improvements for the benefit of such district, provided that the foregoing exception shall not apply to development or similar type contracts between the City of Milford and an owner of real property in such district when the contract is generally for the transfer by the owner to the City of Milford of the work performed and the cost of labor or material provided by such owner for the benefit of such district.

3.02- Construction (Previous 2.02)

The powers of the City under this Charter shall be construed liberally in favor of the City, and the specific mention of particular powers of the Charter shall not be construed as limiting in any way the general power stated in this article.

3.03- Intergovernmental Relations (Previous 2.03)

The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with anyone or more states or civil divisions or agencies thereof or the United States of America of any agency thereof.

3.04- Notice of Action (Previous 2.04)

No action, suit or proceeding shall be brought or maintained against the City of Milford, the Mayor or the City Council of the City of Milford for damages on account of physical injuries, death or injury to property by reason of the negligence of the City of Milford or any of its departments, offices, agents or employees thereof, unless the person by or on behalf of whom such claim or demand is asserted shall, within one (1) year of the occurrence of such injury, notify the City Manager in writing of the time, place, cause and character of the injuries sustained.

Mr. Spillane questioned the composition of council and because they are defined as a group of eight in section 4.01, he asked if an individual councilmember had the right to check into something they felt was occurring before bringing it before council..

It was agreed this refers to council collectively.

Mr. Willard explained that council is given these powers as a deliberative body and though everyone does not agree, the decision is made by voting which means to act as a group. He compared this to a senate investigation and councils' power (as a whole) being similar to a prosecutor in a court.

Council members reiterated that council members are unable to discuss such issues with city employees or a police officer and must follow the procedure outlined in the charter by going through the city manager or police chief first.

3.05- Investigations (Previous 4.08)

The Council may make investigations into the affairs of the City and the conduct of any City Department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence. Any person who fails or refuses to obey a lawful order issued in the exercise of these powers by the Council shall be guilty of a misdemeanor, punishable by a fine of not more than ~~\$100.00~~ **\$500.00**, or by imprisonment for not more than ten (10) days, or both.

3.06 - Independent Audit (Previous 4.09)

The Council shall provide for an independent annual audit of all City accounts and may provide for such more frequent audits as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the City government or any of its officers. The council ~~may~~ shall, without requiring competitive bids, designate such accountant or firm annually or for a

period not exceeding three years, provided that the designation for any particular fiscal year shall be made no later than 30 days after the beginning of such fiscal year. If the State makes such an audit, the Council may accept it as satisfying the requirements of this Section. Council must review and approve accept each annual audit.

3.07 – Mayor - General Powers (Previous 5.01)

Mr. Willard noted the sentences in brackets that have not been resolved involving the meeting agenda. Mr. Workman agrees the mayor may oversee the agenda though council has the right to add items to the agenda as well as approve it. He feels that if an elected official feels there is an issue in their ward that needs to be discussed, they should have the right to request it be put on the agenda. He recommends the agenda be e-mailed to council and approved or disapproved the Monday or Tuesday prior to the meeting.

Mr. Spillane agrees and feels that if the mayor does not want something on the agenda, even though council has requested it in writing, it has the potential to be stalled and never addressed. He also believes if there is a matter of public concern, he should have the right to add it to the agenda.

Mr. Adkins agrees and disagrees. He believes the mayor should be the deciding factor because he/she is elected by the entire city versus a council person who is elected to represent only one ward. However, he also likes the option for the majority of council to approve an item being placed on the agenda.

Mr. Willard explained this is an on-going issue. From a management standpoint, the mayor, city manager and city clerk prepare the agenda. The city clerk receiving phone calls from various council members requesting items can be done but from a management/gatekeeper perspective, he suggested making the requests by e-mail or correspondence. The mayor would have the option of adding it as a separate line item, but if he feels it is something council should decide, it would be added to the correspondence section. Council would then consider it and if in agreement, it would be added to the following agenda. Mr. Spillane's concern the document would be overlooked could be handled by having it added to the correspondence section.

Mr. Workman understands why the mayor would oversee the agenda, however, he agrees council should have final approval.

The mayor feels this can be handled through correspondence. Mr. Willard agreed noting there are some items, such as those requiring a public hearing and discretionary items requested by the city manager, that should be automatically added.

Mr. Morrow agrees that everyone on council should have the right to request something be added to the agenda. However, it should be initially presented through some sort of documentation and a procedure in place to prevent it from being ignored.

Ms. Wilson agrees with submitting the item through the correspondence section. In that manner, council can track it from the time it was suggested. She also believes that some items may need some research or supporting documentation before it is presented to council to prevent a lot of unnecessary questions. In those cases, the matter may not be able to be added immediately. However, she agrees council should have the right to make such a request.

Mr. Willard pointed out there will be exceptions when items can automatically be added to the agenda. However, it will prevent something from being ignored and instead, council members will make that decision at the next meeting.

The city manager feels there are no rules of operation for city council and how business is conducted. The charter talks about procedure but also states that council shall determine its own rules and order of business, etc. Unless other rules are adopted, council must follow Roberts Rules of Order and Parliamentary Procedure. He feels that some formal rules should be developed and one item would be how to have something put on the agenda. There may also be other areas that could be addressed and he suggests a committee be assigned to work on those rules.

Mr. Baird said he would be cautious about being too specific about things within the charter because the composition of this body can change potentially in half every year. He does not recommend tying future councils' hands by adding too many specifics and would rather it be done by adopting formal rules and procedures.

Mr. Brooks added that often there are times when a councilperson feels something should be placed on the agenda. But in the past the majority of times, that council person has taken that matter to the city manager and it is able to be resolved by him or by city staff. He pointed out that if a council person brings something on the floor, both sides of the issue need to be presented.

It was decided to keep the matter in brackets for a later decision to be made.

The Mayor shall be the executive of the City and shall preside at meetings of the Council, but shall have no vote except in case of a tie. The Mayor shall execute on behalf of the City all agreements, contracts, bonds, deeds, leases and other documents authorized by Council necessary to be executed. The Mayor or his/her designee shall countersign all orders, checks and warrants authorized by Council; and shall have all and every power conferred and perform the duties imposed upon him by this Charter and the ordinances of the City. *The Mayor may appoint such committees as he deems necessary for the proper administration of City Council.* {The Mayor shall manage the agenda. Council members may request in writing to the Mayor that an item be placed on a future agenda under the Correspondence item. A majority of Council may determine whether or not the item should be placed on a future agenda.}

The solicitor said this was moved from another section. However, it contains another unresolved item about whether the vice mayor will have the right to vote while serving in the place of the mayor while presiding over the meeting and if so, should it only be in the case of a tie.

Mr. Brooks said he brought this before council because when he served as vice mayor for eighteen years, he was told by the city solicitor, mayor and two city managers that he was to act just as the mayor is required which did not allow a vote unless there is a tie.

Mr. Workman feels it is two different positions. Though the vice mayor is originally elected as councilperson, once they replace the mayor as the presiding officer, they become the mayor.

Mr. Adkins pointed out that if the vice mayor votes, it could result in a tie. Mr. Baird explained that in that case, the motion would fail.

Mr. Starling pointed out that if the vice mayor was prohibited from voting, there would be a maximum of seven council members so in most cases it would not end in a tie unless someone abstained or another council member was absent.

Mr. Morrow agrees the vice mayor is acting as the mayor once they become the presiding officer and should follow the restrictions and benefits of being the mayor.

Ms. Wilson said that when acting as vice mayor, she was advised to vote as an elected councilperson. However, she agrees that overall, the vice mayor in those instances should follow what the mayor is permitted or restricted from doing.

It was suggested that should the mayor be absent for an extended period of time, perhaps some wording could be added to allow the vice mayor to act as councilperson with the right to vote. Short term, it would be handled in a different manner.

Mayor Marabello feels that long term would be a unique and rate situation. If it is a contentious or critical issue, the vote can always be deferred. In his opinion, it is a temporary position and they are only presiding over the meeting. Therefore, he does not feel the vice mayor should lose the right to represent their ward for one or two meetings.

The solicitor's instincts are the vice mayor has the mayor's authority though the language of the existing charter does not take away what has been given by the voters which he feels is significant.

Mr. Johnson asked what is allowed in other towns in this situation. He believes that when a person is elected as a council person, those constituents expect that person to vote, whether or not they are elected to the vice mayor position.

Mr. Starling believes that by allowing the vice mayor to vote sets up a scenario for a tie vote.

The mayor suggested the item be kept bracketed to be addressed at a future meeting.

3.08 - *Vice Mayor* (Previous 4.01 & 5.01)

The Council shall also elect from among its members a Vice-Mayor who shall act as Mayor during temporary absence or inability of the Mayor, and while so acting, shall be vested all the powers and authority of the Mayor. While serving in the place of the Mayor, the Vice Mayor **[shall/shall not]** be permitted to vote as a member of City Council **[except in the case of a tie].**

3.09 - *General Powers and Duties* (Previous 4.03)

All powers of the City shall be vested in the Council, except as otherwise provided by law or this Charter, and the Council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the City by law.

Article IV. *Council Government* – *Composition, Qualifications, Vacancies and Procedure*

(Previous Article III & Article IV)

4.01- *Composition of Government* (Previous 3.02)

The government of the city and the exercise of all powers conferred by this charter except as otherwise provided herein, shall be vested in an elective body called the council, consisting of a mayor and eight (8) council members. Whenever the word “mayor” is used, it shall refer solely to the mayor. Whenever the word “council” is used it shall refer to the eight (8) council members.

The government of the City of Milford and the exercise of all powers conferred by this Charter, except as otherwise provided herein shall be vested in a Mayor and a City Council. The City Council shall consist of not more than ten (10) members. Two of the members of the City Council shall reside in that portion of the City known and described as the First Ward, two in that portion known as the Second Ward, two in that portion known as the Third Ward and two

in that portion known as the Fourth Ward. In the event a Fifth Ward is created, two members of Council shall reside in that portion of the City known and described as the Fifth Ward.

The below sentence was removed because it is addressed in another section.

~~Only qualified registered voters of the City, meeting the qualifications for Mayor and City Council as outlined in Section 3.03, shall be eligible to hold the office of Councilperson or Mayor.~~ The Mayor and Councilpersons shall each serve for a term of two years.

The meeting time was changed to 7 o'clock and moved to the second Monday to adhere to the requirements in the state municipal election law. The city clerk concurred the 7-day rule required for the election appeal process.

There was a question about the workshop/public hearing meeting that is held on its regular night following the election. In some cases, a sitting councilperson has been defeated. It was confirmed that state law does not allow the newly elected councilperson to take office until seven days or more after the election.

There was a discussion about whether the meeting should be postponed until the following month or to change it to the third Monday before the election.

The city solicitor believes that constitutionally, the council members are no longer able to take action once another person was elected to replace them. He said that was cited in recent case law involving previous Register of Wills David Wilson who was elected in the middle of his term to the office of State Representative.

Mr. Willard will follow up with the city clerk after determining the legalities of whether outgoing council members can legally take action.

4.02 Annual Organizational Meeting (Previous 4.01)

At ~~7:30~~ seven o'clock (7:00) p.m., on the *second* Monday following the annual election, the Mayor and Council shall meet at the Council Chamber and shall assume the duties of their offices after being first duly sworn or affirmed to perform their duties with fidelity and in accordance with the Charter of the City. ~~At said meeting, the Council shall organize by a majority vote of the entire Council and elect a Vice-Mayor, who shall be a member of the Council.~~

4.03 - Compensation and Expenses (Previous 4.02)

The Council may determine the annual salary of Councilpersons and the Mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of Councilpersons elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six months. Councilpersons and the Mayor shall receive their actual and necessary expenses incurred in the performance of their duties of office.

4.04- Prohibitions (Unchanged)

(a) ~~Holding other office~~ Except where authorized by law, no *Mayor* or Councilperson shall hold any other City office or employment during the term for which he or she was elected to *the Office of Mayor* or Council, and no former *Mayor* or Councilperson shall hold any compensated appointive City office or employment until ~~one~~ two (2) years or more after the expiration of the term of *office* for which he or she was elected ~~to the Council~~.

(b) *Appointments and removals*. Neither the *Mayor*, Council nor any of its members shall in any manner dictate the appointment or removal of any City administrative officers or employees whom the Manager or any of his subordinates are empowered to appoint, but the *Mayor* or Council may express its views and fully and freely discuss with the Manager anything pertaining to appointment and removal of such officers and employees.

(c) *Interference with Administration*. Except for the purposes of inquiries and investigations under Section ~~2.08~~ (incorrect section) *4.08*, the *Mayor* or Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the *Mayor* or Council nor its members shall give orders to any such officer or employee, either publicly or privately.

4.05- Vacancies, Forfeiture of Office; Filling of Vacancies (Unchanged)

(a) *Vacancies*. ~~The office of a Councilperson and Mayor shall become vacant upon death, resignation, removal from office in any manner authorized by law, or forfeiture of office.~~

(1) *The Office of the Mayor shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the City..*

(2) *The Office of a Councilperson shall become vacant upon death, ~~or~~ resignation or removal from office in any manner authorized by law, or ceases to be a lawfully registered voter of the City and a resident of the ward in which he/she resided at the time of the election.*

(b) *Forfeiture of Office*. A Councilperson shall forfeit his or her office if he or she (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law, (2) violates any express prohibition of this Charter, (3) is convicted of a crime involving moral turpitude.

~~(c) *Filling of Vacancies*. If a vacancy occurs in the Council and the remainder of the unexpired term is one (1) year or less, the Council may, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than one (1) year, the election authorities shall call a special election to fill the vacancy for~~

~~the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.~~

Mr. Willard advised a great deal of thought went into the filling of vacancies and recommends the following procedure as has been rewritten.

Mr. Adkins questioned a vacancy occurring between three and six months which reads 'shall' and asked if that means the appointment must be made. He suggested some discretion questioning a vacancy that may be three months and one day in relation to the sixty day filing deadline. He recommends replacing 'shall' with 'may' to allow more flexibility depending on the time remaining in relation to meetings and filing deadlines.

Mr. Willard asked that by adding 'may', what would be the alternative to leaving it vacant though you do not have to because you are saying 'may'.

It was agreed to change the language to 'may' (three to six months).

(c) Filling of Vacancies. If a vacancy occurs in the Council and the remainder of the unexpired term is less than three (3) months, the vacancy shall be filled in the next general election. If a vacancy occurs in the Council and the remainder of the unexpired term is less than six (6) months but more than three (3) months, the Council shall may within 45 days of the vacancy occurring, by a majority vote of all of its remaining members, appoint a qualified person to fill the vacancy until the person elected at the next regular election takes office. If at the time a vacancy occurs the remainder of the unexpired term is greater than six (6) months, the election authorities shall call a special election to fill the vacancy for the remainder of the unexpired term. The special election shall be held not sooner than twenty (20) days nor later than thirty (30) days following the occurrence of the vacancy and shall be otherwise governed by the provisions of Article VII. Notwithstanding the requirement that a quorum of the Council consists of five members, if at any time the membership of the Council is reduced to less than five, the remaining members may, by majority action, appoint additional members to raise the membership to five.

Mr. Workman recommends the age for candidates for office remain at eighteen years noting that if you are old enough to vote, you should be able to run for office.

The city manager explained the change to twenty-one coincides with the state municipal law though the law allows for discretion.

Mr. Adkins agreed with Mr. Workman noting that at eighteen years of age you have to register for the draft, can serve in the military and are able to own property. He feels this is the most basic level of government to become involved in and should be a right that eighteen years old have.

Council agreed it would remain at eighteen years of age and it would be changed accordingly.

4.06- Qualification for Mayor and City Council (Previous 3.03)

~~No person shall be eligible for election as Mayor or as a member of Council unless they have been a resident of the State of Delaware and the City for thirty (30) days preceding the day of the election; and are over the age of eighteen years prior to the day of the election. Neither the Mayor or any member of Council shall be eligible to serve in such elected office unless they shall continue to be residents of the City during their respective terms of office.~~

(a) No person shall be eligible for election as Mayor unless he or she is a citizen of the United States of America, a bona fide resident of the City of Milford and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(b) No person shall be eligible for election as a City Council member unless he or she is a citizen of the United States of America, a bona fide resident of the Ward in the City of Milford where they are seeking election and has continuously resided therein for a period of one year preceding the day of the election, is over the age of ~~twenty-one (21)~~ eighteen (18) years prior to the day of the election, has not been convicted of a felony and is nominated therefore, as hereinafter provided.

(c) The Mayor shall be eligible to serve in such elected office unless he or she does not continue to be a resident of the City during his or her respective term(s) of office nor shall any member of Council be eligible to serve in such elected office unless they continue to be a resident of their Ward during their respective terms of office.

It was confirmed that presently, nothing in the charter prohibits a council member from running for two seats. The solicitor said that some research was done and there are varying policies including some that prohibit it.

Mr. Starling, Mr. Adkins, Mr. Workman and Mr. Brooks agreed that a person should not be able to run for two seats and that a councilperson files to run for mayor, they should surrender their council seat.

Ms. Wilson believes that if someone runs for mayor and loses, they should be able to retain their council seat if their term is unexpired.

Mr. Willard pointed out that would apply to a councilperson who is midterm; he questioned if a councilperson whose term coincides with the mayor, should be permitted to run for both offices.

Mr. Spillane said it would be unfair to prohibit a council member whose term of office is the same as the mayors from running for mayor and require them to give up their seat.

Some other towns policies were then discussed:

If a councilman files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday of May on the year of the election; and if they have a year remaining on their term, then their office as councilman shall be filled at the same annual election in which they have filed to run for the office of mayor.

No person who holds any elected office in the town may file as a candidate for the office of mayor unless and until that person first resigns from his/her elected position; provided however, that this subsection shall not require any elected official whose term of office expires at the next town election to resign his/her seat as a council-member in order to run for the office of mayor in that next town election.

Any councilperson whose term of office coincides with the mayor and who files to run for mayor will relinquish his/her seat on the day the mayor is sworn into office regardless of whether or not they are elected to the office of mayor. Councilpersons whose terms do not expire at the same time as the mayor will retain their seat should they not be elected mayor. Council members serve staggered two-year terms; the mayor serves a three-year term.

The mayor agrees with Ms. Wilson that if you are running between your term, you are not costing the city any money and it should not be a problem. However, someone who runs for two different offices and wins the mayoral seat should not incur additional costs to the city by causing another election.

It was agreed by council that a person is not permitted to run for two different offices with the exception of Mr. Spillane. However, it was also agreed it would not be discussed at a future meeting.

~~*(d) If a councilmanmember files and runs for mayor, whether or not they are elected to said office, the term as councilman shall automatically expire on the second Monday following the date of the election; and if they have a year remaining on their term, then their office as council shall be filled at the same annual election in which they have filed to run for the office of mayor—to be determined by City Council. and is elected before his or her Council term has expired, the elected Mayor's council seat shall be considered vacant when the elected Mayor is sworn in on the second Monday following the date of the election.*~~

4.07- Judge of Qualifications (Previous 4.06)

The Council shall be the judge of the election and qualifications of its members and of the grounds for forfeiture of their office and for that purpose shall have power to subpoena witnesses, administer oaths and require the production of evidence. A member charged with conduct constituting grounds for forfeiture of office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the City at least one week in advance of the hearing. Decisions made by the Council under this Section shall be subject to review by the Superior Court.

Mr. Willard advised that most of the changes in the election section were made to comply with state law.

4.08 - Procedure (Previous 4.10)

(a) Meetings. The Council shall meet regularly at least once in every month at such times and places as the Council may prescribe by rule. Special meetings *may* be held *in compliance with State law and may be* on the call of the Mayor or of four or more ~~members, whenever practicable, upon no less than twelve (12) hours' notice to each member.~~ All meetings shall be public; however, the Council may recess for the purpose of discussing in a closed or executive session limited to its own membership any matter *permitted by State Law* ~~which would tend to defame or prejudice the character or reputation of any person.~~

(b) Rules and Journal. The Council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal shall be a public record. Unless or until other rules are adopted, the Council shall follow Roberts Rules of Order and parliamentary procedure.

(c) Voting. Voting, except on procedural motions, shall be by roll call, and the ayes and nays shall be recorded in the journal. Five members of the Council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. No action of the Council, except as otherwise provided in the preceding sentence and in Section ~~4.05(c) 2.05~~, shall be valid or binding unless adopted by the affirmative vote of four or more members of the Council.

4.09 - Action Requiring an Ordinance (Previous 4.11)

The Council is hereby vested with the authority to enact ordinances or resolutions (resolution includes actions taken upon motion whether by roll call or voice vote and whether or not the resolution has been prepared in writing) relating to any subject within the powers and functions of the City, or relating to the government of the City, its peace and order, its sanitation, beauty, health, safety, convenience and property, and to fix, impose and enforce the payment of fines and penalties for the violation of such ordinances or resolutions, and no provision of this Charter as to ordinances on any particular subject shall be held to be restrictive of the power to enact ordinances or resolutions on any subject not specifically enumerated.

In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the City Council shall be by ordinance which:

(a) Adopt or amend an administrative code; ~~or establish, alter or abolish any City department, office or agency;~~

(b) Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;

(c) Levy taxes, except as otherwise provided in Article V X with respect to the property tax levied by adoption of the budget;

(d) Grant, renew or extend a franchise;

(e) Regulate the rate charged for its services by a public utility;

(f) Authorize the borrowing of money;

(g) Sell or lease or authorize the sale or lease of any asset of the City if its value is equal to or greater than 1/5 of 1% of the assessed value of all real property within the corporate limits.

(h) Amend or repeal any ordinance previously adopted.

(i) Change of zone or conditional use of land.

Acts other than those referred to in the preceding may be done either by ordinance or by resolution.

4.10 - Ordinances in General (Previous 4.12)

(a) Form. Every proposed ordinance shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject which shall be clearly expressed in its title. The enacting clause shall be “The City of Milford hereby ordains...” Any ordinance which repeals or amends an existing ordinance or part of the City Code shall set out in full the ordinance sections or subsections to be repealed or amended and shall indicate the matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure. An ordinance may be introduced by *the Mayor, any member of City Council or the City Manager* at any regular or special meeting of the Council. Upon introduction of any ordinance, the City Clerk shall distribute a copy to *the Mayor, each Council Member and to the City Manager. An ordinance shall be placed on the agenda for introduction and for adoption by title, the introduction and the adoption may not be on the same meeting date.* As soon as practicable after adoption of any ordinance, the Clerk shall have it published together with a notice of its adoption.

(c) Effective Date. Except as otherwise provided in this Charter, every adopted ordinance shall become effective at the expiration of ten (10) days after adoption or at any later date specified therein.

(d) “Publish” Defined. As used in this section, the term “publish” means to print in one or more newspapers of general circulation in the City:

(1) A brief summary of the Ordinance, the ordinance or a brief summary thereof, and

(2) the places where complete copies of it have been filed and the times when they are available for public

inspection.

4.11 - Emergency Ordinances (Previous 4.13)

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by any public utility for its services or authorize the borrowing of money except as provided in subsection ~~5.09(b)~~ 6.09(b). An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least five members shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption or at such later time as it may specify. Every emergency ordinance, except one made pursuant to Subsection 6.09 (b), ~~5.09(b)~~ shall automatically stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

4.12- Codes of Technical Regulation (Previous 4.14)

(a) The Council may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an adopting ordinance shall be as prescribed for ordinances generally except that:

(b) The requirements of Section ~~2.12~~ 4.10 for distribution and filing of copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and

(c) A copy of each adopted code of technical regulations as well as the adopting ordinance shall be authenticated and recorded by the City Clerk pursuant to Subsection ~~2.15(a)~~ 4.13(a).

(d) Copies of any adopted code of technical regulations shall be made available by the City Clerk for distribution or for purchase at a reasonable price.

4.13 - Authentication and Recording, Codification Printing (Previous 4.15)