

City of Milford



AGENDA

Monthly Council Meeting

March 8, 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/Haitian Pastors Lionell Sainseme and Reverend Amos

Monthly Police Report

City Manager's Report

Committee Reports

Communications

Unfinished Business

- Introduction of Ordinance 2010-2/Cypress Hall/Conditional Use
- Adoption of Ordinance 2010-3/Chapter 119/Electric Standards
- Adoption of Resolution/Accepting Public Areas/Meadows at Shawnee
- Planning Commission Vacancy & Appointment
- Snow Removal Reimbursement Request-Hearthstone Manor
- City of Milford Charter Review**

New Business

- Preliminary Major Subdivision Extension Request/Wickersham
- Cascades Subdivision/Ingerman Group Presentation
- Milford Community Cemetery-Financial Overview
- FY2009-2010 Budget Amendment/General Fund-Fund Balance Funding*

Monthly Finance Report

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

Motion/Executive Session-Legal Matter*

Adjourn

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

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

City of Milford



Resolution

2010-5

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 8th Day of March 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



OFFICE OF THE CHIEF OF POLICE
E. KEITH HUDSON

“THE GARDEN CITY OF TWIN COUNTIES”

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

MEMORANDUM

TO: Mayor and Members of City Council

FROM: E. Keith Hudson, Chief of Police

DATE: March 3, 2010

RE: Activity Report/February 2010

=====

Monthly Stats:

A total of 345 arrests were made by the Milford Police Department during February 2010. Of these arrests, 114 were for criminal offenses and 231 for traffic violations. Criminal offenses consisted of 27 felonies and 87 misdemeanors. Traffic violations consisted of 13 Regular Duty Radar, 6 Drunk-Driving charges, 0 Special Duty Radar and 212 other.

Police officers investigated 51 accidents during the month (4 personal injury, and 47 property damage) and issued 35 written reprimands. In addition, they responded to 872 various complaints including city requests and other agency assistance.

A total of \$6,071.25 was collected in fines during February.

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

Monthly Activities:

On February 5th, the Department's Criminal Division attended a one day seminar on "Human Trafficking" at the Dover Downs Conference Center. On February 16th, Lieutenant Brown and Corporal Horsman attended a Taser Instructor recertification class at Wor-Wic Tech in Salisbury, Maryland. In addition, they were required to complete eight hours of on-line training prior to attending. On February 22, Pfc. Wyatt began a four day seminar for Public Information Officers at Dover Police Department.

The 2010 Citizens Police Academy will be graduating eleven attendees on March 10th. During the graduation ceremony, three police officers will be recognized with service awards.

The Milford Police Department will be hosting two law enforcement training seminars in the month of April which entitles us to free slots in both courses.

The Community Policing Unit will be conduct Neighborhood Watch Training for a newly organized group at Meadows of Shawnee on March 9th.

Several officers from the department will be assisting the Special Olympics toward the end of March.

Our Communications Unit has been submitted for consideration for an APCO (Association of Public-Safety Communications Organization) Unit Citation Award. The Eastern Shore Chapter meets in April in Rehoboth for their annual convention. The Milford dispatchers were nominated as a result of the smooth transition from a manual system of recordkeeping to the newly automated system which required them to basically to re-learn their entire call taking procedures.

The department has been working with Justice of The Peace Court 6 on a program to alleviate scheduling conflicts with officers attending mandatory training and the court scheduling trials for the same time. We have a need to control overtime for JP court trials while considering the goal of the court to bring cases to trial within a given time frame. We believe that the new process should eliminate many of those scheduling conflicts thus reducing the number of trials at JP Court.

Our storm overtime cost and costs of supplies and equipment has been submitted to Lisa Carmean for inclusion in the application as Delaware seeks federal disaster aid in the wake of the recent snow storms. DEMA will only reimburse for direct costs of snow removal of 75% if the Presidential Declaration doesn't go through.

The police department sustained roof damage during these storms. After receiving an estimate of \$20,000, the department is making a claim to the insurance company.

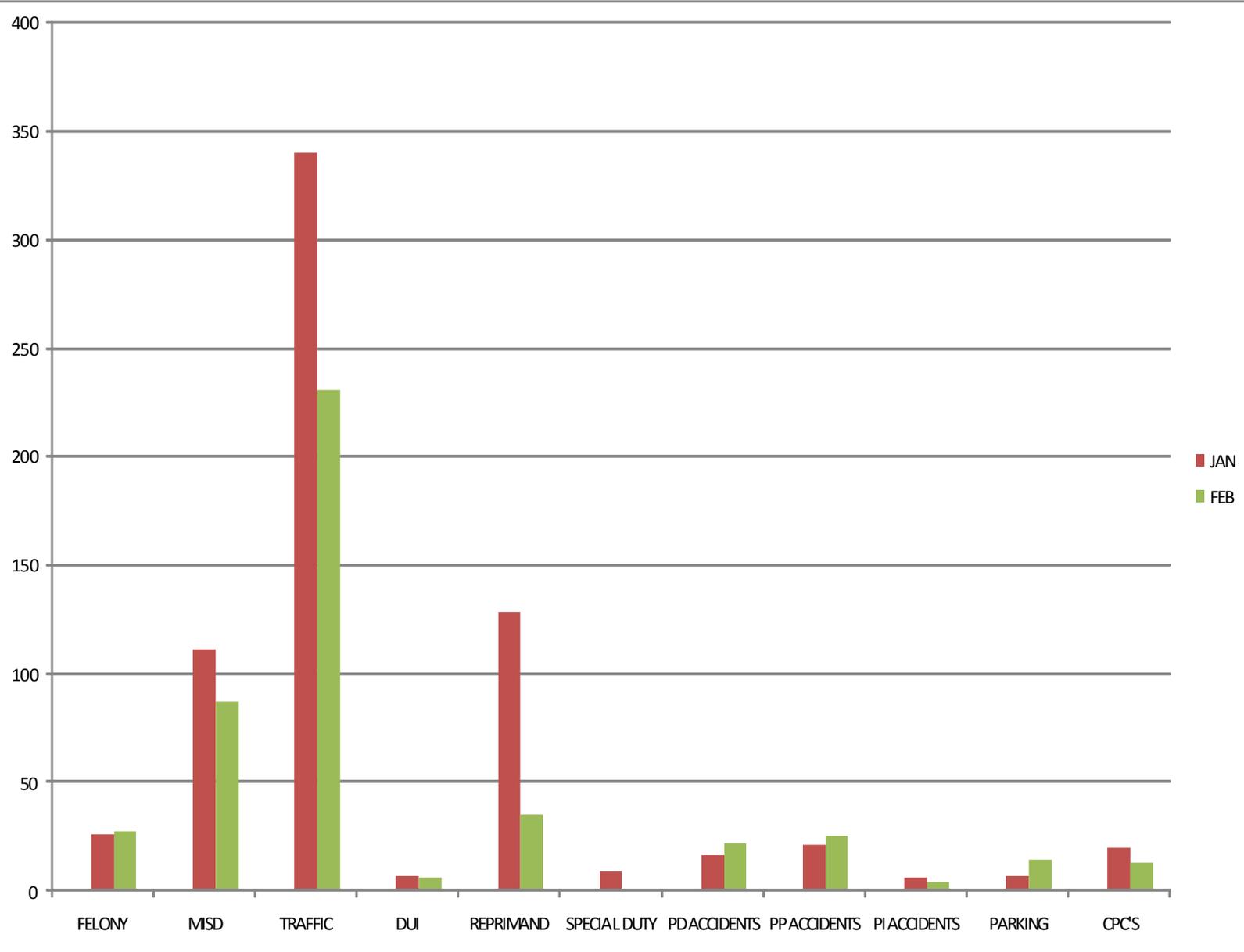
I am extremely happy to report that Corporal Robert Shane Young has safely returned from his deployment in Iraq, however he is still under orders from the base but is hoping to return to work sometime in April.

We are in the process of choosing this year's seasonal officers; their training will begin sometime this month.

EKH/vrk

FEBRUARY ACTIVITY REPORT

	<u>FEB 2009</u>	<u>TOTAL 2009</u>	<u>FEB 2010</u>	<u>TOTAL 2010</u>
<u>Complaints</u>	835	1696	872	1932
<u>Criminal Arrests</u>	194	469	114	251
Felonies	74	152	27	53
Misdemeanors	120	317	87	198
<u>Traffic Arrests</u>	401	749	231	571
Regular Duty Radar	56	86	13	32
D.W.I.	14	27	6	13
Special Duty Radar	16	75	0	9
Other	315	561	212	517
<u>Reprimands</u>	304	497	35	163
<u>Accidents</u>	43	83	51	94
Personal Injury	7	7	4	10
Property Damage	36	76	47	84
Fatal (included in PI)	0	0	0	0
<u>Parking Summons</u>	18	30	14	21
<u>Crime Prevention Checks</u>	29	65	13	33
<u>Fines Received</u>	\$7,612.60	\$15,545.05	\$6,071.25	\$10,108.50



City Manager's Report
March 8, 2010

- **Recreation and Trail Plan (Parks and Recreation Goal)**
The City has received a grant award of \$25,000 from the Delaware Land & Water Conservation Trust Fund complete a recreation and trail master plan. The funding 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.
- **Tony Silicato Memorial Park Dedication**
The ribbon cutting and dedication of the Tony Silicato Memorial Park will be held on Saturday, April 10, 2010 at 10:00 am. at the Park.
- **Land Lease-D&N Bus Service**
A site plan has been submitted for the property located at the Greater Milford Business Park and all rents have been paid in accordance with the lease between Mr. Moore and the City.
- **Parking Authority of the City of Milford**
I have received correspondence from Harvey Marvel, Chairman of the Milford Parking Authority requesting City Council consider the dissolution of the Parking Authority. All of the bonds associated with the Authority have been retired and the Authority is requesting the City take ownership of the parking lots. We are evaluating the current condition of the parking lots and what is involved in terminating the specific process for Termination of a Parking Authority under Title 22 of the Delaware Code.
- **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.
- **201,203,205,207 NW Front Street**
All of these properties have been condemned by the City and the owners of 205 & 207 NW Front Street have appealed the condemnation order issued by the Code Official to myself. The appeals hearing was held on March 4, 2010 and a decision will be issued the week of March 8. Depending on this decision, the property owner, under the property maintenance code, has the ability to appeal my decision to the Board of Appeals.

- **DEMEC—Revised Consent Forms for Additions to Letters of Credit**

As part of the City's full requirements contract, DEMEC is revising the three Consent Forms for the Letters of Credit that were issued in January 2009. The revision consolidates the three forms into one by removing the reference to specific power suppliers and replacing it with language that broadens the coverage to include all power suppliers doing business with DEMEC. The total aggregate amount authorized by this remains unchanged at \$45 million.

- **Planning Commission/Board of Adjustment Training (Planning Goal)**

In January, the Planning Commission kicked off a four month training program that will focus on the areas of Transportation, Signage, Open Space/Recreation, and Walkable Communities. The training programs are being coordinated with the assistance of the Dover/Kent County MPO and are being held prior to the Planning Commission's monthly meetings. In addition, the newly appointed

- **Electric Rate Comparison**

The rate comparison table from DEMEC is attached.

2/24/10

To: Milford City Council
Mayor Marabello
City Manager Baird

From: Harvey Marvel
Milford Parking Authority Chairman

RE: Completion of Assignment and
Proposed Dissolution of the Parking Authority

In 1974 Milford City Council passed an ordinance establishing the Parking Authority of the City of Milford, Inc. The authority was assigned the task of creating free public parking in the downtown business district, and arranging for the funds to pay for it.

The downtown property owners voted to pay a special Parking Authority tax to pay to amortize the loan needed.

I was appointed as a member of the original Authority board of directors, and became chairman in 1976.

I am pleased to report that we have completed our assignment. In 1981 we arranged a loan from the current USDA (formerly Farmers Home Administration) of \$341,000. These funds were used to acquire land and construct 3 parking lots in the downtown business district (1-behind Georgia House, 2-across from Park Place, 3-across N. Walnut from Wilmington Trust). The loan had a 30 year payout. In September, 2009 we paid off the loan one year early.

We have stopped collecting the special tax, now that the loan is paid off.

The Parking Authority Board is requesting that the City take over ownership of the parking lots and dissolve the Parking Authority. The City has always provided for the routine maintenance and cleaning of the lots, as part of the original establishment agreement.

The current assets of the Authority consist of cash (\$10,494.), uncollected taxes (\$5,099.), and the 3 parking lots. There are no known liabilities.

Delaware Code Title 22, Chapter 5, Section 513 details the procedure for Termination of a Parking Authority.

New - to replace Old 1, 2, 3

DELAWARE MUNICIPAL ELECTRIC CORPORATION

**CONSENT, ACKNOWLEDGEMENT AND CERTIFICATION
OF THE PARTICIPATING MEMBERS**

The Delaware Municipal Electric Corporation ("DEMEC") and each of the Delaware municipalities listed on the signature page hereto (collectively, the "Participating Members") have entered into a substantially similar Full Requirements Power Sales, Transmission and Agency Service Agreement (each a "Full Requirements Contract") under which DEMEC is authorized and directed to enter into contracts to purchase capacity energy, transmission, and ancillary services necessary to supply the Full Requirements Service for the Participating Member, and the Participating Member has agreed to pay the cost of providing that service. In order to provide the Full Requirements Service to the Participating Members, DEMEC has entered into (or will enter into) various contracts (collectively, the "Power Supply Agreements") with various counterparties (collectively, the "Counterparties") under which DEMEC is required, from time to time, to obtain and deliver to said Counterparties letters of credit (collectively, the "Letters of Credit") to secure DEMEC's obligations under the Power Supply Agreements. DEMEC and PNC Bank, National Association (the "Bank") have entered into a Letter of Credit, Reimbursement and Security Agreement (as heretofore and as hereafter amended, the "Letter of Credit Agreement") pursuant to which the Bank has issued, and may issue in the future, one or more Letters of Credit, and under which DEMEC has agreed to reimburse the Bank for any amounts drawn under the Letters of Credit. The amounts of the Letters of Credit will vary from time to time, but the aggregate amount shall not exceed \$45,000,000, the amount approved by resolution of the Board of DEMEC on January 21, 2009. In order to secure its reimbursement obligation under the Letter of Credit Agreement, DEMEC must pledge and assign to the Bank all its right, title and interest to all the Full Requirements Contracts, including the right to receive payments from the Participating Members (the "Contract Payments"). Under Section 12.1 of the Full Requirements Contracts, DEMEC cannot assign any of its rights under the Full Requirements Contracts except with the written consent of the Participating Members. In order to satisfy the foregoing, each of the undersigned Participating Members hereby:

(1) Consents to DEMEC's assigning its right, title interest in the Full Requirements Contracts to the Bank as security for DEMEC's reimbursement obligation under the Letter of Credit Agreement;

(2) Acknowledges and agrees that its Contract Payments will be made without regard to any reductions in the same arising from any modification of its Full Requirements Contract except as permitted by Section 3.2 of the Letter of Credit Agreement;

(3) Certifies that it is bound by and is in compliance with the terms of its Full Requirements Contract and that the electric rates which it charges are sufficient for the payment of the amounts described in clauses (i) to (iv) of item 4 of Section 5.1 of the Full Requirement Contract; and

Old- 1

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(4) Agrees that upon receipt of written direction from the Bank, to make its Contract Payments to the Bank, as provided in Section 3.2.1(f)(iii) of the Letter of Credit Agreement.

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Selected Area Utilities

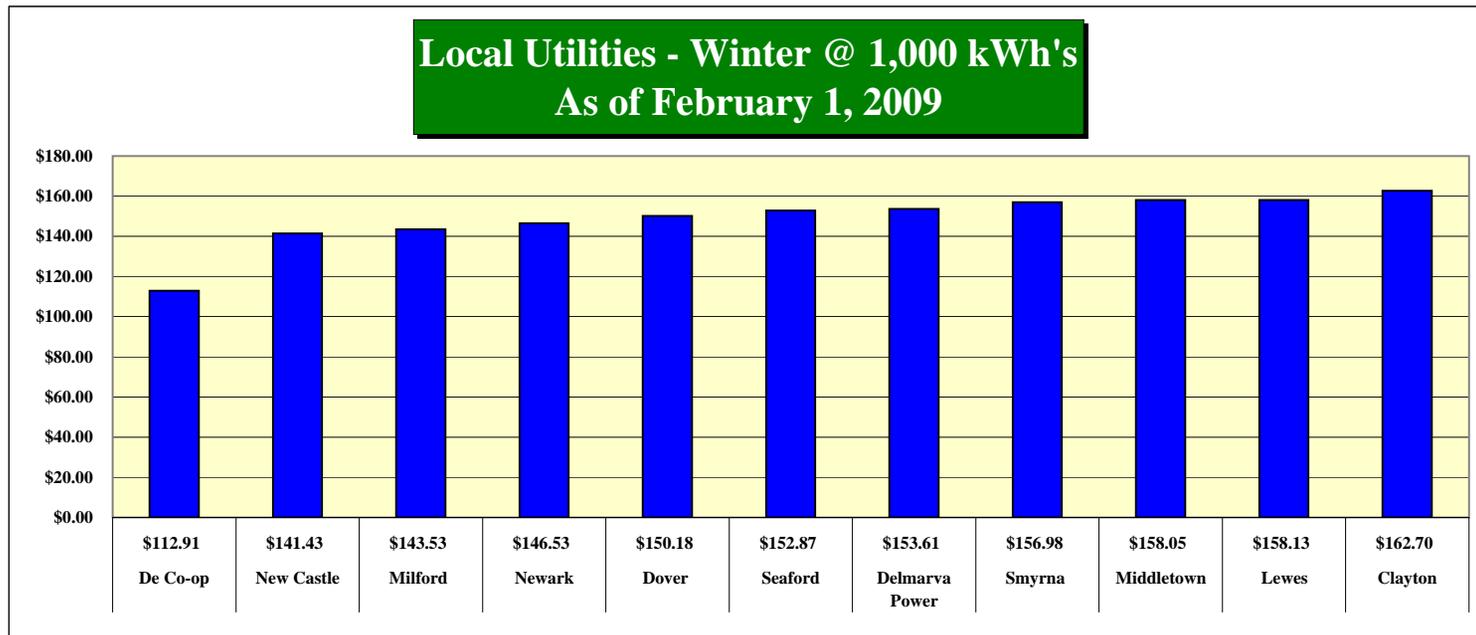
Winter (Oct. - May)

RESIDENTIAL RATE COMPARISON @ 1,000 kWh

		<u>% Difference</u>	<u>% Difference</u>
<u>De Co-op</u>	\$112.91	0%	-26%
<u>New Castle</u>	\$141.43	25%	-8%
<u>Milford</u>	\$143.53	27%	-7%
<u>Newark</u>	\$146.53	30%	-5%
<u>Dover</u>	\$150.18	33%	-2%
<u>Seaford</u>	\$152.87	35%	0%
<u>Delmarva Power</u>	\$153.61	36%	0%
<u>Smyrna</u>	\$156.98	39%	2%
<u>Middletown</u>	\$158.05	40%	3%
<u>Lewes</u>	\$158.13	40%	3%
<u>Clayton</u>	\$162.70	44%	6%

**** Municipal rate differences with the Coop's rates may represent the City's/Town's margin and/or the funds transferred to the City's/Town's general funds.***

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



City of Milford



QUALIFICATIONS FOR RESIDENTS 65 OR MORE YEARS OF AGE FOR CITY OF MILFORD PROPERTY TAX EXEMPTION DEADLINE – MONDAY, JUNE 1, 2010

NOTICE IS HEREBY GIVEN that those persons who meet the following requirements should file a Property Tax Exemption Application with the City of Milford:

1. Every person 65 or more years of age having an income not in excess of \$15,000 per year, exclusive of social security and railroad pensions, and residing in a dwelling owned by him or her which is a part of his or her real property shall be entitled, on proper claim being made thereof, to exemption from taxation on \$20,000 of assessed valuation of such real property.
2. In the case of jointly owned property or property owned by husband and wife, such exemption shall be granted where the income of both does not exceed \$25,500 per year, exclusive of social security and railroad pensions.
3. Every claimant shall sign a statement that he or she is a resident of the City of Milford, of the age of 65 years, the owner and resident of a dwelling which is a part of the real property for which such exemption is claimed and has been a resident of that property for a period of at least one year prior to October 1st of this year.
4. Such applicant shall provide proof that his or her income from all sources including capital gains, pension and annuities for the yearly period did not exceed the income described in #1, exclusive of social security and railroad pensions.
5. No exemption shall be allowed except on written application, on a form prescribed by the City of Milford, 180 Vickers Drive, Milford, Delaware 19963.
6. APPLICATIONS will be based on information for the pretax year and **MUST BE RECEIVED PRIOR TO MONDAY, JUNE 1, 2010.**

PUBLIC NOTICE

The following ordinance is under review by the Milford Planning Commission and Milford City Council as noted:

Ordinance 2010-2

Conditional Use-Shawnee Farm LLC

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILFORD, DELAWARE AUTHORIZING A CONDITIONAL USE PERMIT FOR SHAWNEE FARM LLC TO ALLOW A SHOPPING CENTER IN A C-3 DISTRICT ON THE SOUTHWEST CORNER OF STATE ROUTE 36, SEABURY AVENUE EXTENDED AND US ROUTE 113 IN THE CYPRESS HALL SUBDIVISION, MILFORD, DELAWARE; TAX MAP 1-30-3.00-261.00.

Whereas, the City of Milford has been requested by Shawnee Farm LLC to allow a conditional use for a shopping center in the Cypress Hall Subdivision southwest of US Route 113 and State Route 36; and

Whereas, the Planning Commission reviewed the application at a public hearing on March 16, 2010 and has presented item to be considered by the City Council, and;

Whereas, the City Council held an advertised public hearing on April 26, 2010 to allow for public comment on the application; and

Whereas, it is deemed in the best interest of the City of Milford to allow the shopping center on the 9.79 +/- acres as herein described.

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

Section 1. Upon the adoption of this ordinance, Shawnee Farm LLC is hereby granted a conditional use permit for a shopping center in accordance with the application, approved plans and any conditions set forth;

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

Section 3. Dates.

Introduction to City Council: 03-08-10

Planning Commission Review & Public Hearing: 03-16-10

City Council Review & Public Hearing 04-26-10

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

Ordinance 2010-2 is scheduled for adoption, with or without amendments, at the council meeting to be held Monday, April 26, 2010. Should you have questions, please contact the City of Milford Planning Department at 302-424-3712 Extension 308.

CITY OF MILFORD
ORDINANCE 2010-3

AN ORDINANCE TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING CHAPTER 119, ELECTRICAL STANDARDS, OF THE CITY OF MILFORD CODE TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.

THE CITY OF MILFORD HEREBY ORDAINS as follows:

Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: “Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator’s or regional transmission organization’s organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.”

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator’s or regional transmission organization’s bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.”

Whereas, pursuant to the City of Milford Code, Chapter 119, the Council of The City of Milford (“City Council”) is authorized to enact the City of Milford Electric Tariff governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford’s retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. Chapter 119, City of Milford Electric Tariff, is hereby revised to add under the heading “Aggregation of Retail Customer Demand Response” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized electric markets.
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 3. CHAPTER 119, City Electric Tariff, is hereby revised to add under the heading “Ancillary Services Provided by Demand Response Resources” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff).
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 4. EFFECTIVE DATE. This ordinance shall take effect in accord with law.

Adopted Date March 8, 2010

Effective Date March 18, 2010

City of Milford



Resolution

2010-4

ACCEPTING PUBLIC IMPROVEMENTS FOR MEADOWS AT SHAWNEE SUBDIVISION

WHEREAS, Chapter 200 provides that public roads and public utilities shall be accepted into the City of Milford's street system and public utility system by resolution of City Council; and

WHEREAS, The City Engineer has determined that all required improvements for the Meadows at Shawnee Subdivision have been completed; and

WHEREAS, The Meadows at Shawnee Subdivision has provided the City of Milford with a maintenance bond for the public improvements and public utilities guarantying the improvements for one year from the date of acceptance of the improvements; and

WHEREAS, the streets, easements and public utilities were dedicated for public use, subject to improvements, on the final map for Meadows at Shawnee Subdivision; and

WHEREAS, for purposes of dedication, public improvements shall include the stormwater infrastructure leading from the street up to the stormwater management ponds and the yard basins and piping located in the rear yards running from Meadow Lark Drive and Longview Drive between East Bullrush Drive and East Thrush Drive, running from Longview Drive and Misty Vale Court between West Bullrush Drive and West Thrush Drive, running from Meadow Lark Drive and Longview Drive between East Thrush Drive and East Windy Drive, running from Longview Drive and Misty Vale Court between West Thrush Drive and West Windy Drive; and

WHEREAS, the stormwater management ponds shall remain the responsibility of the Meadows at Shawnee Homeowners Association.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Milford during a regular session of Council, by a favorable majority vote, accepts all the streets, easements and public utilities of the Meadows at Shawnee Subdivision that are to be dedicated for public use into the City of Milford's street system and public utility system,

BE IT FURTHER RESOLVED that the Delaware traffic laws regulating the speed of vehicles at twenty-five miles per hour in a residential district shall become applicable,

AND BE IT FURTHER RESOLVED that the City of Milford shall assume responsibility for the future maintenance and repair of all streets and public utility systems in the Meadows at Shawnee Subdivision.

Daniel Marabello, Mayor

Attest: _____
Teresa K. Hudson, City Clerk

Adopted: March 8, 2010

Chapter 57: PLANNING COMMISSION

GENERAL REFERENCES

Subdivision of land — See Ch. 200.

Zoning — See Ch. 230.

§ 57-1. Establishment.

There is hereby established, pursuant to 22 Del. C. § 701 et seq., the Milford Planning Commission.

§ 57-2. Membership; terms of office. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

§ 57-3. Removal; vacancies.

Any member of the Planning Commission may be removed for cause, after a public hearing, by the Mayor with the approval of the City Council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

§ 57-4. Ex officio members.

The Mayor and City Manager shall be ex officio members of the Planning Commission and may exercise all of the powers of the regular members; provided, however, that an ex officio member may not hold an office on the Commission and shall have no right to vote on matters coming before the Commission.

§ 57-5. Salaries and compensation.

All members of the Commission shall serve without compensation but may be reimbursed for actual expenses incurred in connection with their official duties.

§ 57-6. Officers; staff; custodian of records.

The Commission shall elect annually a Chairman and Secretary from among its own number and may employ experts, clerical help and other assistants. The Commission may appoint a custodian of its Comprehensive Plan and records, who may be the City Manager or other employee of the Council.

§ 57-7. Rules of procedure; meetings; records.

The Commission shall adopt its own rules of procedure and determine the times of its meetings and methods of notice thereof. All meetings of the Commission at which any official action is taken shall be open to the public, and all records of the Commission shall be public records.

§ 57-8. Powers and duties; reports. [Amended 2-13-1968]

The Milford Planning Commission shall have all the powers and authority vested in municipal planning commissions under the provisions of Title 22, Delaware Code, Chapter 7, subject to the same conditions and limitations set forth therein at the effective date of this chapter. The Planning Commission shall report at each monthly meeting of the Council and shall present copies of its minutes of the preceding month

*MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, February 22, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello convened the Workshop Session of City Council at 7:21 p.m.

City Solicitor Willard referred the changes made to Articles I thru IV which included the minutes of the conversations and decisions of the January 25th meeting, the marked up copy of the charter dated 02-04-10 and the clean copy with those changes implemented.

The solicitor began the review with Article V. He reiterated that those items underlined were moved from another section pointing out that all administrative matters and appointees were now combined in Article V.

Review of City of Milford Charter

ARTICLE V. Administration and Appointees (Previous Article III & VI)

5.01 - Form of Government (Previous 3.01)

The form of government established by this charter shall be known as the “Council-Manager” form.

It was confirmed that annual evaluations are included in the employment contract and should not be addressed in the charter. Mr. Willard noted that new language was included to reference the employment contract in both the appointment and removal sections.

5.02 - City Manager - Appointment; Qualifications, Compensation (Previous 6.01)

The Council shall appoint a City Manager for an indefinite term. He need not be a resident of the City or state at the time of his appointment but may reside outside the City while in office only with the approval of the Council.

The City Council may enter into an employment contract with the City Manager. An employment contract with a City Manager shall be in writing and shall specify the conditions of employment.

5.03 - City Manager - Removal (Previous 6.02)

The Council shall remove the Manager from office in accordance with the following procedures and those conditions contained in the City Manager’s employment contract:

(a) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Manager from duty for a period not to exceed 45 days.

A copy of the resolution shall be delivered promptly to the Manager.

(b) Within five days after a copy of the resolution is delivered to the Manager, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Manager may file with the Council a written reply not later than five (5) days before the hearing.

(c) The Council may adopt a final resolution of removal, which may be effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the Manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one. The Manager shall continue to receive his salary until the effective date of a final resolution of removal.

5.04 - Acting City Manager (Previous 6.03)

By letter filed with the City Clerk, the Manager shall designate, subject to the approval of the Council, a qualified City administrative officer to exercise the powers and perform the duties of Manager during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

5.05 - Powers and Duties of the City Manager (Previous 6.04)

The City Manager shall be the chief administrative officer of the City. He *or she* shall be responsible to the Council for the administration of all City affairs placed in his charge or under this Charter. He *or she* shall have the following powers and duties:

(a) He *or she* shall appoint, and when he deems it necessary for the good of the service, suspend or remove all City employees and appointive administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter. He *or she* may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.

(b) He *or she* shall direct and supervise the administration of all departments, offices and agencies of the City, except as otherwise provided by this Charter or by law.

(c) He *or she* shall attend all Council meetings and shall have the right to take part in discussion but may not

vote.

(d) He *or she* shall see that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(e) He *or she* shall prepare and submit the annual budget and capital program to the Council.

(f) He *or she* shall submit to the Council and make available to the public a complete report on the finances and administrative activities of the City as of the end of each fiscal year.

(g) He *or she* shall make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

(h) He *or she* shall keep the Council fully advised as to the financial condition and future needs of the City and make such recommendations to the Council concerning the affairs of the City as he deems desirable.

(i) He *or she* shall perform such other duties as are specified in this Charter or may be required by the Council.

Language was added to the duties of the city clerk that already exist in other areas and are now clarified in one section.

5.06 - City Clerk - Appointment and Duties (Previous 4.07)

The Council shall appoint an officer of the City who shall have the title of City Clerk. The City Clerk shall give notice of Council meetings to its members and the public, maintain a permanent record of all Council proceedings and documents, manage the City's elections, act as the custodian of the City Seal, affixing it to all documents, records, contracts and agreements requiring a seal and attesting to same by signature and perform other duties as are assigned to him or her by this Charter or by the Council.

This section was changed to allow the solicitor's appointment at the annual organization meeting. As a result, this will become a regular item on the organization meeting agenda. The balance remains the same.

5.07 - City Solicitor (Previous 7.02)

At the Annual organization meeting, the City Council shall ~~select and~~ appoint a City Solicitor ~~for an indefinite term~~ who shall be removable at the pleasure of the City Council either with or without due cause as stated. It shall be his, her or its duty to give legal advice to the Council and other officers of the City and to perform other legal services as may be required by the City of Milford. The City Solicitor may be an individual licensed to practice law in the State of Delaware or may be a Delaware law firm any member of which can perform the duties of the City Solicitor.

The Chief Police section was changed by referencing their employment contract. Language was also added to reflect the Policeman Bill of Rights.

5.08 - Police Department (Previous 7.03)

The Council shall appoint a Chief of Police for an indefinite term and fix his compensation. The terms of his employment shall be contained in an employment contract

(a) It shall be the duty of the Council to appoint a Chief of the City Police and such number of subordinates as the Council may deem wise. ~~;~~ and The Council shall, from time to time, make rules and regulations (which may be proposed by the Chief of Police) as may be necessary for the organization, government and control of the Police Force. The police shall preserve peace and order, and shall compel obedience within the City limits to the ordinances of the City and the laws of the State; and they shall have such other duties as the Council shall from time to time prescribe. After the initial Chief of City Police and the initial subordinates are appointed in accordance with the terms of this Charter, thereafter, any subsequent Chiefs of Police shall be appointed by the City Council, but any subsequent subordinates shall be hired or fired by the then Chief of City Police.

(b) Each member of the Police Force shall be vested, within the City limits and within one mile outside of said limits, with all the powers and authority of a state peace officer, and in the case of the pursuit of an offender, their power and authority shall extend to any part of the State of Delaware.

(c) The Chief of Police shall be responsible to Council and shall be removed from office in accordance with the provisions of State law and the following procedures:

(1) The Council shall adopt by affirmative vote of a majority of all of its members a preliminary resolution which must state the reasons for removal and may suspend the Chief of Police from duty for a period not to exceed 45 days. A copy of the resolution shall be delivered promptly to the Chief of Police.

(2) Within five (5) days after a copy of the resolution is delivered to the Chief of Police, he may file with the Council a written request for a public hearing. This hearing shall be held at a Council meeting not earlier than fifteen (15) days nor later than thirty (30) days after the request is filed. The Chief of Police may file with the Council a written reply not later than five (5) days before the hearing.

(3) The Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all its members at any time after five (5) days from the date when a copy

of the preliminary resolution was delivered to the Chief of Police, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.

(4) The Chief of Police shall continue to receive his salary until the effective date of a final resolution of removal.

(5) By letter filed with the City Clerk, the Chief of Police shall designate, subject to approval of the Council, a qualified police officer to exercise the powers and perform the duties of the Chief of Police during his temporary absence or disability. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Chief of Police shall return or his disability shall cease.

(d) The Chief of Police shall:

(1) Administer, direct and supervise the operation of the police department.

(2) Prepare and submit an annual budget and capital program to the City Manager. This shall then be placed by the City Manager into the Annual Budget and Capital Program for Council approval.

(3) Attend all Council Meetings and shall have the right to participate in any discussion of police concern, but shall have no vote.

City jail was changed to city 'holding cell' to reflect what currently exists today.

5.09 - City Holding Cells ~~CITY JAIL~~ (Previous 7.04)

The Council may ~~build and~~ maintain a ~~jail~~ *holding cell* for the City, which shall be used as a place for the temporary detention of persons accused of violations of law or ordinances for a reasonable time, in cases of necessity, prior to transport to a detention facility, hearing and trial or arraignment.

It was decided to allow the City Alderman to remain in case the position was ever reinstated.

5.10 - City Alderman (Previous 7.05)

(a) At the next regular meeting following the Annual Organization Meeting, the Council may appoint an Alderman and an Acting Alderman.

(b) The Alderman may or may not be a resident of the City of Milford and shall have his office at some convenient place within the limits of the City of Milford, as designated by City Council. He or she shall be sworn or affirmed to perform the duties of his office with fidelity by the Mayor. In the event of his absence from the City or, if

for any cause he or she may be unable to perform the duties of his office, the Council is authorized to appoint an Acting Alderman with the same powers, jurisdiction and authority.

(c) He or she shall have jurisdiction over and cognizance of all breaches of the peace and other violations of the ordinances of the City of Milford, to hold trial, to imprison offenders, and to impose and enforce fines, forfeitures and penalties as may be prescribed by the ordinances of the City.

(d) He or she shall be under the direct supervision of the City Manager. The prison in either Kent or Sussex County may be used for the imprisonment of offenders under the provisions of this Charter.

(e) Upon the expiration of his term of office, or upon resignation or removal from office, the Alderman shall forthwith deliver to his successor all books, papers, documents and other things belonging or appertaining to his office, and shall pay over to the Treasurer all moneys in his hands belonging to the City. Upon neglect or failure to make such delivery or payment for the space of five (5) days, he shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned for not more than one (1) year, or shall suffer both fine and imprisonment at the discretion of the Superior Court.

(f) At every regular monthly meeting of the Council, the Alderman shall report in writing all fines imposed by him, and all fines and penalties and other money received by him during the preceding month belonging to the City. He shall pay all such moneys to the City within ten (10) days after making report to the Council, or for failure to make payment to the City for the space of ten (10) days, he shall be deemed guilty of a misdemeanor, and shall be punished, upon conviction, as herein above provided.

(g) The Alderman shall keep a docket in which all his official acts shall be entered.

(h) The Acting Alderman may or may not be a resident of the City of Milford; shall keep a separate docket, and in the absence or inability of the Alderman shall have all the powers of the Alderman as herein provided.

Mr. Willard said it appears the last sentence was not in the original charter, but was being considered and later removed. Mr. Baird agreed there was some contradiction in language regarding the roles of council and the administration which is the reason for its removal.

5.11 - Finance Department (Previous 7.06)

There shall be a City Finance Department which shall be directed and supervised by an officer of the city who shall have the title of Finance Director. The Finance Director shall be appointed and supervised by the City Manager. The Finance Director shall have the duties of chief financial officer of the City of Milford, but may delegate such

duties to subordinates under his direction. He or she shall pay out any monies upon check signed by two members of either Mayor or City Council or their designee. He or she shall keep a true accurate and detailed account of all monies received and all monies paid out by the city in all its activities and for all its departments, offices and agencies; shall preserve all vouchers and financial records, but under a records disposal program and schedule approved by the Council, may periodically destroy such records and vouchers. He or she shall make such reports at such times as the City Manager and Council shall direct and which will keep the Council, City Manager and the public informed of the financial condition of the city. ~~The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe.~~

Mr. Willard advised the following sections were changed pursuant to state law and changes to the city code. To be consistent, any reference to state statute will state 'in accordance with Delaware Code'.

5.12 - Planning Department (Previous 7.07)

There shall be a planning department, which shall be directed and supervised by a City Planner. The City Planner shall be appointed, supervised and removed by the City Manager. The City Planner shall have the following responsibilities:

(a) To advise the City Manager on any matter affecting the physical development of the city;

(b) To formulate and recommend to the City Manager a comprehensive land use plan and modification thereof;

(c) To review and make recommendations regarding proposed actions of the Council in implementing the comprehensive development plan;

(d) To advise and seek advice from the planning commission in the exercise of his or her responsibilities and in connection therewith, to provide it necessary staff assistance;

(e) To review and make recommendations regarding proposed actions of the Council in annexations;

(f) To strive to give citizens the opportunity to have a meaningful impact on the development of plans;

(g) To protect the integrity of the natural environment and endeavor to conserve the heritage of the built environment.

5.13 - City Planning Commission (Previous 7.08)

Pursuant to State law, there is hereby established a Planning Commission for the City of Milford. The City Planning Commission shall consist of nine (9) members recommended by the Mayor and appointed by City Council.

5.14 – Board of Adjustment (Previous 7.11)

There shall be a Board of Adjustment pursuant to the provisions of 22 Del. C. Chapter 3, Municipalities, of the Delaware Code. The Council shall, by ordinance, establish a Board of Adjustment and shall provide standards and procedures for such Board to hear and determine appeals from administrative decisions and petitions for variances in the case of peculiar and unusual circumstances which may be required by the Council or by law.

Article VI. Financial Procedures (Previous Article VIII)**6.01- Fiscal Year** (Previous 8.01)

The Fiscal year of the City shall be set by the City Council.

6.02- Submission of Budget Date (Previous 8.02)

On or before the last day of the twelfth month of each fiscal year, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

6.03- Budget Message (Previous 8.03)

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other material as the manager deems desirable.

6.04- Operating Budget (Previous 8.04)

The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget, the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year; and shall be so arranged as to show comparative figures for actual and

estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

(a) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;

(b) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments and agencies when practicable, and the proposed method of financing each such capital expenditure;

(c) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the City and the proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

The time line for submitting the capital program to council was changed to coincide with the submission of the annual budget. The section number in paragraph (a) was corrected from 8.02 to 6.02.

6.05- Capital Program (Previous 8.05)

(a) Submission To Council. The Manager shall prepare and submit to the Council a five-year capital program at the time the annual budget is submitted to City Council as defined in Section 6.02. ~~at least three months prior to the final date for submission of the operating budget.~~

(b) Contents. The capital program shall include:

(1) A clear, general summary of its contents;

(2) A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

(3) Cost estimates, method of financing and recommended time schedules for each such improvement; and

(4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

6.06- Council Action On Operating Budget (Previous 8.06)

The Council shall adopt the operating budget on or before the last day of the twelfth month of the fiscal year currently ending. If it fails to adopt the budget by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts an operating budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

6.07- Council Action On Capital Program (Previous 8.07)

Adoption. The Council, by resolution, shall adopt the capital program with or without amendment on or before the last day of the twelfth month of the current fiscal year.

Section 6.08 was changed to be consistent with FOIA.

6.08- Public Records (Previous 8.08)

Copies of the budget and the capital program as adopted for the fiscal year are public records and shall be made available to the public through the Freedom of Information Act and the at suitable places City of Milford website in the City.

6.09- Amendments After Adoption (Previous 8.09)

(a) Supplemental Appropriations. If during the fiscal year the City Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by ordinance may make by supplemental appropriations for the year up to the amount of such excess.

The solicitor noted that emergency appropriations were changed to allow council to use short term borrowing as provided in the charter. The section number in paragraph (b) was corrected from 11.07 to 8.07 (numbers were changed as result of reorganizing charter).

The language removed was previously discussed.

(b) Emergency Appropriations. To meet a public emergency affecting life, health, property or the public peace, the Council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may exercise short term borrowing authority as provided in Section 8.07 of this Charter. may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency

notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction Of Appropriations. If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.

Mr. Willard explained that paragraph (d) allows council to approve by majority vote the transfer of any unexpended money from one department to another which only simplifies the language. It was confirmed the intent remains the same. When asked if this should state majority of all of council, the solicitor explained that generally the rule is if there is a quorum present, the action is approved by majority vote. This excludes the charter section that requires four affirmative votes or where it states by majority vote.

The language will remain as proposed.

(d) Transfer Of Appropriations. At any time during the fiscal year, the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and, upon written request by the Manager, the Council may ~~by resolution~~ by majority vote transfer part or all of any unencumbered appropriation balance from one department, office or agency to another.

(e) Limitations: Effective Date. No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

6.10- Lapse Of Appropriations (Previous 8.10)

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.11- Administration Of Budget (Previous 8.11)

(a) Work Programs And Allotments. At such time as the Manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. He or she may revise such allotments during the year if they deem it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations.

(b) Payments And Obligations Prohibited. No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Manager or his/her designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds there from are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of this Charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he or she shall also be liable to the City for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

Article VII. Taxation, Assessors and Assessment Of Taxes (Previous Article X)

7.01- (Previous 10.01) Not less frequently than every ten years there shall be made a general assessment which shall be a true, just and impartial valuation and assessment of all the real property within the limits of the City.

Below section was rewritten and though the intent remains the same, the intent was clarified and language updated by removing 'scrap assessment' and replacing it with 'supplemental assessment'.

City Manager Baird added that some of the language in the assessment area was modified to parallel with the state requirements in relation to the assessment of real property.

7.02- (Previous 10.02) It shall be the duty of the City Manager ~~each year~~ to include supplemental assessments prepared by the assessor(s) for the purposes of adding property not included in the last assessment or increasing or decreasing the assessment value of property which was included in the last general assessment. ~~prepare a scrap assessment which shall value and assess all taxable real property not already valued and assessed by the General Assessment then in force, and all improvements made upon said real property since said General Assessment. In the~~

year that A SUPPLEMENTAL ASSESSMENT IS MADE, a scrap assessment is made, the General Assessment then in force as supplemented or modified by the scrap supplemental assessment, shall constitute the assessment for the year.

7.03- (Previous 10.03) The City Manager shall make and deliver to the Council, as soon as the assessments are made, such number of copies as the Council shall direct.

7.04- (Previous 10.04) The real property of the City Assessor(s) shall be assessed by the Council.

7.05 - The City Tax Assessor shall notify the property owner in writing of any change in assessment.

7.06- (Previous 10.05) The Council shall, prior to a given date set by resolution in each year, cause a copy of the General Assessment as supplemented adjusted by the scrap supplemental assessment as made in said year, to be hung in two public places in the City, and there to remain for the space of ten (10) days for public information. Attached to said copies shall be a notice of the day, hour and place that the Council will sit as a Board of Revision and Appeal; and the notice of the hanging up of the copies of the assessment and the places where the same are hung up and of the day, hour and place when the Council will sit as a Board of Revision and Appeal shall be published in at least one issue of a newspaper circulated in the City.

7.07- (Previous 10.06) At the time and place designated in the notice aforesaid, the Council shall sit as a Board of Revision and Appeal to correct and revise the assessment, and to hear appeals concerning the same. They shall have full power and authority to alter, revise, add to and take from the said assessment. The decision of a majority of the Council shall be final and conclusive; and no member of Council shall sit on his own appeal.

Mr. Baird pointed out the second sentence is a carryover from the state code. Mr. Willard further explained that 'taxable' is a person who has been assessed.

7.08 - (Previous 10.07) The assessment, as revised and adjusted by the Council, shall be the basis for the levy and collection of the taxes for the City. If any taxable fails or neglects to perfect his or her appeal to the Board of Revision and Appeal, he or she shall be liable for the tax for such year as shown by the assessment lists.

7.09- (Previous 10.08) The Council shall also have the right to levy and collect taxes on all underground cables and utility installations, and upon all telephone, telegraph or power poles or other erections of like character erected or installed within the limits of the City, together with the wires and appliances thereto or thereon attached, that are now assessable and taxable, and to this end, may at any time direct the same be included in or added to the City Assessment. In case the owner or lessee of such poles, erections, installations or appliances shall neglect or refuse to

pay the taxes that may be levied thereon, the said taxes may be collected by the City in the same manner as other taxes, and upon continued non-payment, the Council shall have the authority to cause the same to be removed.

7.10- (Previous 10.09) The Council shall determine and fix a rate of taxation which with other anticipated revenue will produce approximately the amount of money necessary to defray the expenses of the City for the current year, including interest on bonded indebtedness and for redemption of maturing bonds and for maintenance of a sinking fund.

7.11- (Previous 10.10) The limit of taxation for current expenses shall be that rate which, by estimation, will produce a sum not exceeding two (2) percent the assessed value of real property with improvements located in the City.

7.12- (Previous 10.11) (a) No later than the second month of a new fiscal year, the City Manager shall make available to the Council a list containing the names of the taxables of the City and, opposite the name of each, the amount of his real property assessment, as well as the tax upon the whole of his assessment, and the rate per hundred dollars of assessed valuation. Attached to a tax list shall be a warrant, under the seal of the City of Milford, signed by the Mayor and attested by the Secretary City Clerk commanding the City Manager to make collection, when due, of the taxes as stated and set forth in the tax list.

(b) All taxes, when and as collected by the City Manager, shall be paid to or deposited to the credit of the City in banking institutions approved by Council.

(c) All taxes shall be due and payable on the date set by Council. To every tax not paid after the said date each year there shall be added and collected a penalty, for each month that the said tax remains unpaid. The penalty rate charged is to be set by Council through ordinance. Before exercising any of the powers herein given for the collection of taxes, written notices of the amount due shall be given to the taxable.

(d) All taxes assessed upon any real estate and remaining unpaid prior to a new tax year billing shall constitute a first lien against all real estates of the delinquent taxpayer situated within the limits of the City of Milford. In the case of a life estate, the interest of the life tenant shall first be liable for the payment of any taxes so assessed. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or before the Alderman of the said City, or in the Court of Common Pleas in and for Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid tax in an action of

debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.

(e) In addition, the City Manager, acting on behalf of the City, may pursue the sale of the lands and tenements of the delinquent taxpayer, or the lands of tenements of a delinquent taxpayer alienated subsequent to the levy of the tax and with the following conditions:

(1) No sale shall be approved by the Superior Court if the owner be ready at Court to pay the taxes, penalty and costs, and no deed shall be made until the expiration of one (1) year from the date of the sale, within which time the owner, his heirs, executors or assigns, shall have the power to redeem the lands on payment to the purchase, his personal representatives, or assigns, of the costs, the amount of the purchase money and twenty percent (20%) interest thereon and the expense of having the deed prepared.

(2) After satisfying the tax due and the costs of expenses of sale from the proceeds of sale, the amount remaining shall be paid to the owner of the land, or upon the refusal of said owner to accept said residue, or if the owner is unknown or cannot be found, the amount remaining shall be deposited in some bank in the City of Milford, either to the credit of the owner, or in a manner by which the funds may be identified.

(3) In the sale of lands for the payment of delinquent taxes, the following costs shall be allowed, to be deducted from the proceeds of sale, or chargeable against the owner as the case may be in the amount then customarily charged:

To the Prothonotary for filing and recording Petition

For filing and recording return of sale

To the City Manager for preparing certificate

For making sale of land

For preparing and filing return

For posting sale bills

In addition, the costs of printing handbills and publications of the advertisement of sale in a newspaper shall be chargeable as costs. The cost of the deed shall not be chargeable as costs, but shall be paid by the purchaser of the property of the delinquent taxpayer.

(4) If the owner of any lands and tenements against which a tax shall be levied and assessed shall be unknown, this fact shall be stated in the advertisement of sale.

(f) In the event of the death, resignation or removal from office of the City Manager of the City of Milford, before the proceedings of the sale of land shall have been completed, his successor in office shall succeed to have all of his powers, rights and duties in respect to said sale. In the event of the death of the purchaser at such sale prior to his receiving a deed for the property purchased thereat, the person having right under him by consent, devise, assignment or otherwise may refer to the Superior Court of the State of Delaware in and for Kent or Sussex County, a petition representing the facts and praying for an order authorizing and requiring the City Manager to have executed and acknowledged a deed conveying to the Petitioner the premises sold, or a just proportion thereof; and thereupon the Court may make such order touching the conveyance of the premises as shall be according to justice and equity.

(g) However, should the City Council so elect, the City Manager is empowered to sell the lands and tenements of the delinquent taxpayer or the lands and tenements of a delinquent taxpayer alienated subsequent to the levy of the tax, by the direction of the City Council, using any of those procedures specified for the sale of land for the collection of taxes on the part of the taxes for Sussex County or Kent County, and all such procedures and methods available for the sale of land, as aforesaid, as they are presently enacted and hereafter amended, are included herein and made a part hereof by reference in the statutes made and provided, substituting the City of Milford for Sussex County or Kent County therein.

(h) The provisions of this Section ~~10.11~~ 7.12, other than the provisions of subsection (b) of this Section ~~10.11~~ 7.12, shall apply to all special ad valorem taxes and special taxes levied by the City of Milford pursuant to Article ~~XIA~~ IX of this Charter, provided that all references in this Section ~~10.11~~ 7.12 to a tax list shall, for all purposes relating to such special ad valorem taxes and special taxes, be deemed to refer to the tax list showing the amounts of special ad valorem taxes or special taxes levied against the real property within a special development district.

7.13- Real Estate Transfer Tax (Previous 10.12)

The City of Milford reserves the right to enact a Real Estate Transfer Tax by ordinance through the City Council. Any change to the Real Estate Transfer Tax must be in accordance to Delaware laws.

7.14- Assessment, Payment, And Collection Of Taxes For New Construction (Previous 10.13)

In the event that the Mayor and Council of the City of Milford desire to collect and levy taxes on newly constructed property not taxed by virtue of the city's annual assessment, the city may enact an ordinance to do so.

Article VIII. Borrowing Of Money And Issuance Of Bonds (Previous Article XI)

Mr. Willard referred to the city manager's recommendation as shown in the below brackets, as well as Mr. Spillane's recommendation. Matter was referred to city council.

Mr. Willard explained that typically this involves a percent of the assessed value. Mr. Baird further explained that currently there is no borrowing seal for this city. This will establish a sealing that the city would be able to borrow.

When a concern was expressed by Mr. Spillane over the voters being removed from referendum process for a bond issue, Mr. Baird explained that currently, the charter requires that any long term borrowing issue, whether it is \$10,000 or \$10 million, require a public referendum and the voters need to approve it. Prior to that, city council must officially agree it be taken to the voters. However, there is no limit on the borrowing.

Mr. Adkins agrees a maximum limit needs to be added. Because the city is borrowing against the property of the city, he does not want to see the city borrow 50% of the total value, as an example. Mr. Willard agreed that he was surprised Milford did not have a sealant as the majority of other towns do.

When asked if there is an average percentage, the city manager said no, because there is no uniformity in assessments. Some communities have their own assessments as Milford does while others adopt the county assessments. In Sussex County, the assessments are 50% of the 1974 value and the overall assessment is low. In that case, the bond cap is set at a much higher amount. In Milford, our assessments are much more current and the cap would be on the lower side. In his opinion, there is no right or wrong answer but the dollar amount obtained by putting the calculation in.

Mayor Marabello advised the last assessment was approximately \$756 million and 2% would be approximately \$15 million. He added that presently the city has \$26 million that has been borrowed or committed, which is slightly less than 4% of the assessed valuation.

Mr. Workman agrees the city should not have the ability to borrow too much and that a cap would be appropriate.

The mayor feels that to prevent having to change that number, the easiest manner would be to add a percentage of assessed evaluations.

Mr. Baird discussed this matter with the Town of Middletown whose cap is 15% though it ranges and in the case of lower assessments, may be 40 or 60%. It also varies depending on what the money will be spent on. He said that those with utilities often have a higher borrowing limit.

Mr. Baird's recommends 15% as the starting point; the mayor advised that 15% is \$113 million. Mr. Spillane feels that may be too high and confirmed that regardless of the amount, the voters would make the final decision. He is willing to go 10% and the mayor advised that is still \$75 million. Mr. Adkins is uncomfortable making a recommendation and prefers a recommendation by the city manager or finance staff.

Mr. Baird reiterated his suggestion of at least 15% noting the public works committee had just met to discuss a number of ongoing or pending projects. They include \$3.5 million for street projects, \$8.5 million for water, sewer and electric which are already factored into the \$26 million.

He added the other issue is as this is paid down, additional borrowing capacity is gained back. As assessments increase, the debt limit will also grow. When a percentage is plugged in, it will become a floating number.

Mr. Starling and Mr. Morrow both agree that 15% is appropriate. Mr. Brooks said that if 15% is added, the matter must still go to referendum. Mr. Baird agreed noting the way the charter is currently written. He explained that is with any long term borrowing, which is identified as anything over a five-year term.

The majority of council members agreed a 15% cap is appropriate though Mr. Spillane recommends 10% or below. Mr. Johnson stated that he does not believe a cap is needed as long as any borrowing is required to go to referendum.

Mr. Willard said he will leave the matter bracketed for further discussion.

8.01 - (Previous 11.01) The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness **up to** \$ _____ **% of assessed value of real property** } pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

All bonds or other kinds or forms of certificate or certificates of indebtedness issued by the City of Milford in pursuance hereof shall be exempt from all State, County or municipal taxes.

8.02 - (Previous 11.02) This power or authority to borrow money may be exercised by the City of Milford to provide funds for, or to provide for the payment of, any of the following projects or purposes:

(a) Refunding any or all outstanding bonds or other indebtedness of the City at the maturity thereof or in accordance with any callable feature or provision contained therein;

(b) Meeting or defraying current annual operating expenses of the City in an amount equal to but not in excess of currently outstanding, due and unpaid taxes, water rents, license fees or other charges due the City and available, when paid, for meeting or defraying current annual operating expenses of the City;

(c) Erecting, extending, enlarging, maintaining and repairing any plant, building, machinery or equipment for the manufacture, supplying or distribution of gas, water, electricity, sewerage or drainage system, or any of them, and the condemning or purchasing of any lands, easements and rights-of-way which may be required therefore;

(d) Constructing, paving, laying out, widening, extending, repairing and maintaining streets, lanes, alleys and ways, and the paving, constructing, laying out, widening, extending, repairing and maintaining of curbing and gutters along the same and the condemning or purchasing or any lands, easements or rights-of-way which may be required therefore;

(e) Any other purpose consistent with the promotion of health, education or the general welfare of the City of Milford.

8.03 - (Previous 11.03) The power to borrow money and to secure the payment thereof by the issuance of bonds or other kinds or forms of certificate or certificates of indebtedness for any purpose above specified shall only exercise in the following manner:

The City Council shall adopt a resolution proposing unto the electors of the City that money be borrowed by the City for any of the above-named purposes. The resolution proposing the borrowing shall plainly set forth the following matters:

(a) The amount of money, or the amount of money not exceeding which, it is proposed shall be borrowed;

(b) The rate of interest, or the rate of interest not exceeding which, it is proposed shall be paid;

(c) The manner in which it is proposed to be secured;

(d) The manner in which it is proposed that it shall be paid or funded, or both;

(e) A short and clear description of the purpose or purposes for which the money or monies shall be used, and which description shall include the estimated cost of carrying out the purpose or purposes aforesaid; and

(f) A statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

8.04 - (Previous 11.04) It shall then be the duty of the City Council to give notice of the time and place of such public hearing upon the resolution by publishing a copy of the resolution aforesaid in at least one issue of a newspaper published in the City of Milford at least one week before the time fixed for said hearing and by posting copies thereof in five public places throughout the said City at least one week before the time fixed for said hearing.

At the time and place mentioned in such notice, the City Council shall sit in public session and at such public session, or an adjourned session thereof, shall vote upon a resolution giving its final authorization for the loan. If such resolution shall be adopted by the City Council, then the City Council shall pass a second resolution ordering and directing that a Special Election be held in the City of Milford not less than thirty (30) days nor more than sixty (60) days (as may be determined by the Council) after the date of the hearing and passage of the resolution authorizing the loan by the Council.

The purpose of such Special Election shall be to vote for or against the proposed loan.

The City Council shall give notice of the time and place for holding the said Special Election to all the electorate of the City of Milford by posting notices thereof in five public places in said City at least two weeks prior

to the day fixed for the holding of such Special Election, and by publishing a copy of such notice once each week during those two weeks immediately preceding that week during which the day fixed for the holding of such Special Election shall fall in a newspaper generally circulated in the City of Milford. Such notice of the Special Election shall likewise contain the same information with respect to the borrowing as required to be contained in the original resolution proposing the borrowing, excepting a statement of the time and place for a public hearing upon the resolution, whereat the City Council shall vote upon the final authorization for the loan.

The Special Election shall be conducted by an Election Board whose members shall be appointed or selected in the same manner and they shall have the same qualifications as hereinbefore provided in the case of annual elections of the City. At least five days prior to the date of the Special Election, the City Council shall cause to be prepared, printed and have available for distribution, a sufficient number of ballots: upon one-half of which ballot shall be printed the words "*For the Proposed Borrowing*" and upon the other half of said ballot shall be printed the words, "*Against the Proposed Borrowing*", and a box shall be provided after each and the voter instructed to place and "X" in the box provided after the choice he wishes to cast his vote. If voting machines are used, in which case, the voting machines shall be arranged in a manner consistent with the requirements for paper ballots.

At such Special Election every person who would be entitled to vote at an annual election if held on that day shall be entitled to one vote.

The Inspector of the Election shall deposit all ballots in the ballot box provided for that purpose in the presence of the person casting such ballot; he or she, the said Inspector, first writing upon the outside of said ballot the number of votes being cast thereby by the person casting such ballot, unless voting machines are used. Immediately upon the closing of the polls, the Special Election Board shall count the votes for and against the proposed borrowing and shall announce the result thereof, and shall make a certificate under their hands of the number of votes cast for and the number of votes cast against the proposed borrowing and shall deliver such Certificate, in duplicate, to the City Council. One copy of the Certificate the Council shall enter in the minutes of the next meeting of the City Council and the other copy thereof shall be filed with the papers of the City Council.

8.05 - (Previous 11.05) The form of the bonds or certificates of indebtedness and the thereunto attached coupons, if any, the time or times of payment, the time or times of payment of interest, the classes, the series, the maturity, the

registration, any callable or redeemable feature, the denomination and the name thereof and any other relative or pertinent matters pertaining thereto shall all be determined by the City Council after the special election.

The bond or bonds or certificates of indebtedness shall be offered at public or private sale as determined by the City Council. All bonds or certificates of indebtedness forming a single issue need not be offered for sale at a single sale but any given issue of bonds or certificates of indebtedness authorized as hereinbefore provided may be sold in whole or in part, from time to time and until the entire authorized issue be disposed of, as the City Council may deem most advisable.

The City Council shall provide in its budget and in fixing of the rate of tax, or otherwise, for the payment of principal or such bond or bonds or certificate or certificates of indebtedness at the maturity thereof together with the interest due or which may hereafter become due thereupon and, in a proper case, it shall also provide a sinking fund therefore.

Unless any such bond or bonds or certificate or certificates of indebtedness shall otherwise provide therein, the faith and credit of the City of Milford shall be deemed to be pledged for the due payment of any such bond or bonds or certificate or certificate of indebtedness and interest thereon according to its terms when and after the same have been duly and properly executed, delivered and due value received therefore.

8.06- Refinancing Of Municipal Bonds (Previous 11.06)

Notwithstanding the foregoing provisions of this Section, the City Council of the City of Milford may authorize by Resolution the refinancing of existing bonds or other obligations of the City, without the necessity of a Special Election; provided that the issue of the refinancing obligations results in a present value savings to the City. Present value savings shall be determined by using the effective interest rate on the refinancing obligations as the discount rate calculated based on the internal rate of return. The principle amount of the refinancing obligations may exceed the outstanding principle amount of the obligations to be refinanced.

Mr. Willard referred to Section 8.07 noting that currently states the City of Milford may borrow money up to the amount of annual tax billing through short term. The language added would require council to authorize the borrowing by resolution.

Mr. Baird recalled the conflicting language in the current charter and referenced existing Section 2.01(e). It was confirmed that section was completely removed from the updated version. See below language removed:

The Council shall have the power and authority to anticipate revenue by borrowing upon the faith and credit of the City of Milford, 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.

Mr. Willard explained that short term borrowing can only be in the amount of the previous year's aggregate tax billing and must be done by resolution. Mr. Baird confirmed the payment term is no more than five years.

On short term borrowing, the city manager explained it is up to one year of the city's total tax revenue which is just under \$3 million. That allows the city to borrow at any given time up to that total on short term borrowing that must be repaid in five years. A special election is not required and this only requires an action of city council which is how the charter reads today.

The solicitor asked if aggregate should be added; Mayor Marabello said that would prevent borrowing short term from year after year. Mr. Brooks and Mr. Morrow noted that can only be done for specific items including emergencies. Mr. Baird agreed adding short term capital projects are also included. In the case of an operating deficit, the city would not be in a good position to consider short term borrowing and would most likely need a longer period of repayment.

It was agreed to add 'in aggregate' as noted below:

8.07- Short Term Borrowing (Previous 11.07)

Notwithstanding the foregoing provisions of this Section, City Council may authorize, by resolution, short term borrowing by the City without the necessity of a Special Election. The City of Milford may borrow in aggregate money up to the amount of the annual tax billings. The borrowed money shall be for one of the following: operating deficits, emergencies declared by Council, and short term capital project anticipative funding. The money shall be paid back in no longer than five (5) years.

Article IX. Tax Increment Financing and Special Development Districts (Previous Article XIA)

9.01 - Tax Increment Financing and Special Development Districts (Previous 11A.01)

In addition to all other powers the City of Milford may have, and notwithstanding any limitation of law, the City of Milford shall have all powers and may undertake all actions for the purposes set forth in, and in accordance with, Title 22 of the Delaware Code, Chapter 17, relating to the Municipal Tax Increment Financing Act and Chapter 18 relating to Special Development Districts.

9.02 – Non Recourse (Previous 11A.02)

Bonds are non-recourse to the City of Milford and shall only be paid from Tax Increment Financing and Special Development District [hereinafter 'TIF' and 'SDD' respectively] assessments permitted by Chapters 17 and 18 of Title 22 of the Delaware Code. Bonds are non-recourse to property owners who purchase subject to a TIF or SDD.

Property owners who purchase subject to a TIF or SDD shall only be responsible for TIF or SDD obligations determined by the individual assessment of their property.

Article X. Severance (Previous Article XII)

If any provision of this Charter is held invalid, the other provisions of the Charter shall not be affected thereby. If the application of the Charter or any of its provisions to any person or circumstance is held invalid, the application of the Charter and its provision to other persons or circumstances shall not be affected thereby.

Article XI. Transitional Provisions (Previous Article XIII)

11.01- Officers And Employees (Previous 13.01)

(a) Rights And Privileges Preserved. Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are City officers or employees at the time of its adoption.

(b) Continuance Of Office Or Employment. Except as specifically provided by this Charter, if at the time this Charter takes full effect, a City administrative officer or employee holds any office or position which is or can be abolished by or under this Charter, he *or she* shall continue in such office or position until the taking effect of some specific provision under this Charter directing that he vacate the office or position.

11.02- Departments, Offices And Agencies (Previous 13.02)

(a) Transfer Of Powers. If a City department, office or agency is abolished by this Charter, the powers and duties given it by law shall be transferred to the City department, office or agency designated in this Charter or, if the Charter makes no provision, as designated by the City Council.

(b) Property And Records. All property, records and equipment of any department, office or agency existing when this Charter is adopted shall be transferred to the department, office or agency assuming its powers and duties, but, in the event that the powers or duties are to be discontinued or divided between units or in the event that any conflict arises regarding a transfer, such property, records, or equipment shall be transferred to one or more departments, offices or agencies designated by the Council in accordance with this Charter.

11.03- Pending Matters (Previous 13.03)

All rights, claims, actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this Charter and in each case shall be maintained, carried on or dealt with by the City department, office or agency appropriate under this Charter.

11.04- State And Municipal Laws (Previous 13.04)

In General, all City ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto. To the extent that the Constitution and laws of the State of Delaware permit, all laws relating to or affecting this City or its agencies, officers or employees which are in force when this Charter becomes fully effective, are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.

11.05- Survival Of Powers And Validations Sections (Previous 13.05)

(a) All powers conferred upon or vested in the City of Milford by any Act or Law of the State of Delaware, not in conflict with the provisions of this Charter, are hereby expressly conferred upon and vested in the City of Milford as though herein fully set out.

(b) All ordinances adopted by the City Council of the City of Milford, or which are in force for the government of the City of Milford at the time of the approval of this Charter, are continued in force and effect as ordinances of the City of Milford until repealed, altered or amended under the provisions of this Charter, and the acts of the Council of the City of Milford and of the officials thereof as lawfully done or performed under the provisions of the Charter of the City of Milford or ordinance thereof, or of any law of this State, prior to the approval of this Act, are hereby ratified and confirmed.

(c) All taxes, fines, penalties, forfeitures, assessments or debts due the City of Milford and all debts due from the City of Milford, at the effective date of this Charter shall, respectively, be deemed due to or from the City of Milford and said obligations shall severally remain unimpaired until paid, and the power, right, and authority to collect taxes imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the provisions of this Charter, and the processes which may be employed for that purpose, shall be deemed to apply and extend to all unpaid taxes, assessments or charges imposed under the Charter of the City of Milford immediately preceding the adoption of this Charter.

(d) The bonds heretofore given by or on account of any official of the City of Milford shall not be affected or impaired by the provision of this Act but shall continue in full force for the benefit of the City of Milford.

Article XII. Repealer (Previous Article XIII - Subparagraph)

This Act shall operate to amend, revise and consolidate Chapter 726, Volume 57 Laws of Delaware entitled “An Act Changing the Name of ‘The Town of Milford’ to ‘The City of Milford’ and establishing a Charter therefore, as amended in its entirety and by establishing a new Charter for the City of Milford to read as follows: The Act shall be deemed to be a public Act and the parts hereof shall be severable and, in the event any part or section hereof shall be held unconstitutional, such holding shall not in any way invalidate the remaining provisions of this Act.”

The Charter shall become effective upon signature of the Governor.

Synopsis

The Charter replaces the City of Milford Charter in its entirety. A Charter Committee, the Mayor and City Council with participation from the public worked for over a year to reorganize and revise their charter. This bill is a result of that effort and the following summarizes those changes from the previous charter.

A table of Contents delineating the Articles has been included at the outset.

The Charter has been reorganized by changing the order of the Articles and moving various sections to more appropriate Articles. The organization is attempted to be more logical. As the articles appear the territory and annexation procedures appear, then the election process, then the powers of the city, then the form of government, then the administration, followed by financial articles involving taxing and borrowing. The existing Charter had two articles for the power of the city and had the structure article between them. The existing charter had a separate article for the City Manager and other administrative appointments. Those appointed offices have been combined in one article. The election article has been moved from Article IX to Article II.

The most significant substantive changes are as follows:

(To be added upon completion of final draft.)

Upon completion, Mr. Willard asked if there were any more questions or comments.

Mr. Spillane questioned Section 5.11-Finance Department and the last sentence that was struck:

~~The books and accounts of the finance department shall be open at all times to inspection by the members of the Council and the public under such regulations as the Council may prescribe.~~

He is concerned that this will prevent council from viewing the financial records of the city. Mr. Starling feels that any potential problem should first be relayed to council. Council, as a group, would then decide how to proceed.

Mr. Spillane asked if that process would still be necessary if he only had a question. He does not think that would be necessary if he only needed a copy of something.

Mr. Willard feels it somewhat flies in the face of the council-manager form of government. Because council is somewhat like a board of directors and action needs to be taken collectively. Mr. Adkins concurs adding that as a council, they have powers as a whole. If they decide as a whole to act, then something can be requested as is stated in the powers.

With no further comments, Mr. Workman asked when council will receive the final draft and asked when it will go before the public. Mr. Spillane noted there are still several unresolved issues.

Mr. Baird does not believe we are prepared for a public hearing at this point. Mr. Spillane agrees we need to meet again and then schedule the public hearing.

The city manager recommends that a final draft be prepared for consideration by city council. After that point, the public hearing could be scheduled. Following that public hearing, any council member is able to propose amendments to the charter as they see fit. If someone in the public is recommending a change, they should work with their council representative to propose an amendment. Each individual amendment would then be voted on by council. Following that, the document, with or without amendments, would be adopted.

Mr. Spillane recommends one more committee meeting. At that time, many of these unresolved issues could be finalized. Mr. Brooks disagreed noting the hours of discussion when no final decision could be made and it was agreed that council would have the final say.

Mr. Workman suggests looking at what has been agreed to, put that into a final format, open it up to public comment, then bring it back to council for a final decision. He feels we need to proceed so it can be presented to the general assembly this legislative session.

Mr. Baird also recommends that Councilman Spillane and Councilman Brooks make a proposal on those areas where there is no consensus. Council can then take a vote.

The unresolved issues were then reviewed.

It was agreed the minutes would be completed by the city clerk and the unresolved issues listed and provided to city council.

When asked to schedule the next meeting, Mr. Baird asked the charter be placed on the next agenda. Mr. Spillane asked that another special meeting be scheduled as was originally planned in order to expedite the process. Mr. Adkins disagreed stating he is concerned about the cost of an extra meeting.

A workshop will be added following the monthly meeting of council to address the unresolved issues.

With no further business, the Workshop Session concluded at 8:34 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

*****WARDS---DESCRIPTION OR BY OFFICIAL MAP ONLY**

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.

*****MAYOR/AGENDA MATTER**

3.07 – Mayor - General Powers

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.}

*****VICE MAYOR VOTING ISSUE**

3.08 - *Vice Mayor*

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].

*****BOND CAP TO BE DETERMINED**

Article VIII. Borrowing Of Money And Issuance Of Bonds

8.01 - The City of Milford may borrow money and to secure the payment of the same, is hereby authorized and empowered to issue bonds or other kinds or forms of certificate or certificates of indebtedness {up to \$ _____ % of assessed value of real property} pledging the full faith and credit of the City of Milford; or such other security or securities as the City Council shall elect, for the payment of the principal thereof and the interest due thereon.

*****CHAIRMAN SPILLANE POINTED OUT THE FOLLOWING ISSUE WAS NEVER RESOLVED:**

Tax Liens. If property owner fails to pay any tax due, on or before the due date, the full amount of tax due shall be a lien in favor of the city upon all property and all rights to the property, real or personal, belong to property owner. Retroactive taxes are prohibited. In no case shall the supplemental assessment procedure be employed to impose taxes retroactively.

There were mixed opinions on whether past due taxes can be made retroactive. A legal interpretation will be obtained from the city solicitor.

PROPOSED AMENDMENT TO SECTION 1.04:

1.04-Annexation

The City may from time to time extend its boundaries through the process of annexation in accordance with Delaware Code and the following procedures shall apply:

(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 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 therefore.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. 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. 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.

(5) 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.

(6) 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.

(7) 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.

(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 ninety (90) days following its appointment by the Mayor, 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.

(3) A Plan of Services for the property must be completed in accordance with Delaware Code. 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.

(5) Within sixty (60) days of the recommendation by the Planning Commission, a resolution shall then be considered by 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 to its then limits and territory. Said resolution 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 and zoning. The resolution 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.

(6) 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.

(7) Within sixty (60) days following the public hearing, and upon the acceptance of the Plan of Services by the State of Delaware, the City Council may pass a resolution annexing such territory to the City of Milford, subject to the approval of the property owners in the territory to be annexed. Said approval or disapproval shall be signified at a Special Election as set forth hereinafter. The resolution of the City Council 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.

(8) 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 failed to receive the required affirmative vote.

(9) Following the affirmative vote 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 proposed resolution.

(10) 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.

(11) 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. 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. Property owners in the area proposed to be annexed shall have only one vote regardless of the number of parcels owned.

(12) 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

(13) 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.

(14) 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. 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.

(15) 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.

(16) 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.

(c) Annexation Agreement.

Notwithstanding any provision herein to the contrary, where, pursuant to §1.04(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 the resolution adopted by City Council annexing the land into the City of Milford, or prior to the resolution ordering the special election pursuant to §1.04 of this Charter. In any event, the Annexation Agreement shall run with the land and be recorded with the annexation resolution.

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

CURRENT CHARTER TO BE REVISED AS SEEN ABOVE.

~~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 pursuant to the following procedures shall be lawful:~~

~~(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.~~

~~(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.~~

City of Milford



PLANNING & ZONING DEPARTMENT
302.424.3712, FAX 302.424.3559

201 SOUTH WALNUT STREET
MILFORD, DE 19963

www.cityofmilford.com

EXTENSION REQUEST

The undersigned hereby makes formal application to the City of Milford for a one year extension of a:

- FINAL SITE PLAN
 CONDITIONAL USE
 PRELIMINARY MAJOR SUB-DIVISION

TAX MAP & PARCEL NUMBER: 3-30-16.00-5.00
PROJECT NAME and NUMBER: Wickersham 08-013
DATE OF LAST APPROVAL FROM CITY COUNCIL: March 23, 2009

REASON FOR REQUEST: Since the last extension, we have been coordinating with the City of Milford for the design of the sewer to serve this project. That design has only recently been completed which now permits us to submit the revised plan for review and approval.

OWNER NAME: CCM-Koelic, LLC PHONE NUMBER: 998-9464
ADDRESS: 4600 NEW LINDEN HILL ROAD Wilmington DE 19808
SIGNATURE: [Signature] DATE: 02/03/10
PLEASE NOTE: LEGAL OWNER MUST SIGN APPLICATION!

APPLICANT NAME: Same as Above PHONE NUMBER: _____
ADDRESS: _____

CONTACT FOR APPLICATION: John Tracey PHONE: 302-671-6740
APPLICATION RECEIVED BY: Christine Cecchetti DATE: 02-03-10

P.C. MTG:

COUNCIL MTG:

03.16.10

04.26.10

YOUNG CONAWAY STARGATT & TAYLOR, LLP

BEN T. CASTLE
SHELDON N. SANDLER
RICHARD A. LEVINE
RICHARD A. ZAPPA
RICHARD H. MORSE
DAVID C. MCBRIDE
JOSEPH M. NICHOLSON
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THE BRANDYWINE BUILDING
1000 WEST STREET, 17TH FLOOR
WILMINGTON, DELAWARE 19801

P.O. Box 391
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CURTIS J. CROWTHER

OF COUNSEL
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STUART B. YOUNG
EDWARD B. MAXWELL, 2ND
JOSY W. INGERSOLL

February 3, 2010

BY FIRST CLASS MAIL & E-MAIL

Gary J. Norris, AICP
City Planner
City of Milford
201 South Walnut Street
PO Box 159
Milford, DE 19963

Re: Subdivision Project No. 08-013/Wickersham

Dear Gary:

As you are aware, the above-referenced project received and extension of its preliminary approval from the City Council on March 23, 2009. At that time, matters were on hold pending the resolution of the design of the off site water and sewer systems that this project would ultimately connect with. Since the date of that extension, however, the design work has proceeded at a deliberate pace such that it was only recently completed. As such, we were unable to complete or Record Plan submission.

This timing necessitates me to request an additional extension of the preliminary major subdivision approval which is currently set to expire on March 23, 2010. While plans are now moving forward and we anticipate submitting the Record Plan prior to the expiration date referenced above, we do not anticipate that we will obtain final approval by the March 23, 2010 date. Therefore, we are respectfully requesting an extension of our approval until March 23, 2011.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

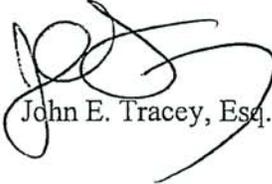
Gary J. Norris, AICP

February 3, 2010

Page 2

I have attached the required form provided to me by the City of Milford. From my e-mail discussions with Ms. Crouch on Tuesday, it is my understanding that this is being submitted in time for consideration by the Planning Commission and/or City Council in March. As always, I can be reached at 302-571-6740.

Very truly yours,



John E. Tracey, Esq.

cc: Ramesh C. Batta, P.E.
Ms. Christine R. Crouch

On Feb 16, 2010, at 10:14 AM, Gary J. Norris wrote:

Nick: Just a further clarification on my comments. The .7 is just not green space, e.g yards etc, but open space fro recreation. Again this is only a proposal at this time, but it may be worth considering. Right now the off-street parking requirement per the City of Milford Zoning Ordinance is 2.5 spaces per unit but given the type of unit in my opinion it seems logical to reduce the off street parking but this would be a decision of the Board of Adjustment. Thanks Gary

From: Nick Fedyk [<mailto:n.fedyk@archalli.com>]

Sent: Tuesday, February 16, 2010 10:14 AM

To: Gary J. Norris

Cc: David Holden; Kevin Wilson

Subject: Re: Cascades Subdivision

Gary,

I will take a look at the amount of open space per the conceptual plan. I believe there is more than .7 acre of green space as shown. The parking represents 2 spaces per unit which would require a variance. If that could be further reduced to 1.5 spaces per unit, the open/green space would benefit greatly. Thanks for the input.

On Feb 16, 2010, at 8:42 AM, Gary J. Norris wrote:

Nick: Just some preliminary comments. The original Cascades project had a buffer or landscape area of about 10 feet along Airport Road, so I would be looking for something similar. I also have concern about the number of parking spaces. My personal opinion is to try and reduce the number by seeing if you can get a variance from the BOA and based on other projects. I am also interested in the amount of open space provided for this area. The Planning Commission is considering a proposal (preliminary at this time) of requiring 400 sq. ft per unit. Given that there would be 76 units at 400 sq.ft. Per unit that would (may) require approximately .7 acre of open space. Again these are preliminary comments and the City would be interested in the development of this property. Looking forward to meeting with you in the future.

Gary

From: Nick Fedyk [<mailto:n.fedyk@archalli.com>]

Sent: Friday, February 12, 2010 1:07 PM

To: Gary J. Norris

Cc: David Holden

Subject: Cascades Subdivision

Hello Gary,

Attached is a concept for re-working a portion of the Cascades subdivision for 76 apartment units (flats and town homes) including a Community Building and Playground. Buildings were positioned to work with the established setback lines and utilities. The main entrance drive would be split with a landscaped island and pavers. There is a 25 foot wide landscaped area between the main drive and the proposed parking that would incorporate a sidewalk leading to the Community Building and Playground.

Sincerely,

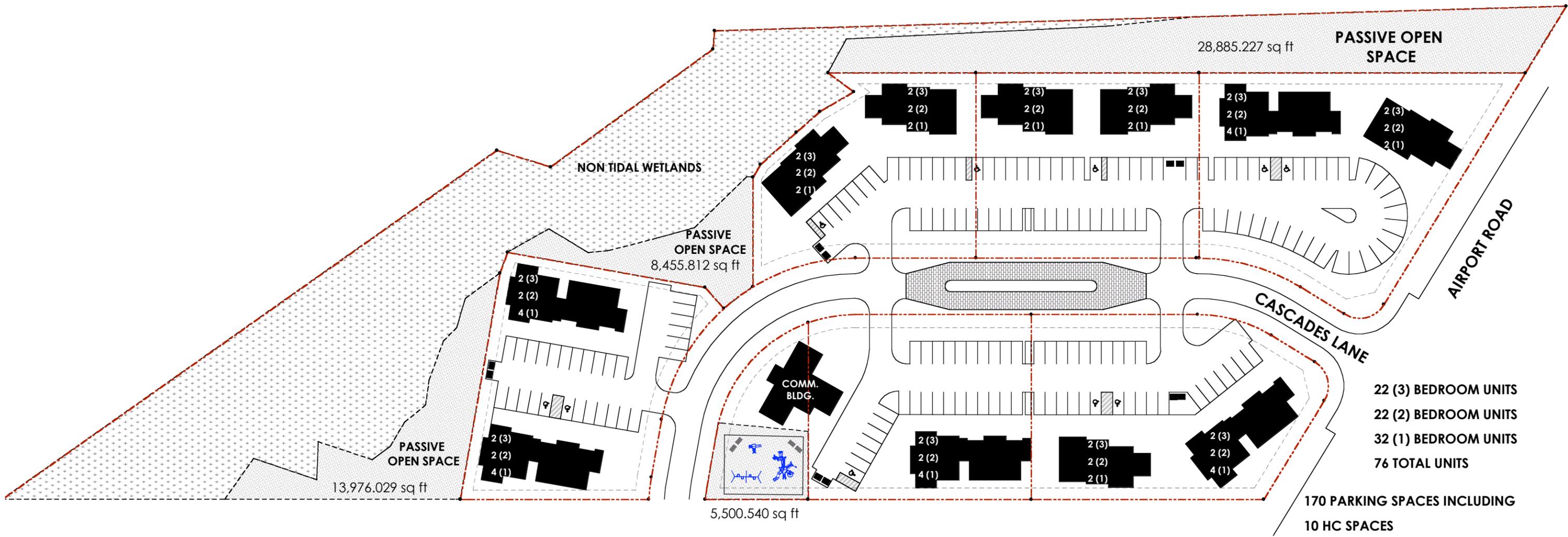
Nick Fedyk
Project Manager

Architectural Alliance, Inc.
1309 Veale Road
Suite 22
Wilmington, DE 19810
302.478.3777 x225 (v)
302.478.9577 (f)

Sincerely,

Nick Fedyk
Project Manager

Architectural Alliance, Inc.
1309 Veale Road
Suite 22
Wilmington, DE 19810
302.478.3777 x225 (v)
302.478.9577 (f)



From: David Holden [dholden@Ingerman.com]
Sent: Thursday, March 04, 2010 4:13 PM
To: Terri Hudson
Subject: FW: Cascades sub-division

Here's the elevation.

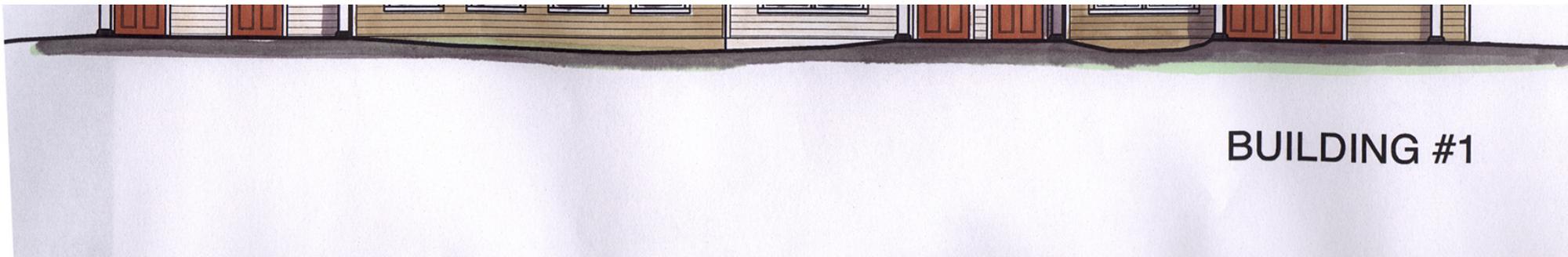
David Holden
The Ingerman Group
1500 Shallcross Avenue, Suite 2B
Wilmington, DE 19806
302 661 1560 p
302 661 1570 f
302 379 7799 c

From: Nick Fedyk [mailto:n.fedyk@archall.com]
Sent: Monday, February 15, 2010 1:23 PM
To: gnorris@milford-de.gov
Cc: David Holden
Subject: Cascades sub-division

Gary,

Here is a rendering of one of the building types associated with the site plan I sent you last week.





Sincerely,

Nick Fedyk
Project Manager

Architectural Alliance, Inc.
1309 Vails Road
Suite 22
Wilmington, DE 19810
302.478.8777 x225 (v)
302.478.9577 (f)

MILFORD COMMUNITY CEMETERY, INC.
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED AUGUST 31, 2009

	<u>UNRESTRICTED</u>	PERMANENTLY <u>RESTRICTED</u>
<u>SUPPORT AND REVENUE:</u>		
Interest and Dividends	\$ 0	\$ 19,667
Lots and Cemetery Fees	34,420	0
Perpetual Care	0	4,030
Preparation of Graves	55,950	0
Unrealized Gain (Loss) on Investments	0	(16,666)
Land Rent	250	0
Columbarium Sales	0	0
Contributions	1,300	0
Net Assets Released From Restriction	<u>16,900</u>	<u>(16,900)</u>
<u>TOTAL SUPPORT AND REVENUE</u>	<u>108,820</u>	<u>(9,869)</u>
<u>EXPENSES:</u>		
Bank Trust Fees	0	4,832
Depreciation	13,355	0
Electric and Water	769	0
Grass Cutting and Property Maintenance	46,820	0
Insurance	785	0
Management Fee	19,000	0
Cost - Preparation of Graves	39,075	0
Office Expenses	110	0
Professional Fees	2,475	575
Refunds	1,600	0
Repairs	2,272	0
Telephone	<u>227</u>	<u>0</u>
<u>TOTAL EXPENSES</u>	<u>126,488</u>	<u>5,407</u>
<u>CHANGES IN NET ASSETS</u>	(17,668)	(15,276)
<u>NET ASSETS AT BEGINNING OF YEAR</u>	<u>82,800</u>	<u>580,579</u>
<u>NET ASSETS AT END OF YEAR</u>	<u>\$ 65,132</u>	<u>\$565,303</u>

SEE ACCOUNTANTS' REPORT

10:48 AM
02/16/10
Cash Basis

MILFORD COMMUNITY CEMETERY
Profit & Loss
September 2009 through August 2010

	<u>Sep '09 - Aug 10</u>
Ordinary Income/Expense	
Income	
Cemetery Fees	1,925.00
Contributions	
Wall Improvements	500.00
Total Contributions	<u>500.00</u>
Grave Openings	29,875.00
Interest	8,085.08
Lot Sales	11,400.00
Total Income	<u>51,785.08</u>
Expense	
Cemetery Maintainance	5,000.00
Cemetery Management	9,500.00
Grass Cutting	3,095.00
Ground Maintance	10,113.80
G. Opening & Setup	17,635.00
Professional Fees	2,440.00
Repairs	515.78
Refund	700.00
Utilities	297.32
Total Expense	<u>49,296.90</u>
Net Ordinary Income	<u>2,488.18</u>
Net Income	<u><u>2,488.18</u></u>

10:49 AM
02/16/10
Cash Basis

MILFORD COMMUNITY CEMETERY
Balance Sheet
As of February 16, 2010

	<u>Feb 16, 10</u>
ASSETS	
Current Assets	
Checking/Savings	
Checking PNC	14,511.83
Total Checking/Savings	<u>14,511.83</u>
Total Current Assets	14,511.83
Fixed Assets	
Benches	2,600.00
Buildings	25,800.00
Driveways	65,337.60
Equipment	47,674.14
Land	6,640.93
Landscaping & Improvements	23,426.00
Accumulated Depreciation	-112,240.40
Total Fixed Assets	<u>59,238.27</u>
Other Assets	
WTC Perpetual Fund	5,636.94
PNC Perpetual Fund	560,196.37
Total Other Assets	<u>565,833.31</u>
TOTAL ASSETS	<u><u>639,583.41</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Manual Accounts Payable	6,659.42
Total Other Current Liabilities	<u>6,659.42</u>
Total Current Liabilities	<u>6,659.42</u>
Total Liabilities	6,659.42
Equity	
Net Assets Operating	5,894.23
Net Assets Perpetual	565,303.31
Net Assets FANA	59,238.27
Net Income	2,488.18
Total Equity	<u>632,923.99</u>
TOTAL LIABILITIES & EQUITY	<u><u>639,583.41</u></u>

SNOW STORM COSTS

The total estimated cost to the city is \$250,095.

The amount we are submitting to DEMA is \$238,759.

If all expenses are approved, we could receive $(\$238,759 * 75\%) = \$179,069$.

The total expense is \$250,095 less the FEMA request of \$179,069 would leave \$71,026 as a city expense if all goes well.

For budget request purposes, I would not request the cost of our city owned equipment used for the snow storm of \$93,994 in the budget request from council.

This would leave $(250,095 - 93,994) = \$156,101$ to be requested from the general fund-fund balance account.

Jeff Portmann
Finance Director
City of Milford
Tel#302-424-5141
Fax#302-424-5938

**CITY OF MILFORD
FUND BALANCES REPORT**

Date: JANUARY 2010

Cash Balance - General Fund Bank Balance	\$2,962,140
Cash Balance - Electric Fund Bank Balance	\$4,290,590
Cash Balance - Water Fund Bank Balance	\$886,201
Cash Balance - Sewer Fund Bank Balance	\$119,945
Cash Balance - Trash Fund Bank Balance	\$487,418

	General <u>Improvement</u>	Municipal <u>Street Aid</u>	Real Estate <u>Transfer Tax</u>	Water Bond <u>Escrow</u>
Beginning Cash Balance	439,609	647,468	2,456,414	120,772
Deposits	152		7,999	
Interest Earned this Month	105	149	583	7
Disbursements this Month	(2,971)	(27,500)	(43,591)	(33,257)
Investments				
Ending Cash Balance	\$436,895	\$620,117	\$2,421,405	\$87,522

	GF Capital <u>Reserves</u>	Water Capital <u>Reserves</u>	Sewer Capital <u>Reserves</u>	Electric <u>Reserves</u>
Beginning Cash Balance	663,579	2,214,214	1,898,223	2,530,354
Deposits				
Interest Earned this Month	43	144	123	3,539
Disbursements this Month			(237,498)	
Investments	1,000,000	1,500,000	1,500,000	5,000,000
Ending Cash Balance	\$1,663,622	\$3,714,358	\$3,160,848	\$7,533,893

	Water <u>Impact Fee</u>	Sewer <u>Impact Fee</u>	Electric <u>Impact Fee</u>
Beginning Cash Balance	850,183	630,410	251,856
Deposits	1,337	706	
Interest Earned this Month	205	152	61
Disbursements this Month			
Investments			
Ending Cash Balance	\$851,725	\$631,268	\$251,917

INTEREST THROUGH THE SEVENTH MONTH OF THE FISCAL YEAR:

General Fund	12,514	Water Fund	3,600
GF Capital Reserves	7,546	Water Bond Escrow	167
General Improvement Fund	1,945	Water Capital Reserves	15,047
Municipal Street Aid	2,883	Water Impact Fees	3,537
Real Estate Transfer Tax	11,312	Sewer Fund	1,837
Electric Fund	18,256	Sewer Capital Reserves	14,685
Electric Reserves	47,798	Sewer Impact Fees	2,667
Electric Impact Fees	1,011	Trash Fund	2,054

TOTAL INTEREST EARNED TO DATE \$146,859

REVENUE REPORT

Page Two

Date: JANUARY 2010	AMOUNT BUDGETED	MTD	YTD	58% of Year Expended YTD%
ACCOUNT				
Budgeted Fund Balance	200,400	0	200,400	100.00%
General Fund Capital Reserves	104,600	0	104,600	100.00%
Property Transfer Tax-Capital	184,300	258	153,666	83.38%
Property Transfer Tax-Police	520,000	43,333	303,333	58.33%
Real Estate Tax	2,929,600	5,986	2,905,132	99.16%
Business License	48,000	(35,625)	24,425	50.89%
Rental License	62,500	62,350	67,100	107.36%
Building Permits	40,000	360	15,946	39.87%
Planning & Zoning	40,000	0	29,209	73.02%
Misc. Revenues	342,575	25,994	130,456	38.08%
Transfers From	3,215,480	267,956	1,875,696	58.33%
Police Revenues	305,000	47,787	135,273	44.35%
Engineering & Inspection Fees	50,000	0	31,860	63.72%
Total General Fund Revenues	\$8,042,455	\$418,399	\$5,977,096	74.32%
Water Revenues	2,160,130	170,117	1,348,479	62.43%
Sewer Revenues	1,864,970	131,495	1,074,649	57.62%
Kent County Sewer	1,600,000	94,097	811,379	50.71%
Solid Waste Revenues	1,015,000	83,205	595,689	58.69%
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	2,421,717	15,891,222	56.30%
TOTAL REVENUES	\$43,068,051	\$3,319,030	\$25,745,502	59.78%
YTD Enterprise Expense		56,784		
YTD Enterprise Revenue		54,740		
LTD Carlisle Fire Company Building Permit Fund		18,389		

EXPENDITURE REPORT
Page Three

Date: JANUARY 2010

58% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
City Manager					
Personnel	378,310	\$29,858	210,392	55.61%	167,918
O&M	126,390	\$4,810	57,202	45.26%	69,188
Capital	0	\$0	0		0
Total City Manager	\$504,700	\$34,668	\$267,594	53.02%	237,106
Planning & Zoning					
Personnel	157,435	\$12,416	82,184	52.20%	75,251
O&M	66,105	\$4,784	23,090	34.93%	43,015
Capital	0	\$0	0		0
Total P, C & I	\$223,540	\$17,200	\$105,274	47.09%	118,266
Code Enforcement & Inspections					
Personnel	205,390	\$9,455	97,383	47.41%	108,007
O&M	45,205	\$1,119	15,076	33.35%	30,129
Capital	0	\$0	0		0
Total P, C & I	\$250,595	\$10,574	\$112,459	44.88%	138,136
Tax Department					
Personnel	71,940	\$5,459	\$38,270	53.20%	33,670
O&M	24,020	(\$18)	\$9,675	40.28%	14,345
Capital	0	\$0	\$0		0
Total Tax Department	\$95,960	\$5,441	\$47,945	49.96%	48,015
Council					
Personnel	30,150	\$2,372	19,713	65.38%	10,437
O&M	24,800	(\$384)	18,460	74.44%	6,340
Capital-Green Acres	100,000	\$0	100,000	100.00%	0
Council Expense	12,000	\$285	11,121	92.68%	879
Contributions	268,000	\$0	128,000	47.76%	140,000
Codification	2,500	\$0	0	0.00%	2,500
Employee Recognition	8,000	\$0	6,357	0.00%	1,643
Community Events	10,000	\$0	0	0.00%	10,000
Insurance	16,920	\$0	7,220	42.67%	9,700
Total Council	\$472,370	\$2,273	\$290,871	61.58%	181,499
Finance					
Personnel	360,565	\$27,885	197,028	54.64%	163,537
O&M	63,300	\$4,000	21,312	33.67%	41,988
Capital	0	\$0	0		0
Total Finance	\$423,865	\$31,885	\$218,340	51.51%	205,525
Information Technology					
Personnel	219,275	\$17,429	120,364	54.89%	98,911
O&M	160,360	\$4,833	45,937	28.65%	114,423
Capital	86,300	\$0	52,957	61.36%	33,343
Total Information Technology	\$465,935	\$22,262	\$219,258	47.06%	246,677

EXPENDITURE REPORT

Page Four

Date: JANUARY 2010

58% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Police Department					
Personnel	3,358,535	\$252,866	1,849,922	55.08%	1,508,613
O&M	424,525	\$21,980	204,219	48.11%	220,306
Capital	98,000	\$40	96,149	98.11%	1,851
Total Police	\$3,881,060	\$274,886	\$2,150,290	55.40%	1,730,770
Streets & Grounds Division					
Personnel	397,975	\$29,472	214,001	53.77%	183,974
O&M	344,850	\$18,967	168,536	48.87%	176,314
Capital	0	\$0	0		0
Debt Service	48,720	\$0	41,671	89.19%	5,049
Total Streets & Grounds	\$789,545	\$48,439	\$424,208	53.73%	365,337
Parks & Recreation					
Personnel	460,730	\$25,862	254,562	55.25%	206,168
O&M	229,515	\$14,060	160,066	69.74%	69,449
Capital	110,000	\$0	110,000	100.00%	0
Total Parks & Recreation	\$800,245	\$39,922	\$524,628	65.56%	275,617
Engineering & Inspections					
Personnel	160,825	\$12,785	87,259	54.26%	73,566
O&M	43,815	\$2,016	25,133	57.36%	18,682
Capital	0	\$0	0		0
Total Engineering & Inspections	\$204,640	\$14,801	\$112,392	54.92%	92,248
Less Interdepartmental Revenue	(\$90,000)	(\$7,500)	(52,500)	58.33%	(37,500)
Net Engineering & Inspections	\$114,640	\$7,301	\$59,892	52.24%	54,748
Total General Fund					
Operating Budget	\$8,022,455	\$494,851	\$4,420,759	55.10%	3,601,696
Budgeted General Fund Balance					
City Hall Renovations	149,188	\$140	\$77,525	51.96%	71,663

EXPENDITURE REPORT

Page Five

Date: JANUARY 2010

58% of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Water Division					
Personnel	244,770	\$20,365	125,581	51.31%	119,189
O&M	1,137,400	\$67,636	582,797	51.24%	554,603
Capital	45,000	\$0	0	0.00%	45,000
Debt Service	732,960	\$0	447,741	61.09%	285,219
Total Water	\$2,160,130	\$88,001	\$1,156,119	53.52%	1,004,011
Sewer Division					
Personnel	246,115	\$20,454	125,661	51.06%	120,454
O&M	904,255	\$117,564	771,014	85.27%	133,241
Capital	35,000	\$1,092	1,976	5.65%	33,024
Debt Service	679,600	\$0	249,433	36.70%	430,167
Sewer Sub Total	\$1,864,970	\$139,110	\$1,148,084	61.56%	716,886
Kent County Sewer	1,600,000	\$96,548	813,444	50.84%	786,556
Total Sewer	\$3,464,970	\$235,658	\$1,961,528	56.61%	1,503,442
Solid Waste Division					
Personnel	322,265	\$25,469	175,832	54.56%	146,433
O&M	662,800	\$43,572	376,484	56.80%	286,316
Capital	190,000	\$0	0	0.00%	190,000
Total Solid Waste	\$1,175,065	\$69,041	\$552,316	47.00%	622,749
Total Water, Sewer Solid Waste	\$6,800,165	\$392,700	\$3,669,963	53.97%	3,130,202
Electric Division					
Personnel	1,110,695	\$79,762	586,839	52.84%	523,856
O&M	1,931,106	\$27,274	914,420	47.35%	1,016,686
Transfer to General Fund	2,500,000	\$208,333	1,458,333	58.33%	1,041,667
Capital	515,520	\$1,913	22,397	4.34%	493,123
Debt Service	668,110	\$0	66,555	9.96%	601,555
Electric Sub Total	\$6,725,431	\$317,282	\$3,048,544	45.33%	3,676,887
Power Purchased	21,500,000	\$1,917,607	11,949,474	55.58%	9,550,526
Total Electric	\$28,225,431	\$2,234,889	\$14,998,018	53.14%	13,227,413
TOTAL OPERATING BUDGET	\$43,048,051	\$3,122,440	\$23,088,740	53.63%	19,959,311

INTERSERVICE DEPARTMENTS REPORT

Page Six

Date: JANUARY 2010

58 % of Year Expended

ACCOUNT	AMOUNT BUDGETED	MTD	YTD	YTD%	UNEXPENDED BALANCE
Billing & Collections					
Personnel	428,105	31,696	227,147	53.06%	200,958
O&M	182,500	10,925	67,337	41.44%	95,163
Capital	0	0	0		0
Total Billing & Collections	\$590,605	42,621	\$294,484	49.88%	296,121
Garage					
Personnel	137,260	10,571	75,579	55.06%	61,681
O&M	29,040	758	14,758	50.82%	14,282
Capital	0	0	0		0
Total Billing & Collections	\$166,300	11,329	\$90,337	54.32%	75,963
Meter Department-Water					
Personnel	123,455	9,549	71,491	57.91%	51,964
O&M	93,585	2,517	24,190	25.85%	69,395
Capital	60,500	0	47,524	78.55%	12,976
Total Billing & Collections	\$277,540	12,066	\$143,205	51.60%	134,335
Meter Department-Electric					
Personnel	236,435	17,869	129,361	54.71%	107,074
O&M	122,405	3,652	42,511	34.73%	79,894
Capital	32,000	0	0	0.00%	32,000
Total Billing & Collections	\$390,840	21,521	\$171,872	43.98%	218,968
Public Works					
Personnel	0	0	0		0
O&M	143,480	15,991	71,058	49.52%	72,422
Capital	0	0	0		0
Total Billing & Collections	\$143,480	15,991	\$71,058	49.52%	72,422

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

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 11, 2010

The City Council of the City of Milford held a Public Comment Session on Monday, January 11, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

Mayor Marabello declared the Comment Session open at 7:15 p.m.

Connie Devan of 13 Kingston Terrace, Hearthstone Manor, stated she spoke to council previously about speeding and safety at Hearthstone. On December 14th, she fell on some frost while walking her dog on the wooden bridge. She broke her wrist which resulted in surgery and is now undergoing physical therapy. Two days before her accident, she contacted the building manager to advise him an entire section of the wooden bridge was missing though the bridge was not repaired the day she fell. Following her accident, she contacted management and asked for their insurance information to help with her out of pocket expenses.

On December 15th, City Building Inspector/Code Official Don Williams inspected the bridge as a result of Ms. Devan's phone call to Councilman Spillane. According to Ms. Devan, Mr. Williams deemed the bridge unsafe and cordoned it off with yellow tape. On December 16th, the bridge was repaired.

She feels this could have been avoided if someone had done their job properly.

Ms. Devan publicly thanked Councilman Spillane for helping her and other residents at Hearthstone in trying to make the development a better community.

Mr. Spillane then agreed there are a number of safety issues that have not been addressed since 2006 and asked council to stand up and correct those problems to prevent anyone else from being hurt or killed.

With no additional persons signed up, Mayor Marabello closed the Public Comment Session at 7:22 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 11, 2010

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, January 11, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Mayor Marabello called the Monthly Meeting to order at 7:30 p.m.

INVOCATION AND PLEDGE

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

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Adkins, seconded by Mr. Workman to approve the minutes of the December 14, 22 and 28, 2009 council and committee meetings as presented. Motion carried.

RECOGNITION

None

AMENDMENT TO ORDER OF AGENDA

Mayor Marabello asked for a motion to amend the agenda so that the item listed under "New Business" as "Appointment of the Board of Appeals" could be considered at this time. The request would allow those persons being considered to be present. Currently, one of the candidates is unable to remain until such time it was scheduled to be addressed.

Mr. Workman moved to place "New Business-Appointment of the Board of Appeals" above the Monthly Police Report and separate from other "New Business" items, seconded by Mr. Starling. Motion carried.

NEW BUSINESS

Appointment of Board of Appeals

Mr. Baird advised the following names are being submitted for the City of Milford Board of Appeals:

Dean Johnson, Vice President of Richard Y. Johnson and Son, to serve as a representative of the contracting engineer for a term of one year.

Alvin French, partner in the architectural firm of French and Ryan, to serve as the design professional for a term of two years.

Mike Wheedleton, an architect with Davis, Bowen and Friedel, Incorporated, to serve as the alternate for a term of two years.

Mr. Baird then announced that he previously introduced those nominees to council members earlier today.

When asked the need for a Board of Appeals, Mr. Baird explained the city is anticipating some action will be needed on the property located at Church and North Front Street that is presently condemned. The property is owned by Dan Bond. Mr. Baird pointed out this is a component of the property maintenance code and building code that has not yet been established.

Mr. Spillane referenced openings on similar boards and asked why in this case, the three nominees have been preselected and are being presented for council action without any type of solicitation. Mr. Baird explained that the backgrounds of the individuals are clearly spelled out and the pools are extremely limited. He has already spoken with all three nominees who have agreed to serve on the board.

Mr. Spillane emphasized that he does not have a problem with the individuals, but has a problem with the manner in which this was handled which is inconsistent with what has been done in the past. He does not feel this afforded other interested parties the same opportunity.

Mr. Workman confirmed that Mayor Marabello and City Manager Baird worked together to find three people to fill the positions. However, he agrees with the concern of the inconsistency and questions exactly how the three people were selected. He also stressed that personally, he has no problem with the three individuals. Mayor Marabello explained that timing was a problem and their services were needed very quickly.

Mr. Workman asked that any other open committees be addressed to prevent having to rush into a similar situation. Though they may never have to be used, they will at least be in place.

Mr. Baird then introduced Mr. French and Mr. Wheedleton adding that Mr. Johnson had another commitment and left early. Mayor Marabello added that council members know Mr. Johnson and are familiar with the DBF firm though he was unfamiliar with Mr. French. However, the city manager made the recommendation so he is comfortable with his appointment.

Mr. Adkins moved for confirmation of Dean Johnson, Alvin French and Mike Wheedleton as members of the City of Milford Board of Appeals, seconded by Mr. Starling.

Motion carried by the following 6-1 vote:

Yes-Johnson, Workman, Adkins, Brooks, Morrow, Starling

No-Spillane

Mr. Spillane votes no adding that the city needs to be impartial when filling such openings and in this case, it appears as though we are all of a sudden rushing to fill the vacancies which are unfair to other qualified persons who may have had an interest.

Mr. Workman said he stated his concerns earlier, though he will vote yes.

Mr. Baird said he will follow up with the new board members to review their new responsibilities.

POLICE REPORT

Police Committee Chair Morrow referenced the year-end report included in the council packet and reiterated how busy the department has become. He noted the complaints have increased by 4,000 over the previous year bringing the total to approximately 14,000. Criminal arrests are up by 33% and felonies have increased by 50%.

Police Committee Chair Morrow moved for acceptance of the monthly police report submitted by Chief Hudson, seconded by Mr. Adkins. Motion carried.

Mr. Workman asked Chief Hudson if there are any areas in the city that have seen an increase in crime. Chief Hudson

advised there appears to be more crime in the northeastern business area. Mr. Workman confirmed there are no specific residential areas; Chief Hudson concurred.

CITY MANAGER REPORT

City Manager Baird then read the following report into record:

North Front Street Sewer Project and FY2010 Bond Issue (Engineering & Finance Goals)

The City has closed on the Clean Water State Revolving Fund Loan for the Sewer Project on North Front Street. The loan is in the amount of \$1,301,872 at an interest rate of 2.0% for twenty years. A preconstruction meeting was held on Wednesday, January 6, 2010 with the City's contractor JJID and we established a start date of January 19, 2010. Additionally, during the pre-construction meeting the City was informed that Davis Bacon Wage Rates will apply on this job and this could cause a need for a change order increasing the project cost before it even begins. Please note the date of the memo was one month after the effective date and the City had already bid its project prior to the end of October. We have requested DNREC grant a waiver on the Davis Bacon Requirements and are awaiting a response.

The first portion of the project will begin in the Truitt Avenue area. Traffic restrictions will occur during construction that will be coordinated with the police department and DelDOT. The city will provide public notices to ensure our residents are aware of the situation.

Recycling Contract (Administration Goal)

Earlier this week, Governor Markell announced his new recycling program that would make it mandatory for the City to collect recycling. According to a January 5, 2010 News Journal article "Recycling would remain voluntary for homes and businesses under the plan, but curbside services and special containers would be universally available. Commercial haulers and municipal governments that collect trash would be required to provide curbside pickups.

Money to help haulers and communities start new recycling programs would come from a non-refundable 5-cent fee now charged as a returnable deposit for smaller glass and plastic beverage containers. Fee proceeds also would pay for marketing and education." We will continue to monitor the details of this plan to determine how this will impact the City's current recycling contract with DSWA that expires on July 31, 2010. It is important to keep in mind that this comes on the heels of a proposed 50% increase in landfill fees by DSWA. Municipal representatives are meeting with DSWA CEO Pat Canzano on Wednesday, January 13 at Dover City Hall to discuss these issues.

In addition, the city is battling a rate increase from DSWA on the regular tipping fees. Those fees are proposed to go from \$61.50 a ton up to \$80.00. The current rebate of \$10.00 is being reduced to \$4.00.

The city is participating with some other municipalities on how to proceed. A meeting is scheduled this Wednesday to have some further discussions.

Other options are being considered including city staff handling the recycling.

Interconnection Agreement with Delmarva Power (Electric Goal)

A final draft of the interconnection agreement with Delmarva Power is being reviewed by the City and DPL Attorneys. Upon completion of these reviews, it will be presented to City Council for ratification at the February 8, 2010 meeting.

Cost of Snow Removal

An analysis of the costs associated with snow removal from the winter storm on December 19, 2009 show the City spent approximately \$14,000 on snow removal and associated costs. City Crews are commended for an excellent job and service above and beyond during this time.

Inflow and Infiltration (Engineering and Sewer Goal)

During the November billing period for sewer service from Kent County, the City was billed for 85,320,000 gallons of flow for a total bill of \$199,648.80. Of this amount, it is estimated that 47% or \$93,850 is for I&I. The flow for Nov. 2009 increased by 26% over the flow from Nov. 2008. More alarming is the fact the flow billed to City customers in Nov. 2009 (45,215,285) was almost identical to the flow in 2008 (45,256,594). This is a direct reflection of the I&I issue facing the

City.

Electric Substation Repairs

The City Electric Department with the help of an outside contractor are making repairs to one of the three transformers at the substation. The bushing component of the transformer needs to be replaced and crews are hoping to complete the repairs by this weekend. Two of the three transformers were installed in 1988 and the third in 2000. Rick Carmean is expecting to complete more maintenance work on the transformers as we enter the spring.

Residential Electric Rate Comparison

Please see the attached rate comparison from DEMEC.

Annexation Committee Report Modifications

Mr. Norris and I have prepared drafts of amendments to the annexation report and modification of the way in which the City will facilitate annexation requests. These changes are being made to address the comments raised during the December 28, 2009 Council meeting as well as to improve the process for the staff and the applicants. The information has been shared with members of the annexation committee.

The latest electric residential rate comparisons provided by DEMEC as of December are as follows:

Selected Area Utilities

Winter (Oct. - May)

RESIDENTIAL RATE COMPARISON @ 1,000 kWh

		<i>% Difference</i>	<i>% Difference</i>
*De Co-op	\$121.95	0%	-21%
New Castle	\$141.43	16%	-8%
Milford	\$143.53	18%	-7%
Newark	\$146.53	20%	-5%
Dover	\$150.18	23%	-2%
Seaford	\$152.87	25%	0%
**Delmarva Power	\$153.61	26%	0%
Smyrna	\$155.48	27%	1%
Lewes	\$157.14	29%	2%
Middletown	\$157.89	29%	3%
Clayton	\$162.70	33%	6%

Mr. Baird noted that Milford has become very competitive in their rate schedule though there is always room for improvement.

Mr. Adkins asked for a corporate rate comparison; Mr. Baird explained that those rates are all over the board. He has not seen one for approximately two years because each municipality has their own rate structure which do not line up as the residential rates do. For example, Milford’s small general service rate classification may mean something completely different in another town.

Mr. Adkins pointed out that could be a very important comparison factor for businesses looking to locate in Delaware.

Mr. Baird then commended the public works crews for their efforts during the December snowstorm, in addition to last week’s storm, in ensuring the city was clear and passable.

Mayor Marabello then asked what complaints were received from residents during the recent snow storms; Mr. Baird answered that a few people felt the roads were snow covered longer than was expected. However, city crews responded quickly to alleviate those problems.

When asked about a couple of recent electric outages, Mr. Baird confirmed the problem was not at the substation. Breakers tripped out on the system and tried to reset themselves. Unsuccessful, they remained open until the problem could be fixed and the device reset manually by crews.

Mr. Workman suggested that Mr. Baird work with the chair of the annexation committee on the annexation report. As a member of the annexation committee, he feels more input is needed from the committee. They would then work with the city planner and city manager as was discussed by council at a previous meeting.

When questioned, Mr. Baird said there are no specific requirements as far as the contents of the annexation report with the exception of developing the advantages and disadvantages. The purpose of the report is to provide additional support. The information is provided to the annexation committee members to get initial feedback in order to move forward.

Mr. Spillane is concerned that past annexation reports did not include spelled out disadvantages and advantages. Mr. Baird feels the overall concept of each report includes those items in addition to the discussions of the committee members.

On the issue of I&I, the city manager does not believe it is the result of a false reading because it coincides with the trends seen in previous months as well as recent rainfall and snow.

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

COMMITTEE REPORTS

Fisher Building/Previous Boys and Girls Club

Mr. Starling recalled that approximately six months ago, Jonathan Dukes and Don Fisher came in to ask for a conditional use for a church and daycare/youth center. In recent weeks, some other activities have taken place there. He wants to publicly thank Milford Police Department for their thorough investigation and the work they did to prevent further problems.

Mr. Starling emphasized that the Dukes are church affiliated and anything that occurs from this point on, they are no longer associated with as they have moved their property out over the weekend. The building has since been rented to another group. Mr. Starling said that many of the things occurring there were associated with Jonathan Dukes and Melissa Dukes. However, they had nothing to do with those activities and reiterated they will no longer be affiliated with any future use at the site.

Charter Review

Chairman Spillane clarified the Charter Review by council is scheduled for Monday, January 25th and not January 24th as was reported by the newspaper.

HOA Committee

Chairman Workman reported that tomorrow evening, January 12th at 6:00 p.m., the HOA Committee will meet in the council chambers.

Board of Adjustment

Mayor Marabello reported that to date, council has already met Keith Grambling and Frank Bason through the planning commission process. He has also approached Sam Johnson who has expressed an interest in serving. No new applications were received. His goal is to have the board filled at the January 25th meeting.

When questioned about the number of members, it was verified that state code allows the board to consist of not less than three nor more than five members. Mr. Spillane suggested that we start with three members, though he prefers five members.

Mr. Brooks confirmed the city solicitor will be attending in an advisory capacity. City Solicitor Willard concurred adding that he will provide some orientation material for the new members on how to approach variance cases.

The city manager confirmed there is a Board of Adjustment hearing scheduled for Thursday, January 14th at 10 a.m. for a variance from the parking requirements for the Cypress Hall project southwest of Route 113.

Mr. Johnson questioned the term requirements. Mr. Baird explained that initial terms will provide for one member to expire on staggered years. One member would be appointed for one year, one member appointed for two years and the other member appointed for three years. All subsequent terms are three year terms.

It was agreed by council that sufficient time would be provided for training before the new board is officially convened for a hearing. The current board will remain for the January hearing and the new members will take over at the February meeting. The mayor will ask the new members to attend the January meeting for training purposes.

Because the January 25th meeting is limited to the charter review, the Board of Adjustment appointments will be added to the February 8th agenda.

UNFINISHED BUSINESS

*Plan of Services-Annexation/Lands of W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee/Tax Parcel 3-30-11.00-06.00
Adoption of Ordinance 2009-20
Adoption of Resolution*

City Planner Gary Norris recalled this item being presented to council in December though action was deferred until acceptance of the Plan of Services was received from the Office of State Planning.

Mayor Marabello advised the ordinance changes the zone to C-3 subject to the adoption of the resolution which officially annexes the property.

Mr. Spillane confirmed that this property will be properly taxed. City Manager Baird referenced language in the resolution stating the property will be assessed and taxed at the same rate and basis as other taxable properties in the city. He further explained that when the property is assessed, the zoning affects the assessment.

Mr. Spillane asked for verification that taxes will not be deferred until something is developed on the land; Mr. Baird stated yes, noting that is intent of that language that was added to the resolution. Mr. Spillane wants to ensure the city receives the proper taxes based on the C-3 zone.

Mr. Johnson asked if this is something the city is changing in the future and if not, why was it done on this particular annexation. Mr. Baird explained it provides clarification and prevents any future questions. He pointed out the property owner may have a reason to ask for a tax exemption, but that would be a decision of city council. In this case, there is no exemption and the property will be taxed once it is annexed.

Mr. Workman then moved for adoption of Ordinance 2009-20, seconded by Mr. Starling:

*Ordinance 2009-20
Annexation/Lands of W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee
Tax Parcel 3-30-11.00-06.00*

An Ordinance to Amend the Zoning Designation of the parcel of land under the legal ownership of Hall & W. Nelson Hall, Trustee, & W. Nelson Hall, Substitute Trustee, lying and being on the easterly side of Delaware Road #30 and the southwesterly side of Delaware Route 1, located in the Cedar Creek Hundred, Sussex County, Delaware, as shown on a plot entitled "Lands of W. Nelson & Dorothy I. Hall.", dated September 12, 2000, to be annexed into the City of Milford by resolution, hereafter adopted by the City Council of Milford, Delaware.

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owners thereof have petitioned the City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed to and become part of the City of Milford and a zoning classification is required, and

WHEREAS, the land owned by W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee, Tax Parcel 3-30-11.00-06.00 is currently zoned by Sussex County as "AR-1" (Agriculture-Residential District), and

WHEREAS, the City Council referred the zoning of the affected territory for report and recommendations to the Planning and Zoning Commission and after a due hearing as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, after a Public Hearing held on November 23, 2009, and after considering the previous recommendation of the City Council Annexation Committee, the City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Sussex County, Delaware:

BEGINNING at a point formed by the intersection of the easterly right-of-way line of Delaware Road #30, 60 feet wide, with the southeasterly line of lands, now or formerly, of James Wesley Thawley, as recorded in the Sussex County Office of the Recorder of Deeds, Deed Book 642, Page 238,

- 1) Thence, leaving said right-of-way of Delaware Road #30 and coincident with said Thawley lands, North 60 degrees 22 minutes 25 seconds East 225.72 feet to iron pipe found at a point along the southeasterly line of lands, now or formerly, David W. & Amanda L. White, as recorded in said Office of the Recorder of Deeds, Deed Book 1546, Page 226,*
- 2) Thence, leaving said Thawley lands and coincident with said White lands, North 57 degrees 04 minutes 42 seconds East 180.06 feet to an iron pipe found at a point along the southeasterly line of lands, now or formerly, Mulford W. & Joan L. Bittle, as recorded in the said Office of the Recorder of Deeds, Deed Book 1684, Page 41,*
- 3) Thence, leaving said White lands and coincident with said Bittle lands, North 56 degrees 59 minutes 30 seconds East 190.20 feet to a concrete monument found at a point along the southeasterly line of lands, now or formerly, Otis J. & Beulah M. Penuel & Beronica E. Moore, as recorded in the said Office of the Recorder of Deeds, Deed Book 2036, Page 7,*
- 4) Thence, leaving said Bittle lands and coincident with said Penuel & Moore lands, North 47 degrees 49 minutes 39 seconds East 149.92 feet to a concrete monument set at a point along the southwesterly right-of-way line of said Delaware Route 1,*
- 5) Thence, leaving said Penuel & Moore lands and coincident with said right-of-way of Delaware Route 1, the following 2 courses and distances, South 42 degrees 09 minutes 11 seconds East 1626.52 feet to a point,*
- 6) Thence, along a curve to the left, having a radius of 2421.84 feet, an arc length of 566.86 feet and a chord bearing and distance of South 48 degrees 51 minutes 30 seconds East 565.57 feet to a concrete monument set at a point on the northwesterly line of lands, now or formerly, The State of Delaware, as recorded in the said Office of the Recorder of Deeds, Deed Book 647, Page 455,*
- 7) Thence, leaving said right-of-way of Delaware Route 1 and coincident with said State of Delaware lands, the following 2 courses and distances, South 50 degrees 00 minutes 01 seconds West 104.59 feet to a concrete monument set at a point,*
- 8) Thence, South 42 degrees 27 minutes 17 seconds East 300.00 feet to a concrete monument set at a point along the northwesterly line of lands, now or formerly, Elmer J. Roberts,*
- 9) Thence, leaving said State of Delaware lands and coincident with said Roberts lands, the following 3 courses and distances, South 45 degrees 42 minutes 43 seconds West 346.70 feet to a concrete monument set at a point,*
- 10) Thence, South 47 degrees 12 minutes 43 seconds West 198.00 feet to a point,*
- 11) Thence, South 57 degrees 07 minutes 43 seconds West 27.68 feet to a point along the northeasterly line of lands, now or formerly, Patrick J. & Judy Kay L. Emory, as recorded in the Office of the Recorder of Deeds, Deed Book 2310, Page 85,*
- 12) Thence, leaving said Roberts lands and coincident with said Emory lands, the following 4 courses and distances, North 59 degrees 07 minutes 17 seconds West 804.67 feet to an iron pipe found at a point,*
- 13) Thence, South 83 degrees 03 minutes 19 seconds West 436.09 feet to an iron pipe found at a point,*
- 14) Thence, South 62 degrees 22 minutes 56 seconds West 234.84 feet to an iron pipe found at a point,*
- 15) Thence, South 43 degrees 43 minutes 35 seconds West 221.38 feet to an iron pipe found at a point along the northerly line of lands, now or formerly, Robert W. & Carolyn M. McLaughlin,*

16) Thence, leaving said Emory lands and coincident with said McLaughlin lands, South 86 degrees 55 minutes 49 seconds West 245.25 feet to an iron pipe found at a point along the easterly right-of-way line of Delaware Road #30,
17) Thence, leaving said McLaughlin lands and coincident with said right-of-way of Delaware Road #30, North 03 degrees 02 minutes 51 seconds West 832.00 feet to an iron pipe found along the southerly line of lands, now or formerly, Patrick F. & Jacquelyn A. Gorman, as recorded in the said Office of the Recorder of Deeds, Deed Book 1630, Page 62,
18) Thence, leaving said Delaware Road #30 and coincident with said Gorman lands, the following 3 courses and distances, North 86 degrees 58 minutes 45 minutes East 374.80 feet to an iron rod found at a point,
19) Thence, North 03 degrees 01 minutes 17 seconds West 249.99 feet to an iron pipe found,
20) Thence, South 86 degrees 58 minutes 14 seconds West 75.11 feet to an iron pipe found at a point along the easterly line of lands, now or formerly, Walter V., Jr. & Barbara L. Samuels, as recorded in the said Office of the Recorder of Deeds, Deed Book 1776, Page 123,
21) Thence, leaving said Gorman lands and coincident with said Samuels lands, and in part with lands, now or formerly, Frederick A. & Delema M. Duffy, as recorded in the Office of the Recorder of Deeds, Deed Book 2021, Page 73, and in part with lands, now or formerly, Albert T. & Beverly J. Coverdale, as recorded in the said Office of the Recorder of Deeds, Deed Book 2421, Page 89, and in part with lands, now or formerly, Barry W. & Karen Know, as recorded in the said Office of the Recorder of Deeds, Deed Book 2008, Page 284, the following 2 courses and distances, North 04 degrees 18 minutes 53 seconds West 613.36 feet to an iron pipe found at a point,
22) Thence, South 84 degrees 25 minutes 59 seconds West 300.00 feet to an iron pipe found at a point along the easterly line of said right-of-way Delaware Road #30, 23) Thence, leaving said Knox and coincident with said right-of-way Delaware Road #30, North 05 degrees 43 minutes 00 seconds West 87.80 feet to the point and place of beginning;

CONTAINING 59.309 acres of land shall be, upon final approval of its annexation into the City of Milford, classified under the Zoning Ordinance of the City of Milford and zoned as C-3 (Commercial Highway District).

Dates:

Adoption Date: January 11, 2010

Effective Date: January 21, 2010

Motion carried by unanimous roll call vote.

Mr. Spillane said he is voting yes as long as the city taxes the land with the C-3 designation.

When asked for questions regarding the resolution, Mr. Spillane noted that both counties are addressing flooding problems. and said that with recent rains, there are many properties flooding. He said with the large parking area and shopping center proposed, there is some concern. Mayor Marabello said that has been discussed in the past and remains a site plan issue. Those matters will be reviewed at that time. Currently, we are only addressing the annexation.

Mr. Starling moved to adopt the following resolution, seconded by Mr. Morrow:

*Annexation/Lands of W. Nelson Hall Trustee & W. Nelson Hall Substitute Trustee
Tax Parcel 3-30-11.00-06.00
59.309 +/- Acres
Current Zone AR-1
Proposed Zone C-3*

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as described herein:

ALL that piece or parcel of land, hereinafter described, situate, lying and being on the easterly side of Delaware Road #30 and the southwesterly side of Delaware Route 1, and being located in the Cedar Creek Hundred, Sussex County, Delaware, as shown on a plot entitled "Lands of W. Nelson & Dorothy I. Hall.", dated September 12, 2000; said piece or parcel of land being more particularly described as follows:

BEGINNING at a point formed by the intersection of the easterly right-of-way line of Delaware Road #30, 60 feet wide, with

the southeasterly line of lands, now or formerly, of James Wesley Thawley, as recorded in the Sussex County Office of the Recorder of Deeds, Deed Book 642, Page 238,

- 1) *Thence, leaving said right-of-way of Delaware Road #30 and coincident with said Thawley lands, North 60 degrees 22 minutes 25 seconds East 225.72 feet to iron pipe found at a point along the southeasterly line of lands, now or formerly, David W. & Amanda L. White, as recorded in said Office of the Recorder of Deeds, Deed Book 1546, Page 226,*
- 2) *Thence, leaving said Thawley lands and coincident with said White lands, North 57 degrees 04 minutes 42 seconds East 180.06 feet to an iron pipe found at a point along the southeasterly line of lands, now or formerly, Mulford W. & Joan L. Bittle, as recorded in the said Office of the Recorder of Deeds, Deed Book 1684, Page 41,*
- 3) *Thence, leaving said White lands and coincident with said Bittle lands, North 56 degrees 59 minutes 30 seconds East 190.20 feet to a concrete monument found at a point along the southeasterly line of lands, now or formerly, Otis J. & Beulah M. Penuel & Beronica E. Moore, as recorded in the said Office of the Recorder of Deeds, Deed Book 2036, Page 7,*
- 4) *Thence, leaving said Bittle lands and coincident with said Penuel & Moore lands, North 47 degrees 49 minutes 39 seconds East 149.92 feet to a concrete monument set at a point along the southwesterly right-of-way line of said Delaware Route 1,*
- 5) *Thence, leaving said Penuel & Moore lands and coincident with said right-of-way of Delaware Route 1, the following 2 courses and distances, South 42 degrees 09 minutes 11 seconds East 1626.52 feet to a point,*
- 6) *Thence, along a curve to the left, having a radius of 2421.84 feet, an arc length of 566.86 feet and a chord bearing and distance of South 48 degrees 51 minutes 30 seconds East 565.57 feet to a concrete monument set at a point on the northwesterly line of lands, now or formerly, The State of Delaware, as recorded in the said Office of the Recorder of Deeds, Deed Book 647, Page 455,*
- 7) *Thence, leaving said right-of-way of Delaware Route 1 and coincident with said State of Delaware lands, the following 2 courses and distances, South 50 degrees 00 minutes 01 seconds West 104.59 feet to a concrete monument set at a point,*
- 8) *Thence, South 42 degrees 27 minutes 17 seconds East 300.00 feet to a concrete monument set at a point along the northwesterly line of lands, now or formerly, Elmer J. Roberts,*
- 9) *Thence, leaving said State of Delaware lands and coincident with said Roberts lands, the following 3 courses and distances, South 45 degrees 42 minutes 43 seconds West 346.70 feet to a concrete monument set at a point,*
- 10) *Thence, South 47 degrees 12 minutes 43 seconds West 198.00 feet to a point,*
- 11) *Thence, South 57 degrees 07 minutes 43 seconds West 27.68 feet to a point along the northeasterly line of lands, now or formerly, Patrick J. & Judy Kay L. Emory, as recorded in the Office of the Recorder of Deeds, Deed Book 2310, Page 85,*
- 12) *Thence, leaving said Roberts lands and coincident with said Emory lands, the following 4 courses and distances, North 59 degrees 07 minutes 17 seconds West 804.67 feet to an iron pipe found at a point,*
- 13) *Thence, South 83 degrees 03 minutes 19 seconds West 436.09 feet to an iron pipe found at a point,*
- 14) *Thence, South 62 degrees 22 minutes 56 seconds West 234.84 feet to an iron pipe found at a point,*
- 15) *Thence, South 43 degrees 43 minutes 35 seconds West 221.38 feet to an iron pipe found at a point along the northerly line of lands, now or formerly, Robert W. & Carolyn M. McLaughlin,*
- 16) *Thence, leaving said Emory lands and coincident with said McLaughlin lands, South 86 degrees 55 minutes 49 seconds West 245.25 feet to an iron pipe found at a point along the easterly right-of-way line of Delaware Road #30,*
- 17) *Thence, leaving said McLaughlin lands and coincident with said right-of-way of Delaware Road #30, North 03 degrees 02 minutes 51 seconds West 832.00 feet to an iron pipe found along the southerly line of lands, now or formerly, Patrick F. & Jacquelyn A. Gorman, as recorded in the said Office of the Recorder of Deeds, Deed Book 1630, Page 62,*
- 18) *Thence, leaving said Delaware Road #30 and coincident with said Gorman lands, the following 3 courses and distances, North 86 degrees 58 minutes 45 minutes East 374.80 feet to an iron rod found at a point,*
- 19) *Thence, North 03 degrees 01 minutes 17 seconds West 249.99 feet to an iron pipe found,*
- 20) *Thence, South 86 degrees 58 minutes 14 seconds West 75.11 feet to an iron pipe found at a point along the easterly line of lands, now or formerly, Walter V., Jr. & Barbara L. Samuels, as recorded in the said Office of the Recorder of Deeds, Deed Book 1776, Page 123,*
- 21) *Thence, leaving said Gorman lands and coincident with said Samuels lands, and in part with lands, now or formerly, Frederick A. & Delema M. Duffy, as recorded in the Office of the Recorder of Deeds, Deed Book 2021, Page 73, and in part with lands, now or formerly, Albert T. & Beverly J. Coverdale, as recorded in the said Office of the Recorder of Deeds, Deed Book 2421, Page 89, and in part with lands, now or formerly, Barry W. & Karen Know, as recorded in the said Office of the Recorder of Deeds, Deed Book 2008, Page 284, the following 2 courses and distances, North 04 degrees 18 minutes 53 seconds West 613.36 feet to an iron pipe found at a point,*
- 22) *Thence, South 84 degrees 25 minutes 59 seconds West 300.00 feet to an iron pipe found at a point along the easterly*

line of said right-of-way Delaware Road #30,

23) Thence, leaving said Knox and coincident with said right-of-way Delaware Road #30, North 05 degrees 43 minutes 00 seconds West 87.80 feet to the point and place of beginning; containing 59.309 acres of land.

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; City Council having held a Public Hearing on November 23, 2009 on said annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in said County where said lands are situate.

Be It Further Resolved, the Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

And Be It Further Resolved, that from and after the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.

NOW I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on January 11, 2010, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Mayor Daniel Marabello

Motion carried by unanimous roll call vote.

Kent County Sports Complex Request

Mr. Baird recalled the Kent County representatives who attended a previous council meeting asking for financial support in the amount of \$10,000 for a feasibility study for a sports facility to be constructed on Route 113/1 south of Frederica. Mr. Spillane agrees this is a good project for Kent County and the city. However, with the economy as it currently exists, he does not feel the city is in a position to spend any extra money for a study. Mr. Brooks agrees that \$10,000 is a lot of money and we need to be careful with our current funding.

Mr. Workman agrees it is a good project, though he is uncomfortable funding a study not knowing, at this time, whether or not it will come to fruition. He is uncomfortable using taxpayers' money though he agrees it should benefit our hotel and restaurant businesses. He also pointed out the site is not in the city limits which should also be considered. Once they obtain the money to ensure the project will move forward, then council could consider some type of support at that point.

Mr. Morrow feels we need to focus on spending tax dollars within the city boundaries. He also agrees it is a good project, but at the current time, we have I&I problems we need to address and have directed our department heads to cut back on spending. Therefore, he has concerns at this point in time.

When questioned, Mr. Workman reiterated that they should return once the plans are in place and ready to go. At that time, council could consider some financial support.

Mr. Adkins feels that though it is not inside the city, the project will have a direct impact on jobs and the economy in Milford. He referenced the positive impact the events at the BMX parks have had on many of Milford's businesses. He is also considering the number of things we have wasted money on such as recent lawsuits. He feels this will have a positive effect and that \$2,500 is a small token for the benefits and message we will send and is confident there is great potential this project will be completed. Another advantage would be to have Milford added to their brochure as a way to promote our

hotels, restaurants and other businesses. He noted that Harrington and Dover have agreed to support it in addition to some other businesses. He feels it is very important to send a message of support.

Mayor Marabello asked if anyone else is supportive of a smaller contribution. Mayor Marabello also recalled contributing toward feasibility studies for the airport on two different occasions though it was a much smaller amount.

Mr. Workman agrees that if we do not support this, they may not be willing to promote Milford. However, at the same time, Milford's businesses can use the internet to promote their hotels and restaurants. He does not have a problem giving a smaller amount though he is unsure of what that should be.

Mr. Johnson prefers addressing this during the budget hearings to ensure we will have the money. He agrees he does not mind supporting it but needs to review our overall budget first.

Mr. Adkins said he has two comments. One is the feasibility study and the article in the newspaper recently. He said to be realistic, these studies are needed for a project of this size. He would also be willing to forego his council pay for awhile to show his support of the project.

When asked what the time constraint is on the project, Mr. Baird said he does not believe there was one and recalled asking that at the previous meeting. His impression was they were ready to move forward sooner rather than later though they did not provide any hard time lines.

The mayor asked for a consensus. Mr. Starling stated he was willing to support a partial contribution. Mr. Johnson said he prefers to wait until we begin to prepare for next year's budget. Mr. Spillane said no. Mr. Workman agreed to a quarter of the \$10,000. Mr. Brooks said he is not against the project, but with the finances as they currently exist, he does not know where we can suddenly come up with \$10,000 or even \$5,000.

Mr. Baird advised that funds are available in his administrative budget to cover the expense. Mr. Workman asked if the city manager is aware of any potential expenses within the city that this money could be used for. He then referenced another issue that he spoke to Mr. Baird about earlier.

Mr. Baird agreed a case could always be made where funding would be needed though the question would be where it sits on the city's priority list.

Mr. Adkins moved to approve a \$2,500 contribution to the Kent County Sports Facility feasibility study, seconded by Mr. Starling.

After consideration, the motion failed by the following 3-4 roll call vote:

Yes-Workman, Adkins, Starling

No-Johnson, Spillane, Brooks, Morrow

Mr. Spillane agrees it would be a good project for the state, county and city, but he must first look out for the city and its residents and believes there are a number of issues that take priority including sewer work and potential snow storms, so currently he must vote no.

Mr. Workman said that based on the conversation regarding the pros and cons, he is willing to show some type of support adding that \$2,500 is better than \$10,000 though he would never agree to that amount and votes yes to the \$2,500.

Mr. Brooks stated he supports the project but our budget has gotten tighter and tighter. He said when you read about other cities, things are even worse there. We have a new budget year beginning in July and do not need a tax increase to support a feasibility study.

Mr. Morrow said he would like to readdress it as Mr. Johnson suggested and discuss it during budget hearings but not at this point in time and votes no.

Default of Property Lease/Neal Moore Bus Service

Mr. Baird recalled informing council of recent correspondence between himself and Mr. Moore regarding his lease on the Fisher Avenue property. Mr. Moore requested that some of the terms in the agreement be revisited.

The city manager referenced the notice of default on two items, one being the rent which has since been satisfied. The second relates to the site plan being by December 31st, 2009. They have since had a conversation during which time, Mr. Moore indicated the project is in the works and is asking for an amendment to that clause of the lease.

He noted that tonight Bob Nash and Neal Moore were both present. Mr. Nash is working on the site plan on behalf of Mr. Moore.

Mr. Bob Nash, formerly of Charles Murphy Associates which is now Bob Nash Associates addressed council. He stated they have been working with Mr. Moore since October 7th, 2009. It has been submitted to the conservation district, fire marshal and city engineer for their review. It was suggested by the city planning office, that instead of coming in as a preliminary plan in December because it was not completed at that time, to come in as a final site plan with all letters of approval. He expects to have all the letters of approval by February 1st to come in as a final site plan. They have met with representatives of those agencies and have received comments from the fire marshal office and are ready to be returned tomorrow.

Mr. Baird confirmed Mr. Nash was correct regarding the notice of the city.

Mr. Workman pointed out council is being asked to approve something that will benefit Mr. Moore, however, no action was taken until the city sent a letter regarding four-months back rent. He does not feel it is necessary for the city to send out letters of default. If this occurred with him as a private citizen, after two months of nonpayment, he would have received an eviction notice. He understands he has now caught up on his rent, but it took the city sending a letter. If he was not prepared to move forward before his December deadline, council should have been informed at that time. Now he wants council to allow to proceed which to him is frustrating.

Mr. Nash pointed out there were many years that Mr. Moore did not have to pay rent. He said he did not receive a bill and had he received a monthly bill, he feels it would have been forthcoming.

Mr. Workman pointed out the agreement was signed and Mr. Moore was aware of his obligation. The rent should have been paid on time.

Mr. Nash said that once he found out he owed the money, he immediately responded by paying it. Mr. Workman asked if notices were sent out; Mr. Baird said between the time the lease was signed and the letter was sent out on January 4th no. Mr. Workman asked if it was not his fault because he was unaware of the rent. Mr. Baird noted the terms are clearly spelled out in the lease.

Mr. Spillane asked if Mr. Baird had called Mr. Moore before the contract was signed or did he hold the contract. Mr. Baird explained that Mr. Moore and he had conversations before the lease was even drafted. They discussed the matter at the time the lease was drafted and Mr. Moore was also provided a copy to review to ensure he was in agreement before it came before city council. Mr. Moore came in to execute the agreements after council took action.

It was confirmed that Mr. Moore understood he owned rent starting in October. Mr. Baird agreed. He added that Mr. Moore had also requested that he not pay any rent for the back-owed portion, which the city manager relayed to council. It was council's opinion that the term of \$600 stand.

Mr. Spillane recalled that he owned the rent beginning in October though he still did not pay anything until some correspondence was sent.

Mr. Morrow said the rent has since been paid and it is current. He is now asking for an extension to complete his site plan.

Mr. Baird asked if there is a deadline date being requested to submit the site plan. Mr. Nash said his intent is to have the plan submitted on February 1st though they are at the mercy of the conservation district. He does not believe the fire marshal is a problem because he has been in contact with them. However, the conservation district has some comments he did not agree with because the stormwater is already established in the business park and some additional infrastructure was being requested which he believes is not necessary.

Mr. Nash is comfortable with the February 28th date. It was then confirmed the rent would continue to be paid and kept current during the interim.

Mr. Workman asked what the next step is if nothing occurs between now and February 28th. Mr. Baird said we would be right back where we are. None of the other terms in the lease have changed. The terms state that if it not submitted by December 31st, the landlord (city) shall exercise its right to buy back the business park property per the deed and zoning regulations.

City Solicitor Willard explained that if the date is changed from December 31st to March 1st, Mr. Moore is still obligated to pay the \$600 a month. The lease expires in July of this year. There is also a separate term to buy back arguably at anytime but this lease provides another condition. At that time, we could evict them and buy back the lot in the business park if nothing has been done by the end of February. In addition, if they submit a site plan and do not build in a year, then that expires, then we buy back the business park lot.

Mr. Johnson asked Mr. Nash if he foresees anything that would prevent the site plan from being submitted by the end of February. Mr. Nash said he does not and believes it will be ready by February 1st even considering the agencies involved.

He agrees the proper date would be March 1st as the official deadline.

Mayor Marabello added that without going into details, he feels the city has been extremely fair in all respects so it is incumbent upon him to have good faith and comply with all the rules.

Mr. Morrow moved for approval for an extension of the submittal date for the site plan of the Moore property in the business park from December 31, 2009 to March 1, 2010, seconded by Mr. Johnson. Motion carried by unanimous roll call vote.

Mr. Baird said he will mail a confirmation of council's action this evening.

NEW BUSINESS

Introduction of Ordinance 2009-21/Beverly Ann Thawley/Tax Parcel 3-30-11.00-70.03

City Planner Gary Norris advised this is a proposed ordinance for Beverly Ann Thawley on the northeast corner of Route 30 and Delaware 1. He advised it will go to the Planning Commission for a recommendation of zoning and is only being introduced this evening. The plan of services is currently being prepared and forwarded to the Office of State Planning.

The following ordinance was then officially introduced:

*Ordinance 2009-21
Annexation/Lands of Beverly Ann Thawley
Tax Parcel 3-30-11.00-70.03*

An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Beverly Ann Thawley, Tax Parcel 3-30-11.00-70.03, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, and on the northeasterly right-of-way line of State Route One, to be annexed into the City of Milford by resolution, hereafter adopted by the City Council of Milford, Delaware.

WHEREAS, the land hereinafter described is contiguous and adjacent to the City of Milford and the owners thereof have petitioned City Council to annex the same into the City of Milford, and

WHEREAS, it appears to the Mayor and City Council of the City of Milford, Delaware, that the hereinafter described property will be annexed to and become part of the City of Milford and a zoning classification is required, and

WHEREAS, the land owned by Beverly Ann Thawley is currently zoned by Sussex County as "AR" (Agriculture-Residential District), and

WHEREAS, the City Council referred the zoning of the affected territory for report and recommendations to the Planning and Zoning Commission and after a due hearing as provided by law, the Zoning Commission made its recommendation to City Council, and

WHEREAS, after a Public Hearing held on February 22, 2009, and after considering the recommendation of the City Council Annexation Committee, the City Council has determined the proper classification under the zoning ordinance of the City of Milford for the property to be annexed.

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

That the following described land situated in Sussex County, Delaware:

All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:

Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:

*1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and
2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley
thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,*

CONTAINING 9.28 (+/-) acres of land shall be, upon final approval of its annexation into the City of Milford, classified under the Zoning Ordinance of the City of Milford and zoned henceforth as C-3 (Commercial Highway District).

Dates:

Introduction to City Council: January 11, 2010

Planning Commission Public Hearing: January 19, 2010

Projected Date of Adoption by City Council: February 22, 2010

Projected Effective Date: March 4, 2010

Date Approval/2010 Milford Community Parade/Charles Gray

Chairperson Charles Gray asked for approval of the Community Parade on Wednesday, October 20, 2010 from 6:30 to 9:00 p.m. with three reviewing stands. A letter was submitted which will be added to the packet by the city clerk as a late addition.

He also asked for acceptance of the third Wednesday of each October hereafter to be the preferred date of the annual community parade.

Mr. Gray explained that each year they ask for approval of a date and it changes every four to five years. Traditionally, they have tried to hold it the Wednesday before Halloween. Because of the potential of Mischief Night and how Halloween falls, it sometimes pushes them back to two Wednesdays before Halloween. They have begun to establish the parade as a celebration of the autumn season as opposed to Halloween and is why the name was changed from Milford Halloween Parade.

He also explained that establishing the third Wednesday annually will also establish a time line year in and year out for the event.

Mr. Gray then requested the city make an annual investment of \$5,000. According to Mr. Gray, the committee was incorporated to raise funds and organizing the annual parade. No one is paid a salary or wage and no one receives a stipend for their volunteer efforts. He said the investment will be used to promote the parade through broadcast medias, taping and/or advertising.

He noted that by establishing the third Wednesday will allow the parade to be recognized in various annual publications that promote other events throughout the state.

Mr. Brooks confirmed that Mr. Gray is requesting the third Wednesday for planning purposes, but this does not grant blanket approval for the next ten years or so. He believes it is imperative the parade be granted on a yearly basis and pointed out that council members change so he would be uncomfortable approving it henceforth.

Mr. Gray concurred but clarified that they will be requesting the third Wednesday in October from this point on.

Mr. Brooks moved that October 20, 2010 and the third Wednesday of October be the tentative date of future parades, subsequent to annual approval by council from 6:30 p.m. to 9:00 p.m. with three reviewing stands, seconded by Mr. Starling.

Mr. Workman added that they still are required to work with the police department to work out the issues and any changes must be presented to council at the time the parade is approved each year. Mr. Gray agreed noting they have had a wonderful working relationship with the police department and city council up to this point. He said they have communicated any changes or concerns which has worked well.

Mr. Baird said that the financial request will be included as part of the budget process for the upcoming year. The letter will be included as part of this year's budget.

Mr. Workman agrees that if this body agrees, it should be part of the budget because it is the Milford Community Parade and our town's name is in front of it and it is our parade. It needs to be considered with the budget instead of saying yes at this time.

Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Mr. Morrow reported that through the fifth month of Fiscal Year 2009-2010 with 42% of the fiscal year having passed, 45.88% of revenues have been received and 36.88% of the operating budget expended.

Considering the current economy, Mr. Morrow feels we are fairing well. We will continue our belt tightening measures as we work toward the new fiscal year.

With no questions or comments, Mr. Morrow moved to accept the November 2009 Finance Report, seconded by Mr. Workman. Motion carried.

Executive Session

Mr. Workman moved to go into executive session pursuant to 29 Del. C. §10004(b)(6); Discussion of the content of documents, excluded from the definition of "public record" in §10002 of this title where such discussion may disclose the contents of such documents, seconded by Mr. Adkins. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:53 p.m. to go into a Executive Session.

Return to Open Session

Council returned to Open Session at 9:08 p.m.

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

ADJOURN

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

The Monthly Meeting was adjourned by Mayor Marabello at 9:08 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk

MILFORD CITY COUNCIL
MINUTES OF MEETING
January 25, 2010

On Monday, January 25, 2010, a Public Comment Session was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., James Starling, Sr. and Katrina Wilson

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

COUNSEL: City Solicitor Timothy Willard

With no one signed up to speak, no Comment Session was held.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk

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 ninety (90) 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 ninety (90) 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 residents are only able to vote in the ward they reside, regardless of the location 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 Ward *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 is a good way to keep council informed of projects and up to date on who is doing the work.

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 Marabello recommends that language be added to protect any potential abuses. The mayor then confirmed the consensus of council is the \$30,000 remain though some additional language will be presented to council.

(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 council member 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.

It was reiterated that council members are unable to discuss such issues with city employees or police officers and need to follow the procedure outlined in the charter which requires them to go 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 requests from being ignored and instead allow council to make the determination.

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 becoming too specific about certain things in the charter because potentially half of city council can change every year. He does not recommend tying the hands of future councils by adding too many specifics and would rather this 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. In many instances, a council person has taken a matter to the city manager and the majority of times, 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 a long term absence would be very rare. If something 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 someone should not be able to run for two seats and if 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 but 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 the overall consensus of council that a person should not run for two different offices though Mr. Spillane disagreed. However, it was also agreed it would continue to 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)

(a) Authentication and Recording. The City Clerk shall authenticate by his or her signature and record in full in a properly indexed book kept for the purpose all ordinances and resolutions adopted by the Council.

(b) Codification. The Council shall provide for the continual preparation of a general codification of all City ordinances and resolutions having the force and effect of law. The general codification shall be adopted by the Council by ordinance and shall be published promptly in bound or loose-leaf form, together with this Charter and any amendments thereto, pertinent provisions of the Constitution and other laws of the State of Delaware, and such codes of technical regulations and other rules and regulations as the Council may specify. The compilation shall be known and cited officially as the Code of the City of Milford. Copies of the Code may be furnished to City officers, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the Council.

(c) Printing of Ordinances and Resolutions. The Council shall cause each ordinance and resolution having the force and effect of law and each amendment to this Charter to be printed promptly following its adoption, and the printed ordinances, resolutions and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the Council. Following publication of the first Code of the City of Milford and at all times thereafter, the ordinances, resolutions and Charter amendments shall be printed in substantially the same style as the Code currently in effect and shall be suitable in form for integration therein. The Council shall make such further arrangements as it deems desirable with respect to reproductions and distribution of any current changes in or additions to the provisions of the Constitution and other laws of the State of Delaware, or the codes of technical regulations and other rules and regulations included in the Code.

The next review will begin with Article V- Administration and Appointees. Mr. Spillane asked for a date when council could again review the charter.

Mayor Marabello suggested continuing the review at the next workshop in February.

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

Ms. Wilson moved to go into Executive Session reference 29 Del. C. §10004(b)(4) to discuss pending and/or potential litigation, seconded by Mr. Starling. Motion carried.

Mayor Marabello recessed the Council Meeting at 8:49 p.m. to go into a closed session.

Return to Open Session

Council returned to open session at 9:06 p.m.

Executive Session Item

No action taken.

ADJOURN

Mr. Workman moved to adjourn the Council Meeting, seconded by Mr. Johnson. Motion carried.

Mayor Marabello adjourned the Monthly Council Meeting at 9:06 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 16, 2010

The City Council of the City of Milford held a Public Comment Session on Tuesday, February 16, 2010 in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

Mayor Marabello declared the Comment Session open at 7:15 p.m.

Joseph Palermo of 5 Misty Vale Court, Meadows at Shawnee, thanked the electric department for keeping the lights on noting that people in Bridgeville and Greenwood were without thirty hours plus during the monumental snow storm that occurred over the past couple of weeks.. He also thanked Councilman Owen Brooks for his assistance during the storm. He suggested that plow jacks be added to the sanitation trucks and vendors and contractors on a retainer and some plow training. Overall, he thinks the city did a good job.

Skip Pikus of 16 West Clarke Avenue and 48 North Walnut Street (Lou's Bottery) thanked the city manager, council and police chief for what they did for Downtown Milford during the recent snow storm. He appreciated the work of the street and police departments noting the last time Milford saw a storm Milford has not had that much snow in years. The last time we experienced anything similar was the back to back ice storms in 1994. He appreciates the effort put into getting downtown cleared and commends the city for how they handled the problems, calls and emergencies. The police department kept the town safe and their quick response and the city did an excellent job with all utilities and services.

With no additional persons signed up, Mayor Marabello closed the Public Comment Session at 7:21 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 16, 2010

The Regular Monthly Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Tuesday, February 16, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow, James Starling, Sr. and Katrina Wilson

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

COUNSEL: City Solicitor Timothy Willard

CALL TO ORDER

Mayor Marabello called the Monthly Meeting to order at 7:30 p.m.

INVOCATION AND PLEDGE

The Pledge of Allegiance followed the invocation given by Councilman Starling. Mayor Marabello acknowledged the loss of city employee Donnell Roach who died on February 11, 2010. He had been employed by the sanitation department for the past twelve years.

APPROVAL OF PREVIOUS MINUTES

Motion made by Mr. Brooks, seconded by Mr. Morrow to approve the minutes of the January 25, 2010 Council Meeting as presented. Motion carried.

RECOGNITION

Adoption of Resolution/Express Condolences to the People of Haiti

Ms. Wilson advised that the Haitian pastors Reverend Radford and Amos were unable to attend tonight's meeting. Therefore, they asked this be deferred until they can be present.

MONTHLY POLICE REPORT

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

CITY MANAGER REPORT

City Manager Baird reported that over the course of the last week and a half, a great deal of snow has been removed. He believes that most people were very pleased with our utilities and the work of our crews to make sure we had electricity and other utilities throughout the storm. He said that over the years, council has authorized a great deal of reinvestment in our electric system from pole replacement to tree trimming which paid dividends over the past couple of weeks. He noted the same held true with the water and sewer utilities. Streets crews have been working around the clock, whether directly or through contracted help, since last February 5th and just finished their evening operations.

The city manager said we are receiving information that the governor is making application to the federal government to have these snowstorms declared as a federal emergency. If that occurs, the city will be eligible for a portion of our costs to be reimbursed. The city will work with both the Kent and Sussex Emergency Operation Center and DEMA to complete the state's application. He expects reimbursement to be approximately 75% of our costs. Throughout the storm, city

personnel was tracking their time, equipment used, etc. to make this information accumulation easier. City finance staff began that work today.

He reported that three structures in the city had major damage. Big Lots Store had a roof collapse and is now closed. Sharing the same structure, Ace Hardware is closed because their fire suppression system was interconnected with Big Lots which has created some fire marshal concerns. A meeting of those parties is scheduled tomorrow to review a number of options.

Roofs also collapsed on a breezeway at 301 Montgomery Street and the Steiner Warehouse on South Washington Street. The awning at Burtons Body Shop also came down.

He also noted that Chief Hudson and some of his employees have been shoveling snow off the flat roof at the police department which is causing some water problems in which some repairs will be needed.

The city will work with each of these property owners to assist them. Continued evaluations will be done as the snow melts and creates additional problems.

Because of the weather, the North Front Street Sewer Project was suspended for more than a week with work resuming today.

The following report was submitted by Mr. Baird prior to the original council meeting scheduled on February 8, 2009:

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.

Mr. Baird asked council members to remind our state legislators the importance of municipal street aid and what is accomplished with it to ensure it is included in the state's budget.

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.

In talking with the street supervisors, they agree this is a real possibility which is the preferred option though the bidding

process will continue.

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.

Mr. Spillane asked why the Meadows at Shawnee was plowed when those streets were never accepted by the city when other city areas and streets were overlooked. His understanding is the city has done this in the past and asked if there was some deal with that subdivision. Mr. Baird said he is unaware of any specific agreement but from speaking with the street superintendent and city engineer and what transpired in the past is the reason it was done. It is his understanding the roadwork has been completed in the Meadows at Shawnee and we have been plowing their roads the past couple of years. The top coat of paving is there, the utilities have been adjusted to be level and the decision was made a few years ago to start plowing there. He understands there were questions about why Hearthstone wasn't plowed and explained those roads are not finished. Some parts of the subdivision are done though the entire neighborhood is not. In addition, utility adjustments still need to be made.

Mr. Spillane said he is aware of discussions with Hearthstone I requesting Phases I, II and II be accepted by the city though that action was stalled. His asked why some subdivisions have to pay for private removal and others do not. He feels all of the subdivisions are in the city. Meadows at Shawnee is receiving maintenance services when their streets have not been officially accepted by the city either.

Mr. Baird explained that he does not know why it has been done in the past and we have continued the practice. Mr. Spillane feels their HOA should be charged or Hearthstone should be reimbursed for their plowing costs. Mr. Baird said council would need to make that decision.

Mr. Workman said that because those streets were not accepted, if the city plows went out there and damaged something, it could come back on the city. He is aware a couple of mailboxes that were knocked down and if that is caused by a DELDOT plow, they reimburse that property owner. He is hoping that until a street is accepted, the city would not plow them because of liability reasons. Because council has brought these concerns up, he hopes Mr. Baird will not allow this to happen again.

Mr. Baird hopes the streets and improvements will be accepted before another situation arises. Mr. Workman said in that

case, it would be a different situation.

Mr. Adkins agrees the city employees did an incredible job during the storm and asked if an evaluation of the process had been done. He advised that the subdivisions in New Castle Council are required to subcontract the plowing duties out and are reimbursed 75% back. That allows those areas to be plowed immediately while the city takes care of the other streets.

Mr. Baird advised that next week the public works crews will meet to critique their performance over the last couple of weeks. A number of public comments have been received both through the police department as well as through the public works department. All those comments will be taken into consideration and what was done well and what needs to be corrected.

Mr. Adkins pointed out the area around the post office is somewhat of a disaster. There is very little parking and many people are having to go into the post office to pick their mail up because it is still not being delivered.

Mr. Baird agrees there are still some area that need to be widened and crews continue to work on them. He said the city crews have spent a lot of resources keeping the state-maintained roads open because the state has not come thru as they have in the past. The city was late getting into a lot of residential areas this time and normally would have been there earlier. If this becomes a trend, the city will need to be better prepared. He will also consider using other vehicles as has been suggested and equipping them with plows.

The city manager said it has been ten years since our last big snow storm but we will need to make a decision on whether or not to prepare for a similar situation in the future by making a big investment in equipment or phase it in over time. He will be in a better situation to give city council a recommendation on that investment after he meets with his staff.

Mr. Spillane emphasized the city crews did an outstanding job during the snowstorm especially considering the situation and equipment. He asked if the crews are split into grids in order to know what areas have been plowed or if they have some sort of check off system to prevent overlooking a street or area by mistake.

Mr. Baird is unfamiliar with the process the street department superintendent follows. However, the crews do use the ward system according to the city manager. However, by the time the calls start coming, many of those resources are transferred throughout the city. He agrees that is a deficiency the city needs to improve upon.

Mr. Spillane recommends that Hearthstone be reimbursed for their plowing fees and any other subdivision whose streets have not been accepted and were required to hire private contractors to plow their streets.

Mayor Marabello asked if Mr. Spillane wants that placed on the next agenda; Mr. Spillane answered yes.

The mayor then responded to some comments in the Milford Chronicle that implied he had some influence on Meadows at Shawnee being plowed. He asked the record reflect that he had no influence and has never asked anyone in the city to give preferential treatment to his community.

Mayor Marabello also stated that council was ready to accept Meadows at Shawnee improvements except for a problem with drainage which had nothing to do with the streets. He feels this is a totally different situation than Hearthstone. However, he will have the matter placed on the next agenda to be debated at that time.

Mr. Spillane feels that is the fairest way to handle it.

Mr. Adkins moved to accept the city manager's report, seconded by Ms. Wilson. Motion carried with no one opposed.

COMMITTEE REPORT

Public Works Committee Meeting

Chairman Brooks announced that a Public Works Committee Meeting was scheduled for Monday, February 22, 2010 at 6:00 p.m.

Cemetery Committee Meeting

Committee Member Wilson advised a Cemetery Committee Meeting is scheduled tomorrow at one o'clock at city hall.

Charter Review Committee Meeting

Committee Chair Spillane announced that the second charter review meeting will be held following the Public Works Committee Meeting on February 22, 2010 at seven o'clock.

Mr. Brooks asked if the agenda only consisted of the charter review. Mr. Spillane confirmed the only item on that agenda is the charter review as was previously discussed. The mayor agreed.

Homeowners' Association Committee Meeting

Chairman Workman advised that two ad hoc committees were appointed. One is to work on Title 25 (Chapter 81) and the other is addressing stormwater management issues. An HOA meeting was scheduled this Thursday but because the ad hoc committees needed more time to report back to the HOA committee, that meeting was canceled and will be rescheduled the following week.

Their goal is to have a final draft ready to be presented to council next month.

Haitian Community/Earthquake Victims & Families

Ms. Wilson advised that another community event is being planned as a time of remembrance and celebration of those that have passed in the Haitian earthquake and to show support of those residents whose family residents were victims.

She thanked Mayor Marabello, Council Members Starling, Spillane and Johnson, Chief Hudson and Terri Hudson for attending the first event and encouraged everyone to attend. She will provide council with a follow-up date.

COMMUNICATIONS

UNFINISHED BUSINESS

Board of Adjustment Appointments & Terms

Last year, Ordinance 2009-13 was adopted to amend the Zoning Code thus changing the composition of the Board of Adjustment to reflect 22 Del. C. §322(d). The old code required the mayor, city manager and city solicitor to be members; this ordinance replaces them with three to five residents of the city as members.

Mayor Marabello recommends the appointment of the following three persons, said terms to begin March 1, 2010:

Samuel Johnson	102 Tenth Street	3 Year Term
Frank Bason	400 Matthew Circle, Matlinds Circle	2 Year Term
Keith Grambling	5 Homestead Boulevard, Hearthstone Manor	1 Year Term

Mr. Workman moved to confirm the appointment of the above three persons to the Board of Adjustment, seconded by Mr. Spillane. Motion carried by unanimous roll call vote.

The mayor assured the new board members he would arrange for training prior to their first hearing.

It was confirmed that the previous composition was not illegal and conforms with our charter which was passed by state legislators and signed into law by the governor. However, state law has since changed and this brings us into compliance with the updated law.

NEW BUSINESS

FY2009-2010 Budget Amendment/Water Capital Reserve Funding

City Manager Baird requested the following budget amendment:

City Council is asked to increase the Water Capital budget 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.

Mr. Baird explained that because we have North Front Street open, it would be an appropriate time to replace some of the old galvanized service lines from the mains going into the meter pits in curb stops. This involves twelve homes on Northwest Front Street at an approximate cost of \$1,500 each. This is not eligible for funding under the current sewer project.

The city manager confirmed there is \$3,714,214 in the water capital reserve fund as of December 31, 2009.

Mr. Spillane then questioned, and Mr. Baird confirmed, this will help alleviate some of the unaccounted costs incurred during storms and those costs will decrease as a result.

Ms. Wilson moved to increase the water capital budget by \$20,000 for the reasons stated in the memo, seconded by Mr. Starling. Motion carried by unanimous roll call vote.

FY2009-2010 Budget Transfer/General Fund - Legal Expense

City Manager Baird requested the following budget transfer:

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.

Mr. Baird confirmed the balance in the general fund account is \$3,016,120.

Mr. Spillane does not feel the entire \$25,000 should be transferred because we have only been billed \$11,750. He said that court cases change daily and we may not have to pay the remaining balance.

The city manager explained that \$25,000 is required to be paid and subsequent bills will be submitted. This transfer is to prevent multiple requests to transfer funds. If the entire \$25,000 was not spent for this purpose, any remaining funds would be reverted back to the general fund balance.

Ms. Wilson understands that Mr. Spillane likes to keep on top of these bills and suggests that he deduct each amount as it

is paid over time. She suggested that Mr. Spillane request an itemized bill of legal expenses paid over the next few weeks.

Mr. Starling moved to transfer \$25,000 from the general fund balance into councils' legal expense account (account numbers above noted) to cover the insurance deductible, seconded by Mr. Adkins. Motion carried by a 7-1 roll call vote. Mr. Spillane was the descending vote and stated the reason he is voting no is because he does not feel the entire amount needs to be transferred until we are billed for the entire amount.

Mr. Workman votes yes and directed the city manager that when something comes it, it is added in a timely fashion.

Mr. Brooks votes yes stating he has a great deal of confidence in the City's Finance Director and if only a portion is used, he will put the remaining money back into the general fund.

Planning Commissioner Vacancy/Appointment of Planning Commissioner

A letter of resignation was submitted from Planning Commissioner John Kramlich who was from the First Ward. When asked if there are any applications on file from the previous vacancy that can still be considered, Mayor Marabello stated that Patty Atkinson had submitted an application but had not showed up for any of the interviews. He asked ward one council members to consider anyone that may be interested.

When questioned about ward four representation, Planning Chairman Chuck Rini recalled that council indicated the position of chairman was not to be considered in the ward representation. Therefore, George Pilla is the only representative from that ward.

The mayor recommends the next member come from the first ward. It was determined there are two representatives from the second, three from the third ward and only one from both the first and fourth wards.

The item will be placed on the next agenda for further action.

Approval of Construction Agreement/DP&L & City of Milford

The city manager advised this agreement has been referred to in his previous reports. This agreements outlines the terms of the interconnection between the city system and Delmarva Powers' system. This is proposed to take place to the south of the transfer station where Delmarva Powers' transmission lines come through and the interconnection will be made.

He explained the first part of agreement deals with basic structure of the agreement and much of what is required by FERC (Federal Energy Regulatory Commission) regulations. The specific responsibilities of the contract are included in the attachment. Attachment A includes the scope of work and outlines Delmarva Power, City of Milford and shared responsibilities. Attachment B shows the project schedule. They were hoping to have it done in January, but because of some delays created by Delmarva Power, the date will be changed to February though it will not impact the schedule as it moves forward. The estimated completion date is the end of August 2011. Attachment C shows an estimated cost of \$141,000 though the city will pay Delmarva Power the actual cost of their services. Attachment D contains the form to be used for any work amendment or modification.

The agreements has been reviewed by City Solicitor Tim Willard and Allen Cobb, Electrical Consultant for the City of Milford.

Mr. Brooks questioned the \$72,000 payment scheduled for February 2010; Mr. Baird explained that half of the estimated cost are required to be paid up front. The associated costs will come from the bond proceeds for the electrical project. However, until the city is ready to move to market with those, the money will be advanced from the electric reserve funds.

Mr. Baird verified the location is just to the south of the Delaware Solid Waste Authority Transfer Station where the transmission lines are located. A connection will be made and a facility built there. In addition, the city will obtain land and prepare the site for construction. Upon completion, those improvements will be dedicated to Delmarva Power.

When asked how long this has taken, Mr. Baird said a little over a year. He explained the project would move forward when Delmarva Power make changes to the terms. The original proposal required the city to finance the construction of the connection point. According to the city manager, the city raised objection to that and after additional rounds of negotiations, Delmarva Power will do the construction though the city will pay for the portion of the design costs in addition to some material estimates, construction labor, etc.

Currently the city is served through one interconnection point off Elks Lodge Road and Wilkins Road. This second station will allow the city to redistribute the load coming into the city. The plan is to have a southern and northern system with four circuits running out of each with interconnection points between the two. This will improve reliability throughout the city and the additional infrastructure in place will allow maintenance work on the existing substation.

Mr. Brooks moved to approve the Construction Agreement between the City of Milford and Delmarva Power as presented, seconded by Mr. Morrow. Motion carried by unanimous roll call vote.

MONTHLY FINANCE REPORT

Mr. Morrow reported that through the sixth month of Fiscal Year 2009-2010 with 50% of the fiscal year having passed, 52% of revenues have been received and 46% of the operating budget expended. Parks and Recreation is the only department over 50% but that is due to a capital outlay expense paid early in the fiscal year.

Mr. Adkins noted that last year's general fund balance was approximately \$70,000 higher. Mr. Baird cannot explain the \$70,000 difference though the money is used as a cash account for bills and similar matters. Therefore, depending on how the revenues are coming in or expenditures are going out, there may be some fluctuation in that account. Mr. Adkins confirmed the account does earn interest.

With no further questions or comments, Mr. Morrow moved to accept the December 2009 Finance Report, seconded by Ms. Wilson. Motion carried.

ADJOURN

With no additional business, Mr. Workman moved to adjourn the Monthly Meeting, seconded by Mr. Adkins. Motion carried.

The Monthly Meeting was adjourned by Mayor Marabello at 9:08 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010

A Meeting of the Public Works Committee of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, February 22, 2010.

PRESIDING: Chairman Owen Brooks, Jr.

IN ATTENDANCE: Committee Members-Councilmen Michael Spillane and Jason Adkins

ALSO: City Manager David Baird and City Clerk Terri Hudson

Chairman Owen Brooks called the Committee Meeting to order at 6:03 p.m. and turned the meeting over to City Manager David Baird. The City Manager said he requested the meeting to provide committee members with an overview of ongoing projects in the city.

Public Works Director Brad Dennehy and City Engineer Mark Mallamo were also present.

Mr. Baird explained the update will provide information on the status of these projects both physically and financially. Many of these capital projects are ready to begin and he feels the committee needs to be regularly updated on the various steps. A number of contracts will be presented throughout the process which will keep the committee informed. They can then provide some direction for the final recommendations to city council.

Water Projects

He then referred to the water project breakdown (see attached).

The city manager noted that those projects shown on the gray shaded areas, and in particular, the Washington Street Water Plant Project, will not move forward at this time. There was an effort to combine the projects from a financial standpoint though it was slowing the process on the other two. There are also some financial issues that need to be addressed from a borrowing standpoint. That is why the three projects are being separated and the well and tank project and tank rehab project will proceed. Because the need still exists, the intent is not to eliminate the Washington Street water plant project but to allow the other two to move forward.

He reported the well and tank project (Southeast Milford) and tank rehab project total \$5.78 million. Previously approved was a borrowing authorization from the public for \$5 million and funding commitments from USDA for water projects totaling \$8.56 million. With the funding in place for those two projects, they will move forward. Easement negotiations are underway for some of the water lines for the well and tank project. Locations are also being identified for test wells for the permanent drinking wells and a location for the treatment plant and the tower.

Mr. Baird explained that currently the water tower is planned on the west side of Route 1 in the area of the Nelson Hall property. The water treatment facility and new wells will be located on the east side of Route 1 on either the Dugan property or the Innovation Park site. Water capacity is needed on the east side of Route 1 and this is the most cost effective way of moving forward.

The city manager then asked City Engineer Mark Mallamo to discuss the tank rehab project. Mr. Mallamo recalled the previous work done by Mumford-Bjorkman Associates who inspected the inside and outside of Milford's three water tanks and made recommendations. He explained the plan was to follow their recommendation and begin some maintenance such as painting at the Tenth Street tank in the dry zones and possibly jet clean the bottom of the bowl on the Caulk Tower.

Mr. Mallamo explained that a tank cannot be taken out of service at this time, so the wet zones are unable to be done because of capacity issues needed for fire backup and pressure. Once the proposed tank is placed on line, those wet areas can be addressed. Mr. Mallamo is hoping for a ten to fifteen-year maintenance interval on paint if we achieve good paint

services and good results.

He advised they are considering using Mumford-Bjorkman Associates to provide some additional guidance to get some specifications together and provide some additional inspection services for the rehabilitation. They have certified paint inspectors and divers that can go into the tank on a regular basis. They believe that is the most economical way to handle it.

Mr. Mallamo noted there are tank service companies that want to come in with long term maintenance contracts. Typically, those contracts are somewhat front loaded with spaced out payments over a five, ten, etc., year contract (depending on the contract). He feels financially, the city will benefit by managing it in house though experts will also be needed.

Mr. Baird stated the proposal from Mumford-Bjorkman is expected in the next thirty to forty-five days. He will provide that proposal to this committee before it is presented to city council.

He also recalled the contract awarded to DBF on the well and tank project noting that work continues with that firm.

He then asked the committee to acknowledge the fact we are separating the Washington Street Tank Project for financing purposes.

When questioned about the Caulk and Tenth Street maintenance, City Engineer Mallamo confirmed that no work will be done on the wet zone, however, minimal work can be done inside though the tank needs to remain on line. Painting on the outside will also be done. Additional storage capacity with the new tank is needed before the tanks can be drained and the work completed on the inside. They are not total-failed though work is needed and must be added to the schedule.

When asked for the estimated time frame for construction of the new tank, Mr. Baird said the new plant and treatment plant on the southeast side of town will take eighteen months from the time the work begins with the design and permitting. He added it could also slightly vary depending on the availability of the steel.

The Dugan property was confirmed to be the Red Cedar Farm property.

The city manager then explained the current water line goes as far south as Hearthstone Manor. The connection point will be from the tower or treatment plant to our system to tie back into that. He added that it will most likely be fed back through one of the subdivisions in place.

Mr. Baird asked for the committee's support to proceed as scheduled and separate the Washington Street water plant from the other projects. The committee complied.

Mr. Brooks asked if the Washington Street project was included in the bond referendum; Mr. Baird explained the referendum was for water improvements in general and could have qualified. However, there is only \$5 million available to borrow which will be utilized with the well and tank project along with the rehab projects for the existing tanks. Any additional money for the Washington Street water plant will have to be requested from the public.

Mr. Spillane asked how the new tank planned for southeast Milford will affect the new residential subdivision that is unable to tie into our current system because of an ongoing law suit.

Mr. Baird stated there will be no impact because that is only a sewer connection between two properties. Overall, this will be an improvement for that area, whether developed or undeveloped.

Sewer Projects

PROJECT	Estimated Amount
North Front Street Sewer Replacement (In Progress)	\$1,301,872.00
Inflow & Infiltration Study Phase 1 (Completed)	\$68,800.00

Inflow & Infiltration Study Phase 2 (Completed)	\$152,400.00
Inflow & Infiltration Study Phase 3 (Proposed)	\$291,500.00
Total	\$1,814,572.00
Borrowing Authorization	\$4,500,000
DNREC SRF Funding (2.0% for 20 years)	\$1,301,872
City Funded (Bonds and/or Reserves)	\$3,198,128

Mr. Baird explained that on the sewer projects, the North Front Street Sewer Replacement is underway and bonds have been issued from the DNREC-SRF Program in the amount of \$1.3 million. They have also completed the first two phases of the I&I study which is slightly more than \$200,000. A proposed Phase 3 of the I&I study will address some of the final engineering and specific projects targeted and move us into the construction phase. A proposal from URS has been received to review that and is being built off the first two phases. Presently, a time has been requested to get more specifics about the URS proposal while attempting to negotiate a fee. He said he will bring a plan before this committee based on the surveying, sanitary sewer evaluations, map and camera work to show specific projects needed to address the I&I project. In that manner, the committee will recommend the city move forward with those specific projects. Additional engineering is also needed and once that is received, the committee can forward the matter to city council.

Mr. Mallamo explained that the study to date has identified problem regions though the actual problems have not been determined. They began by looking at the entire city and at the sewer system areas shown on the map (see attached). Additional studies are now needed, including camera work, smoke testing and visual inspections, to determine the cause of the higher flow rate. We have identified zones that have flow in excess of normal rates and once the problem is identified, it can be fixed. Until that point, it is only a guess.

The city engineer explained that once it is determined, bid packages will be prepared to make the repairs. URS who are the consultants on this project, have a great deal of experience in these repairs and will make the proper recommendations once the video and other services confirm the source of the problem.

Mr. Mallamo reported there is a three-block area around the hospital that was identified as a high flow area particularly during the middle of the night. Typically, the flows are very low during that time period. Another area identified is Masten Circle in the area of LD Caulk West.

He referred to the map pointing out the areas of Walnut Street, Washington Street, the hospital, Southeast Second and Southeast Front Street down Fisher Avenue to the pump station identified as high flow areas. Those areas will be the focus of smoke testing and camera work to determine what is occurring.

Mr. Mallamo verified the study included the setup of rain gauges and a comparison to the flows to determine if there was a corresponding increase after a rain event.

Mr. Brooks asked about Northeast Front Street noting that was identified in the past as a problem area. Mr. Mallamo said that area was expected to be a problem area but was videoed in Phase One but found to be in good shape. Mr. Brooks recalled our former engineer Hans Medlarz felt the area behind the Fisher pumping station being a problem. Mr. Mallamo agreed there are flows coming into the Fisher Avenue region but by the time it gets to Front Street and Pump Station 7, nothing was identifiable.

Mr. Baird added that this needs to be evaluated before any street construction begins. This would allow any sewer work to be completed before the improvements are done to Southeast Second and Southeast Front Streets.

Mr. Mallamo also advised a GIS map was developed in Phase Two that will allow the future growth of the system to be managed. There is a lot of data on the map that was previously inaccessible and is now readily available. Someone can click on a manhole and the inspection information will pop up and applicable information including maintenance records.

Mr. Baird explained that once the details of the proposal are worked out with URS, they will be asked to make a presentation to the committee or to city council on what is expected of I&I study. It was confirmed that all the information from previous studies were provided to URS.

Mr. Mallamo said there were still some questions from the previous study where problems were identified but no clear documentation found on the repairs. Several were checked that were found to have been repaired but additional information was needed to confirm what was done. This will be included in Phase Three.

He feels that if the problems are identified and repaired, the payback for the studies and construction costs should involve a relatively short period though it is difficult to say exactly how long at this point.

Mr. Baird said that since July 1st, the city has spent more than \$600,000 in I&I costs to Kent County which is partially due to this being an exceptionally wet year.

The city manager referenced the \$4.5 million borrowing authorization adding that to date, we have only obligated \$1.3 million. Therefore, there is still room for engineering work and repairs to the sewer system.

He reiterated the next step is to work this out with URS and have them come in to make a presentation.

Electric Project

PROJECT	Estimated Amount
Substation/Transmission/Distribution	\$8,500,000.00
Total	\$8,500,000.00
Borrowing Authorization	\$5,000,000.00
Electric Reserves	\$3,500,000.

Mr. Baird recalled councils' action at the last meeting to approve the construction agreement with Delmarva Power for the electric system improvements. He noted the \$8.5 million budget for electric improvements for the substation, transmission and distribution costs. There is a \$5 million borrowing authorization and \$3.5 million in electric reserves that will be used.

Discussions have begun with property owners on land acquisition for the south Milford ring bus in the area of the Solid Waste Authority Transfer Station and a site for the substation closer to town.

The city manager pointed out the snow has slowed things down because the surveyors have been unable to do their work. They hope to begin again next week and will proceed with property acquisitions to be brought back before city council.

The formal design of the substation can then be done with work being pretty rigorously over the next three months.

He added the city is very fortunate our system held up the past couple of weeks which is the result of improvements made in the past which has improved reliability and service.

Street Projects

PROJECT	Estimated Amount
N.E. Front Street Streetscaping	\$1,747,951.00
S.E. Front Street	\$1,369,208.00
Miscellaneous Street Paving (City Wide-Annual Maintenance Program)	\$125,000.00
Miscellaneous Sidewalk Repairs (City Wide-Annual Maintenance Program)	\$125,000.00
Total	\$3,367,159.00
Available Funds	
State Community Redevelopment Fund Grant (N.E. Front Street)	\$250,000
City Match for State Community Redevelopment Fund Grant (N.E. Front Street)	\$375,000
Del DOT Funds (S.E. Front Street)	\$894,208
Total Available Funds	\$1,519,208
Total Shortfall	\$1,847,951

Mr. Baird advised there are two main projects underway or in the planning phase. One is Northeast Front Street Streetscaping Project and Southeast Front Street which is part of the DELDOT improvements. He said the goal is not only for miscellaneous street paving but sidewalk repairs as well.

The total estimated cost of projects is almost \$3.4 million with the Northeast Front Street Streetscaping Project at \$1.75 million and Southeast Front Street just under \$1.4 million.

The city manager advised that funding is in place of \$1.5 million though that leaves a shortfall of \$1.85 million. He said we do have \$450,000 in our municipal street aid fund though no funding was received this current year. Only two-thirds of last year's allocation is included in the governor's budget for the upcoming year. Either way, there will be significant reductions in our municipal street aid situation.

He noted the high demand for street repairs with many the result of the effects of the freezing and thawing. Those streets were being postponed may need to have the work done now.

The city manager continued by saying we are trying to take advantage of the state putting forward \$894,000 for paving and ADA access at curves and intersections on Southeast Front Street. Recognizing the need for sidewalk improvements from Walnut or Washington Street to Rehoboth Boulevard, the plan is to replace everything needing repair. Some of those numbers were presented in the past and it appears it can be done for approximately \$400,000 to 500,000.

He added that while we are doing this work, the sewer work needs to be considered. We already proposed to do some water line expansions to get them out of the pavement on some of the side streets including Fisher, Charles, Columbia and McColley. Water lines will be extended outside of the pavement so those improvements are already made and when we do have future water connections, Southeast Front Street will not have to be torn up again. In addition, a lot of money will be spent replacing sidewalks and curbing in this area. One of the reasons it is in bad shape is because of the parking situation on some of those streets.

Sudler Lofland of 6 Columbia Street was present to advocate the creation of a no parking zone on either side of the street from Charles Street to Montgomery Street. He explained this involves a seven-block area which is very narrow. It is a two-way street and is too narrow to have two-way parking and travel. The cars parking along that street are jumping the curb and parking partially on the sidewalk. He did a seven-block survey and found there was one property that did not have either a back area or driveway for parking. That was an abandoned store next to 600 Southeast Front Street. He believes that is the only property that would be inconvenienced by having no parking in that area.

Mr. Lofland is also requesting that the city try to incorporate a bike trail from the trail head at the park out to Route 1. He is referencing Business Route 1 right now though he would like it incorporated all the way to State Route 1.

He noted that in this month's Delaware magazine, Milford and its park system is highlighted which is a draw for people. He complimented the city on developing the Goat Island section which he feels will be very lovely

Mr. Brooks said that he often travels that area and there are only certain sections where vehicles park. However, he agrees they repeatedly park over the curb on the sidewalks.

Mr. Baird advised that City Planner Gary Norris just informed him that he will be working with Parks and Recreation Gary Norris to create an overall trail/bike path and master plan which was just funded.

Mr. Lofland added if Milford can extend their bike trail to Route 1, we could easily advocate the extension all the way to Slaughter Beach. It would be something that tourism and Downtown Milford could promote. The city manager reported their ultimate goal is to connect from Abbotts Mill to Slaughter Beach.

Mr. Spillane expressed some concern about the city funding sidewalk repairs and believes it should be the responsibility of the property owners. He feels making them responsible for payment of the repairs would help alleviate parking on the curbing and sidewalks which is creating a lot of the damage. However, if it were made a no parking street, he would support the city repairing the sidewalks if that eliminated parking on the sidewalks.

Mr. Spillane is very much in favor of the bicycle path and agrees with Mr. Lofland it would promote tourism.

Mr. Brooks then commented that a lot of the sidewalks are brick and have been there since the 1800's.

Mr. Baird said the funding situation for the sidewalk repairs will need to be considered. The city will have to get creative on this project in order to move forward. He expects it may cost approximately \$200,000 which is hard pressed to come by right now.

Mr. Spillane reiterated that he will support it if prevents any future parking on the sidewalks. Mr. Brooks agreed with the no parking request.

Mr. Baird recalled the previous discussions of relocating overhead utilities underground for that section of road though it was not promoted because of the costs involved. He agrees that from a visual impact, it will benefit the area though it will be very costly. He asked the committee if that is something they want to consider and reminded them of the impact to the downtown area when it was done a few years ago. He noted that any new construction is required to have underground utilities installed. The city manager added that when construction begins, there may be some water improvements and also some extensive sewer work depending on what is found during the evaluation.

Mr. Brooks remembered Mr. Baird providing an extremely large number just for telephone utilities. Mr. Baird said that number has gone down on the Northeast Front Street side though the cost is still large. The total overhead utility relocation on the Northeast Front Street side is over a half million dollars. Mr. Spillane agreed it will improve the look but as important will provide the ability to have continued service during storms and related events after being placed underground. He added this does provide the opportunity noting the city will be here forever. Therefore, long term, the cost may be worth it.

Mr. Baird asked for a consensus of whether to consider that as part of the option; the committee agreed it should be added.

Mr. Baird explained it will be an added option for the engineers to consider. He said if it is not done now, it may be another thirty to fifty years before another opportunity may arise.

Mr. Brooks suggested the work be done from Northeast Front and up and mirrored on Southeast Front Street. He also agrees with Mr. Spillane that there would be less utility outages and other problems if it were underground.

Irvin Ambrose of 210 Southeast Front Street said he is speaking from two different perspectives, one being Vice President of Downtown Milford, Incorporated. He said that one of the things they are planning to do in the near future is to purchase and mount signs through a grant, which will direct people to the downtown area. In speaking with people throughout the area, many are not familiar with Milford and only travel through on the way to the beach. The downtown group is trying to get people off the highways and into town. He believes having a really nice way to direct them in would help and feels that Southeast Front Street would be ideal.

He added their southeast homeowner's group has worked with the city manager and code officials to target this area and are actually beginning to see some improvements.

Mr. Ambrose finds the concept of coming off Route 1 with a monument sign directing visitors to take this exit to downtown Milford is very appropriate. He agrees with Mr. Spillane this is a long term project and we need to move forward by making these investments now for the future.

Aesthetically, he sees a big difference coming in from Route 113 down Northwest Front Street into town because of the period type street lighting that was added and no overhead wires. He noted the portions of Southeast Front Street that are part of the three historic districts and the shipbuilding area. He added that the state of the art library being built will also enhance his suggested route when coming into town.

Mr. Ambrose then asked Mr. Baird to consider painting the back end of the Washington Street water treatment plant facility and believes that would greatly enhance the riverwalk and park areas.

He concluded by encouraging the committee to consider making Southeast Front Street a gateway into the downtown area.

Mr. Spillane agrees it would be a good way to bring people into town and by removing the parking as was previously discussed would also be an asset.

Mr. Baird then addressed the Northeast Front Street Streetscaping Project and the money needed for the project. He said he is concerned about discussing the expansion of the Southeast Second Street Project that we do not have enough money for now.

He agrees both roads coming into town are critical to Milford's future and a decision should be made on their priority.

He then asked Public Works Director Dennehy to share his thoughts on the sidewalks.

Mr. Dennehy said he does not disagree with Mr. Spillane that the homeowners should be responsible for the sidewalks. However, in his experience in building inspection and code enforcement, he is aware that the residents are not maintaining their sidewalks. Since he has worked for the city, he has not seen anyone voluntarily take care of an existing sidewalk. He and his wife walk their baby in a carriage and he constantly hears complaints about the condition of the sidewalks.

In his opinion, this is a low priority on a person's repair list and very seldom hears anyone say they need to repair their sidewalk. He agrees the city needs to be creative on how to deal with it.

Mr. Dennehy personally feels the city needs to take care of it and believes we have the personnel to do it. He said we can contract it out and get better rates, but the question is how to pay for it. He asked if we should consider levying a sidewalk fee though that is a political issue. He offered to do some research to obtain some numbers on what it should be. However, he, as a homeowner in Milford, is very willing to pay an extra \$10 a year to ensure his sidewalk would be prioritized and eventually replaced.

The public works director does not think that people should be responsible and have to pay for it.

He walks down Lakeview which is a very nice street, but on any street, there are broken sidewalks, tree issues and problems with the brick sidewalks. However, the bottom line is they are not being taken care of. He is unsure how it should be handled and is unsure if fines being assessed would be the answer.

Mr. Dennehy feels the city should take them over though a lot more debate is needed.

Mr. Spillane understands but does not feel that is the answer to encouraging people to maintain their sidewalks. He liked the idea of a sidewalk fund which homeowners could borrow money from if repairs were needed. If people would then follow up and take care of their sidewalks, then some of the money being paid back could be discounted. Or if the sidewalk lasted ten years and did not need any additional repairs, it may not have to be paid back at all. He emphasized the need for the property owners to continue ownership and if not, we will continue to have vehicles parked on the sidewalks and other damage.

Mr. Baird said this is why we need to rely on the public works committee and ultimately city council to make some of these decisions in order to move forward. He added that he, along with Mr. Dennehy and Mr. Mallamo want to have regular meetings with the public works committee for future feedback and direction.

Mr. Spillane recalled earlier discussions about some projects and noted that the maintenance project on the water tower has been given to a specific contractor. He expressed concern that these projects are not being publicly bid which is necessary to get the best prices and to ensure we are using taxpayers money in the best possible manner.

Mr. Baird explained that some of the preliminary numbers received from them prompted them to look further. Mr. Spillane asked the projects continue to be bid.

Mr. Baird will schedule the next meeting with Chairman Brooks and arrange some future meetings on a regular basis.

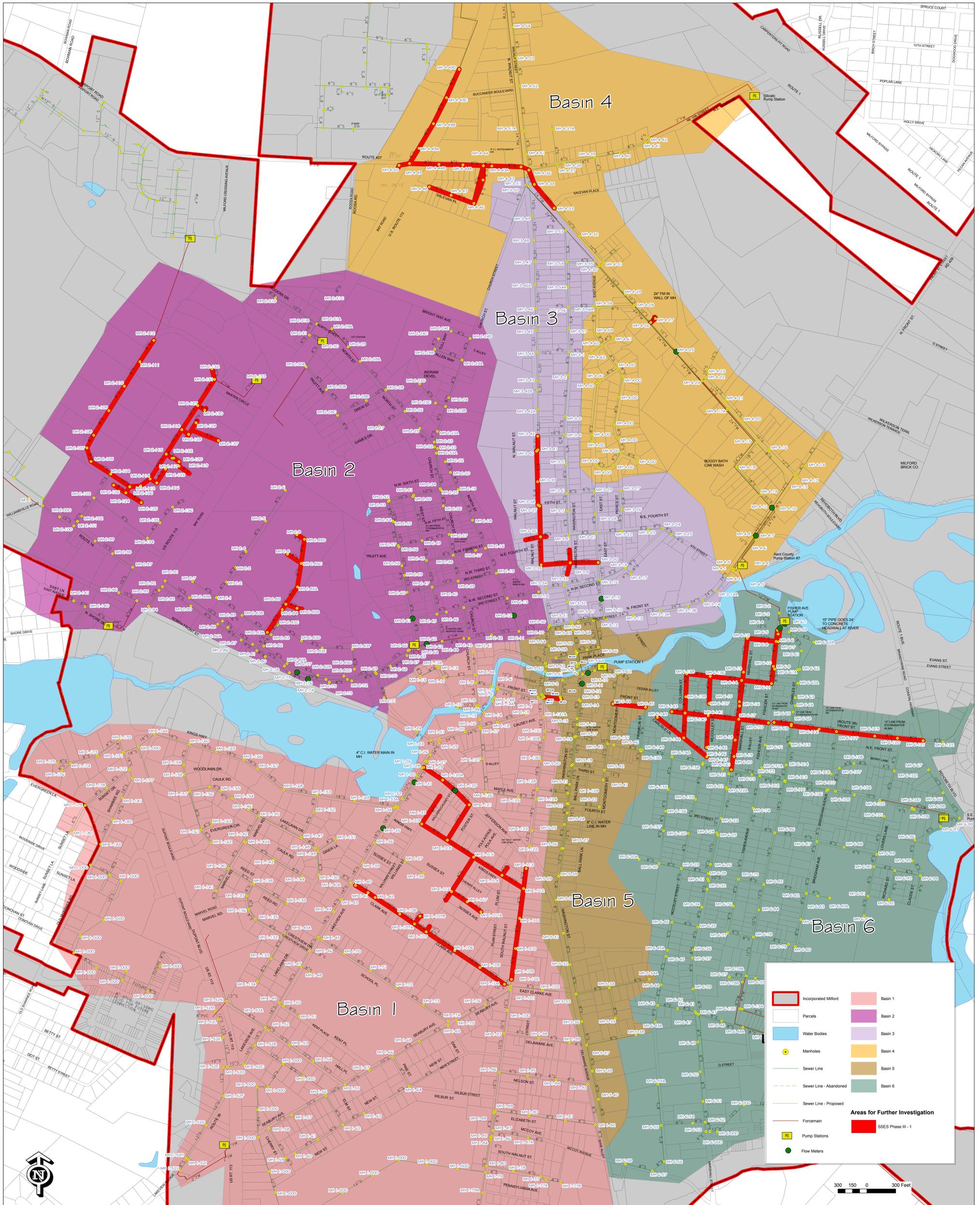
With no further business, Chairman Brooks adjourned the meeting at 7:03 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

Attachments:

Water Project Breakdown
Sanitary Sewer Project Map



Data Sources:
 Parcels - Kent County Mapping 2008
 Sussex County Mapping Department, 2003
 Hydrology - USGS 7.5 Minute Series Topographic
 Maps, 1991-1993
 Roads - www.dcdot.gov

Scale: 1 inch = 300 feet	Date Prepared: December 22, 2009
Sheet Number: 1 of 1	Last Revised:

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City of Milford Sanitary Sewer System SSES Phase III - 1

URS
 Iron Hill Corporate Center
 4051 Oglethorpe Road, Suite 300
 Newark, DE 19713
 302-781-5900 (phone)
 302-781-5901 (fax)

*MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010*

The Milford City Council held Public Hearings on Monday, February 22, 2010 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Honorable Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins,
Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

Mayor Marabello called the Public Hearing to order at 7:04 p.m.

City Council of the City of Milford held hearings to take public comment and make a final determination on the following matters:

Change of Zone-Beverly Ann Thawley Change of Zone

AR to C3 of 9.28 +/- Acres

Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal Highway

Tax Parcel 3-30-11.00-70.03

Ordinance 2009-21

An Ordinance to Amend the Zoning designation of the parcel of land under the legal ownership of Beverly Ann Thawley, Tax Parcel, Northwest of County Road 206/Cedar Neck Road, Northeast of State Route One/Coastal, to be annexed into the City of Milford by resolution, hereafter adopted by City Council.

City Planner Gary Norris advised the Planning Commission held a public hearing on January 19, 2010 and by a vote of 6-0, recommended a change of zone from AR to C-3. No conditions were applied to the approval. He confirmed the zoning complies with the certified City of Milford Comprehensive Plan.

Mr. Morrow moved to adopt Ordinance 2009-21 changing the zone of the Beverly Ann Thawley property to C-3, seconded by Mr. Starling. Motion carried by a vote of 6-0 with Mr. Spillane abstaining because he did not sign the Annexation Committee Report.

Mayor Marabello asked for a motion on the resolution finalizing the annexation noting this parcel will become part of Ward Three.

Mr. Workman moved for adoption of the following resolution, seconded by Mr. Brooks:

Annexation/Lands of Beverly Ann Thawley

Tax Parcel 3-30-11.00-70.03

9.28 +/- Acres

Zoning: C-3

Whereas, the Milford City Council having considered the advantages and disadvantages of annexing into the City as described herein:

All that certain tract, piece and parcel of land, lying and being situate in Cedar Creek Hundred, Sussex County, and the State of Delaware, as depicted on a survey prepared by Charles D. Murphy Associates, Inc., dated 31 August 2007, fronting on the northwesterly right-of-way line of County Road 206, also known as Cedar Neck Road, at fifty (50) feet wide, and on the northeasterly right-of-way line of State Route One, also known as Coastal Highway, of which the width varies, adjoining

other lands now or formerly of Beverly Ann Thawley, Knollac Acres Subdivision, Section II, as recorded in Plot Book 82, Page 24, at the Office of the Recorder of Deeds, in and for Sussex County, at Georgetown, Delaware, and Beverly T. Dugan Subdivision, as recorded in Plot Book 50, Page 147, at said Recorder of Deeds, and being more particularly described as follows, to wit:

Beginning at a point of intersection of the northwesterly right-of-way line of Cedar Neck Road, and the northeasterly right-of-way line of State Route One, also known as Coastal Highway; thence running with said Route One the following two (2) courses and distances:

- 1) North 86 degrees 52 minutes 06 seconds West 57.19 feet, and*
- 2) North 49 degrees 00 minutes 17 seconds West 873.40 feet to a corner for other lands now or formerly of Beverly Ann Thawley*

thence running with said Thawley lands North 39 degrees 47 minutes 44 seconds East 413.50 feet to a corner for a thirty (30) foot wide buffer of Knollac Acres Subdivision; thence running with said buffer and with Beverly T. Dugan Subdivision South 53 degrees 01 minutes 49 seconds East 897.88 feet to a point on the aforementioned northwesterly right-of-way line of Cedar Neck Road; thence finally proceeding along said right-of-way line South 36 degrees 51 minutes 53 seconds West 442.46 feet to the place of beginning, containing 9.28 acres of land, more or less,

and having considered the recommendation of the Annexation Committee appointed to investigate said annexation; having held a Public Hearing on February 22, 2009 on said annexation; having considered the zoning recommendation of the Planning Commission subject to compliance with Chapter 230 of the City of Milford Code and whether or not to proceed with the proposed annexation; having received acknowledgment of the accepted Plan of Services by the State of Delaware as required of Title 22, Section 101, Delaware Code; the City of Milford, hereby determines as follows:

Now, Therefore, Be It Resolved, that this land is hereby annexed into the municipal boundaries of the City of Milford and the description and plot of said lands are to be recorded in the Office of the Recorder of Deeds in said County where said lands are situate.

Be It Further Resolved, the Petitioner and the City of Milford enter into an annexation agreement for purposes including, but not limited to, the dedication of easements and/or right-of-ways to the City of Milford or State of Delaware for future utility, roads or other public improvements as determined by the City of Milford and/or State of Delaware.

And Be It Further Resolved, that from and after the adoption date of this resolution, the territory annexed will be assessed and taxed at the same rate and basis as other taxable properties within the City of Milford.

Now, I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing is a true and correct copy of a Resolution passed by the affirmative vote of two-thirds (2/3) of all the elected members of the City Council of the City of Milford at a meeting held on February 22, 2010, at which a quorum was present and voting throughout and that the same is still in full force and effect.

Mayor Daniel Marabello

Mr. Spillane questioned how it was determined this parcel would become part of Ward Three because it was his impression the property had to be contiguous with that ward. He recalled there was a gap between Ward Three and this parcel as was previously discussed. City Solicitor Willard confirmed it should be contiguous.

City Planner Norris confirmed the property was contiguous on the west side of Route 1 which is the third ward boundary.

Motion carried by a vote of 6-0 with Mr. Spillane abstaining because he did not sign the Annexation Committee Report as previously stated.

*Lynn & Karen McColley for a Change of Zone - Deferred until 05/24/10
Tenth Street & N.E. Front Street*

Mr. McColley had requested their public hearing be deferred until May. As a result, it was rescheduled for May 24, 2010.

With no further business, Mayor Marabello declared the Public Hearings adjourned at 7:12 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder

MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010

On Monday, February 22, 2010, a Public Comment Session was scheduled in the Joseph Ronnie Rogers Council Chambers of Milford City Hall at 201 South Walnut Street, Milford, Delaware, prior to the commencement of the official City of Milford Council Meeting. The purpose of the informal session is to allow the public to speak about issues of interest that impact the City of Milford.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

COUNSEL: City Solicitor Timothy Willard

With no one signed up to speak, no Comment Session was held.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk

*MILFORD CITY COUNCIL
MINUTES OF MEETING
February 22, 2010*

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers of Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, February 22, 2010.

PRESIDING: Mayor Daniel Marabello

IN ATTENDANCE: Councilpersons Steve Johnson, Michael Spillane, John Workman, Jason Adkins, Owen Brooks, Jr., Douglas Morrow and James Starling, Sr.

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

COUNSEL: City Solicitor Timothy Willard

Mayor Marabello called the Council Meeting to order at 7:12 p.m.

Introduction of Ordinance 2010-1/Chapter 230/Zoning Code-Signs

The following ordinance was officially introduced for later adoption by city council:

AN ORDINANCE TO AMEND Chapter 230, Zoning, of the Code of the City of Milford Relating to Article VI - Signs.

The City of Milford hereby ordains:

Section 1. Amends Chapter 230 Zoning-4 Definitions.

Section 2. Amends §230-4, Definitions and Word Usage, by adding 'EMB Sign' and the following definition:

EMB SIGN: An Electronic Message Board sign that is capable of displaying words, numbers, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. The display of State mandated fuel pricing shall not be considered an EMB SIGN.

Section 3. Amends §230-4, Definitions and Word Usage, by adding 'Animation' and the following definition:

ANIMATION: Mechanical or electrical movement or change of lighting, either natural or artificial, to depict action or to create visual motion. This includes blinking, fading, flashing, scrolling vertically, traveling or crawling horizontally.

Section 4. Amends Section 230-26-General Standards.

Section 5. Amend Section 230-26 by renumbering current paragraphs C and D to paragraphs D and E.

Section 6. Amend Section 230-26 by adding a new paragraph (C) as follows:

C. Guidelines for all Zoning Districts. The following are the general guidelines for signage in all zoning districts:

(1) Sidewalk or pedestrian areas are not to be obstructed in any way by signs of any type.

(2) Variances for dimensional increases in area, height or coverage must be submitted for review and determination by the Board of Adjustment of the City of Milford. Violations of the requirements set forth in the attached chart shall be deemed as a violation of this chapter and will be subject to the penalties herein described.

(3) All signs whose primary function it is to direct attention to the identity of the business, professional or industrial activity and which describes said nature of such operation shall be deemed a business sign. Such signs shall not exceed two in number on any one road frontage.

Section 7.

Amend Section 230-26 by adding a new paragraph (F) as follows:

F. EMB signs. The following are the guidelines for all EMB signage:

- (1) EMB Signs are only permitted in the C-3 zoning district.*
- (2) Contain static messages for at least eight (8) seconds before changing the message and shall not have animation on any part of the sign, nor shall such sign have varying light intensity during the display of any single message.*
- (3) May not operate at brightness levels of more than 0.20 foot candles above ambient light levels as measured at a distance of 150 feet.*
- (4) The owner of said EMB sign shall provide a certification by an independent contractor of the lumens showing compliance at time of building permit application.*
- (5) Each sign shall have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.*
- (6) Shall meet the same installation and permitting requirements and inspections as set out for all other signs.*
- (7) The owner of said sign shall coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.*
- (8) The owner of said sign shall provide to the City of Milford contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly after a malfunction occurs. If, at any time the EMB display lights malfunction or are no longer working, the owner of said sign shall make repairs to the sign within sixty (60) days or the sign will require removal.*
- (9) Each sign located on a State maintained road must comply with all Delaware Department of Transportation rules and regulations applicable to Electronic Changeable Message Signs where not in conflict with this Ordinance.*

Section 8.

Amends Sign Chart by showing EMB signs as Prohibited, with the exception of those in the C-3 zoning district.

City Planner Gary Norris advised the Planning Commission is working diligently to revise the sign section in the Milford Zoning Ordinance. This amendment is being proposed because it relates to EMB signs. Currently, such signs are absent from the zoning code and are taken before the Board of Adjustment and a variance is granted.

He explained this ordinance only permits EMB signs in a C-3 district with various rules, regulations and restrictions. The final draft will be referred back to the planning commission for a review and public hearing before council takes final action.

Mr. Spillane asked at what point the entire sign ordinance will be revised; Mr. Norris is hoping to receive final input from the Chamber of Commerce by April; those revisions will be considered in April and May and a final draft completed by June.

When asked why only a portion of the sign ordinance is being submitted, Mr. Norris explained the planning commission felt this should be addressed as a separate section and rules established due to the increasing number of requests the city is receiving.

Mr. Spillane expressed concerns about the problems encountered with the sign ordinance that recently affected the outcome of a sign violation in court. Mr. Norris advised that the city solicitor and he are working on an amendment to the billboard section with the intent to present it at the April planning commission meeting.

Planning Commission Chuck Rini was present and added that the planning commission continues to work on various areas of the sign ordinance. The comprehensive plan also calls for the planning commission to review a number of these codes. This was an area that was being addressed before these other issues came up. He stated the commission felt it was ready for formal action. In addition, they felt it was a problem because of the increasing number of requests and the fact it was not addressed in our zoning code.

City Manager Baird added the city receives a number of questions from the public in relation to these signs and the EMB's are the trend the sign industry is moving. The only way to currently handle them is through the Board of Adjustment which is costly and time consuming for both the applicants and city and is why the planning commission has been addressing this for several months.

Adoption of Resolution/Electrical Standard Amendment

Mr. Baird referenced the resolution he is asking council to adopt this evening. He also referenced the ordinance being introduced this evening which closely mirrors the resolution. He explained they both relate to PJM, the grid operator in this area and their demand response program. This program allows PJM to call on the city's retail electric customers or other retail customers within the region to curtail their electric usage during peak times. To participate in that program, retail customers are required to sign up through an enrollment process with PJM. In the past, only verbal approval was needed from the city through DEMEC for the commitment to PJM. At that point, the application would move forward. In late 2008 and early 2009, there was a federal energy regulatory commission order issued that required local jurisdictions governing electric utilities to take formal actions to allow customers to participate. This resolution/ordinance will permit our customers to participate in the demand response program. DEMEC recently received an interpretation of the order and the reason it is being presented now for formal action by city council.

The intent is that during peak demand periods, customers can be called on four to five times a year to curtail their electric usage. In return, they are given payments for participating in the program. Depending on the amount of curtailment, businesses could receive \$70,000 to \$100,000 in annual savings. Mr. Baird emphasized the incentive if curtailment is able to be worked into their operations.

He said that from the city's standpoint, it is less strain on our system in times of peak usage and allows our infrastructure to withstand those peak usages better. It also helps prevent us from overbuilding our system to handle above capacity needs for those peak load times. When these customers are called upon to curtail their service, it will be for short intervals of 30, 60 or 90 minutes tops.

The city manager assured council there will be a very minimal impact on our electric revenue. The benefit to the grid is the same as the benefit to the city in being able to facilitate the required demand during those peak times. That is the reason the financial incentives are being offered to the retail customers.

Mr. Baird advised that council will need to take formal action. He advised this involves an annual application process and this year's deadline is Friday, February 26th which is why the resolution is being presented for adoption this evening. However, that will be followed by a formal ordinance which will officially amend the electric tariff.

Mr. Spillane asked if there is a possibility that residential customers would be eligible to participate or even a group of homes. Mr. Baird said that cannot be ruled out though he is unsure if there is enough load to qualify under this program. That is something that will need to be looked at. He said what is being considered is whether DEMEC should facilitate this on behalf of all the cities thus making it more advantageous to our retail customers in the city as well as DEMEC as a whole.

Mr. Adkins then moved for adoption of the following resolution, seconded by Mr. Workman:

A RESOLUTION BY CITY COUNCIL TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING THE ELECTRICAL STANDARDS OF THE CITY OF MILFORD TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.

THE CITY OF MILFORD HEREBY ORDAINS as follows:

Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: "Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator's or regional transmission organization's organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate."

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator’s or regional transmission organization’s bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.”

Whereas, pursuant to the Electrical Standards of the City of Milford, the Council of The City of Milford (“City Council”) is authorized to enact rules governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford’s retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member) be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. The City of Milford Electrical Standards are hereby revised by adding under the heading “Aggregation of Retail Customer Demand Response” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized electric markets.*
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.*

Section 3. The City of Milford Electrical Standards are hereby revised to add under the heading “Ancillary Services Provided by Demand Response Resources” a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff).*
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator’s or regional transmission organization’s organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) may do so by*

participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.

Section 4. NOW, THEREFORE, I, Daniel Marabello, Mayor of the City of Milford, do hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Milford at a council meeting held the 22nd day of February 2010 by a majority vote.

Daniel Marabello

Motion carried by unanimous roll call vote.

Introduction of Ordinance 2010-3/Chapter 119/Electric Tariff Amendment

The following ordinance was officially introduced and is scheduled for formal adoption at the March 8, 2010 Council Meeting:

AN ORDINANCE TO AMEND THE REGULATIONS OF THE CITY OF MILFORD BY REVISING CHAPTER 119, ELECTRICAL STANDARDS, OF THE CITY OF MILFORD CODE TO MAKE PROVISION WITH RESPECT TO THE AGGREGATION OF DEMAND RESPONSE ON BEHALF OF RETAIL CUSTOMERS OF THE CITY OF MILFORD.

THE CITY OF MILFORD HEREBY ORDAINS as follows:

Section 1. LEGISLATIVE FINDINGS. Whereas, the Federal Energy Regulatory Commission has issued Order No. 719, 125 FERC ¶ 61,071, 73 Fed. Reg. 64,099 (October 28, 2008).

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(iii) provides: “Each Commission-approved independent system operator and regional transmission organization must permit a qualified aggregator of retail customers to bid demand response on behalf of retail customers directly into the Commission-approved independent system operator’s or regional transmission organization’s organized markets, unless the laws and regulations of the relevant electric retail regulatory authority expressly do not permit a retail customer to participate.”

Whereas pursuant to Order No. 719, 18 C.F.R. § 35.28(g)(1)(i)(A) provides: “Every Commission-approved independent system operator or regional transmission organization that operates organized markets based on competitive bidding for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator’s or regional transmission organization’s tariff) must accept bids from demand response resources in these markets for that product on a basis comparable to any other resources, if the demand response resource meets the necessary technical requirements under the tariff, and submits a bid under the Commission-approved independent system operator’s or regional transmission organization’s bidding rules at or below the market-clearing price, unless not permitted by the laws or regulations of the relevant electric retail regulatory authority.”

Whereas, pursuant to the City of Milford Code, Chapter 119, the Council of The City of Milford (“City Council”) is authorized to enact the City of Milford Electric Tariff governing the provision of electric power to retail customers served within the service territory of the City of Milford.

Whereas, the City Council has determined that it is necessary to regulate the provision of demand response in the City of Milford and the collective interests of the City of Milford, as a public power utility with an obligation to serve at retail, and the City of Milford’s retail customers to permit any entity to aggregate demand response on behalf of its retail customers unless first approved by the City of Milford.

Whereas the City Council, as the electric retail regulatory authority for the City of Milford has determined it to be desirable that the aggregation of demand response on behalf of retail customers served by the City of Milford to be bid directly into the organized electric and ancillary services markets administered by PJM Interconnection, LLC (or any successor independent system operator or regional transmission organization to which the City of Milford is a member)

be performed by the City of Milford or its authorized designee, the following amendments to the Code of the City of Milford are hereby adopted.

Section 2. Chapter 119, City of Milford Electric Tariff, is hereby revised to add under the heading "Aggregation of Retail Customer Demand Response" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized electric markets.*
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized electric markets may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.*

Section 3. CHAPTER 119, City Electric Tariff, is hereby revised to add under the heading "Ancillary Services Provided by Demand Response Resources" a new subsection to provide as follows:

- A. The City of Milford or any entity that applies to be an authorized Curtailment Service Provider and is subsequently approved by the City Manager or his designee is permitted to bid demand response on behalf of retail customers served by the City of Milford directly into any Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff).*
- B. Retail customers served by the City of Milford wishing to bid their demand response into a Commission-approved independent system operator's or regional transmission organization's organized markets for energy imbalance, spinning reserves, supplemental reserves, reactive power and voltage control, or regulation and frequency response ancillary services (or its functional equivalent in the Commission-approved independent system operator's or regional transmission organization's tariff) may do so by participating in the program established by the City of Milford or with a Curtailment Service Provider duly approved in advance by the City of Milford.*

Section 4. EFFECTIVE DATE. This ordinance shall take effect in accord with law.

Adopted Date March 8, 2010

Effective Date March 18, 2010

With no further business, Mayor Marabello adjourned the Council Meeting at 7:21 p.m.

Respectfully submitted,

Terri K. Hudson, CMC
City Clerk/Recorder