

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
November 28, 2016

A Meeting of the City of Milford Economic Development Committee was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware on Monday, November 28, 2016.

PRESIDING: Chairman Christopher Mergner

IN ATTENDANCE: Committee Members:  
Councilpersons Lisa Ingram Peel and James Starling Sr.

Mayor Bryan Shupe

City Manager Eric Norenberg & City Clerk Terri Hudson

Chairman Mergner called the Committee Meeting to order at 6:01 p.m.

Economic Development and Planning Coordinator Rob Pierce was also present.

*Economic Development Incentives*

*Bayhealth Medical Campus Agreement:  
Easements, Utilities, Responsibilities, Permits*

City Manager Norenberg explained the main topic of discussion this evening are potential code changes. City staff and Bayhealth representatives have been meeting to discuss a series of incentives and cost reductions that have been requested by Bayhealth.

The City Manager referred to a letter from Bayhealth CEO Terry Murphy to Mayor Shupe dated August 8, 2016 and a draft of an Economic Development Agreement from Bayhealth. He emphasized it is only a draft at this stage though it provides a scope of the requested incentives.

He also referenced a draft of potential City of Milford code changes that will be required because many are outlined in our various codes and limited to a smaller number than what is being requested.

A chart was handed out at the meeting which outlines the estimated costs related to the Bayhealth project and the requested reduction(s).

Mr. Norenberg explained that according to the calculation that Bayhealth provided, they project 71 EDUs. Broken down, the water impact fee for the new hospital is estimated at \$201,640. However, based on the number of new jobs being created by the project, up to 5 EDUs can be waived per the current code.

He recalled that more than five years ago, the City entered into an economic development agreement with Perdue and Seawatch at which time 5 EDUs were waived for water, sewer and electric as a result of the additional jobs created by expansion at both plants. Bayhealth is requesting a greater number of EDUs being waived which is why the code amendments are needed. The committee will need to make a recommendation to full Council for an ordinance to be created for Bayhealth and any other major projects so that a larger number of EDUs can be waived.

Mr. Norenberg referenced the following proposal:

To qualify for the impact fee waiver, commercial construction of projects costing \$1,000,000 or less, must be completed and a certificate of occupancy received within a twelve-month period. Projects costing between \$1,000,001 and \$5,000,000 must be completed in twenty-four months and projects costing more than \$5,000,000 must be completed within thirty-six months.

- a. Waiver of Water Impact Fees for Commercial Entities: To encourage new business and the expansion of existing businesses, the business must create a minimum of five full-time employees in the City of Milford in accordance with the following criteria:

- \* Creation of 5-9 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (1 EDU).
- \* Creation of 10-14 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (2 EDUs).
- \* Creation of 15-19 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (3 EDUs).
- \* Creation of 20-24 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (4 EDUs).
- \* Creation of 25-30 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (5 EDUs).
- \* Creation of 31-35 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (6 EDUs).
- \* Creation of 36-40 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (7 EDUs).
- \* Creation of 41-45 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (8 EDUs).
- \* Creation of 46-50 new jobs to last at least 3 years: Exemption of Impact Fee Waiver (9 EDUs).
- \* Creation of 50 or more new jobs to last at least 3 years: Exemption of Impact Fee Waiver (10 EDUs).

He explained that similar changes would be needed in all utility codes—water, wastewater and electric chapters.

The other option is to pull the incentives out of the codes and consolidate them in a separate section within the Economic Development Code.

Mr. Norenberg also reported that Bayhealth has requested additional items, including the reduction of the Carlisle Enhancement Fee, that is collected on each building permit and occasionally paid out to the fire department for various projects.

Another major request is the reduction of building permit fees. He stated that the City could potentially refund some of the unspent building permit fees after the City has paid all their bills related to the inspection of the project.

He continued by noting that there are also some fixed costs related to providing utility services to the campus. The City has been working with Bayhealth, their engineering team and our public works staff on getting the utility connection from the City electric substation to the new campus in the most cost effective manner as possible which calculates to a \$531,500 savings from their original cost.

The City Manager emphasized the Kent County Sewer Impact Fees cannot be waived even though the City collects it on their behalf after which it is forwarded to them.

Bayhealth is also requesting an electric rate discount. The City is presently working with DEMEC, our wholesale power provider, to develop an incentive package for them. A meeting was held last week with Bayhealth, DEMEC and City staff to discuss the scope and how to structure the reduced rate.

Mr. Norenberg reported that a number of the potential incentives and related issues need to be memorialized in a development agreement though not exactly what Bayhealth has proposed though it will be similar.

He reiterated that code changes will be needed and the process of drafting the ordinance and review by City Solicitor David Rutt is required prior to the ordinance being introduced and adopted by City Council.

Councilwoman Peel confirmed that this was done for Seawatch and Perdue. Several Councilmembers noted that was done before they were on Council.

Councilwoman Peel continued by stating this is a much larger project and the problem being presented is the limited number of EDUs as they are written in the code. Mr. Norenberg stated that specific to the impact fee waiver, five is the maximum number that can currently be waived. Both the Perdue and Seawatch projects were approximately \$1 million of which 5 EDUs were waived for water, sewer and electric.

According to Mr. Norenberg, a few other factors were included in the agreements. Though the City Clerk has been able to find some related records, the history is vague when it comes to the creation of the formulas that were used then. Because both were for-profit industries, one was granted a partial property tax abatement in addition to water and electric rate incentives that were based on incremental increase usages.

Chairman Mergner stated that based on this project in the southeast area of the City, how are we set up for future growth and as we waive these fees, will we make that money back as we continue to expand and handle the repair of those utilities. His concern is that we could potentially handicap ourselves in the future by not collecting these fees.

The Chairman agrees the hospital is a great project, but this is a substantial reduction and potentially could strain these funds.

Planning and Economic Activities Coordinator Pierce explained it is his understanding we received some feedback from the Finance Department on the balance of the impact fee funds. Mr. Norenberg agreed there is approximately \$2.2 million in the impact fee account that is used for future projects. However, he is unsure how that is broken out between water, wastewater and electric.

Mr. Pierce stated that with regard to water infrastructure, the water tower was built as part of the USDA-funded project. The wastewater infrastructure will be constructed and paid for by the private developers in addition to the City's contribution. The electric service is typically built to meet the developers' needs in the area.

The Coordinator explained that one aspect considered was that at some point, the new force main coming from the new southeast pump station will need to be relocated and discharged at the Northeast Front Street facility. As a result, there will be some expense related to that relocation at some future point.

Mr. Norenberg added that the force main will be factored into any other development in the southeast area which could accelerate construction of the force main serving the area. In terms of electric future projects, the City has a fairly new substation though they only have a lifespan of 20 to 25 years. At some point, there will be some major upgrades needed. Depending on growth, a third substation may be needed ten or so years from now.

Chairman Mergner asked for more detailed information on the Carlisle Enhancement Fee and asked if the City Manager feels the fire company will be receptive to permitting Bayhealth to reduce that amount. Mr. Norenberg said there have been ongoing conversations though he hopes to sit down with Bayhealth and the Fire Company to come up with a win-win solution that would benefit both the hospital and Fire Company. He wasn't part of the conversation though Bayhealth discussed reducing the fee in exchange for some features that are being built into the hospital. However, he does not believe that has been resolved. Bayhealth hopes to reduce that fee by providing some land for a future fire substation in that area or other amenities that will be included in the new emergency room including the helipad.

He informed the Committee that the Carlisle funds are collected and put into a fund until such time the Fire Company needs funding for new equipment or facilities. They are then required to submit a written request after which the City releases the funds as was done a few months ago for the ambulance garage.

Mr. Norenberg continued by stating that the Fire Company's concern right now is that their largest aerial tower truck is close to 25 years old and once it reaches that age, it will be considered obsolete even though it does not have a lot of hours and miles. As a result, insurance rating agencies will consider that which will impact Citywide insurance rates and cause increases.

He estimates a new aerial truck to cost approximately \$1 million and noted that the hospital is the tallest structure in town and would need that type of equipment.

Chairman Mergner confirmed the original permit cost to Bayhealth is \$1.269 million and the reduction is \$1.158 million or a reduction of \$111,055.

The City Manager explained that he prepared the chart to reorganize the City fee versus our hard costs as shown on the chart:

	Original Cost	Revised Cost	
Water Meter	\$500	\$500	
Water Service Connection	\$35	\$35	
Irrigation Meter	\$350	\$350	
New Milford Sewer Pumping Station Fair Share	\$550,000	\$550,000	
Temporary Electric	\$150	\$150	City is Loaning Transformers to Bayhealth
Electric Service Connection	\$50	\$50	
City Electric Substation Improvements	\$750	\$218,500	October 12 <sup>th</sup> Estimate
<b>SUBTOTAL</b>	<b>\$1,301,085</b>	<b>\$769,686</b>	
<b>Difference</b>		<b>\$531,500</b>	

Mr. Norenberg reiterated these are hard costs though the permitting fees can be more easily revised.

Chairman Mergner confirmed that their recommendation is to reduce both hard costs and permitting fees; the City Manager stated that is correct and pointed out the electric substation improvement costs were reduced. If Council agrees to increase the reduction of EDU costs from the current maximum of 5 to 50, that would increase the \$111,055 of permit reductions to \$330,000.

The City Manager also noted that because Bayhealth has provided the City with an easement to the southeast tower and wells, a reimbursement to Bayhealth is being considered through a water impact fee of \$50,000. In addition, the City has agreed to grant them the triangle lot that will square off their property in the area the chicken houses were previously located. The City is currently getting an appraisal on the easement which means that could potentially change that number.

Jerry Peters, Bayhealth's Director of Health Campus Project, then informed the Committee they were looking for a partner when they agreed to stay in Milford and purchase the 169 acres where they are presently building. He hopes to continue that partnership adding that they have had discussions with the City Manager, City Planner and Officials.

Mr. Peters said he appreciates the City Manager's comment on the easement through the Bayhealth property emphasizing that they donated seven to eight acres of easements back to the City at no cost to the City.

He reported that for large projects like this, most cities either prorate the fee structure as projects escalate in costs, or cap them at a certain maximum cost.

Mr. Peters stated that they agree and accept the premise that there is a cost to the City to review documents, including staff and consultant times. He also understands the idea of fees is to pay for those costs. One of the obstacles of hospital construction is it is extremely expensive per square foot which in their case is approximately 400,000 square foot. He said if that was just 400,000 square feet of residential construction or a big box store, it could be built at a fourth of the cost per square foot compared to what Bayhealth is spending.

He does not believe it will take four times the amount of time to review those plans though the City's fee structure is based on a cost per square foot and does not prorate or cap the fees which most cities do to encourage larger projects.

Mr. Peters pointed out the hospital will have a lot of showers, sinks and toilets that are required by code which calculates to a lot of EDUs. He noted that they would not have the impact a family of four would have, for example, who would take four showers a night. He stated that the hospital will have a shower in each patient room even though those patients will not take a shower every night.

According to Mr. Peters, every sink in the hospital will not be used as a sink in a home nor use the same amount of water which is what the EDUs are valued at.

As a result, he said the hospital will have an excess of showers, sinks and toilets though they are required by code for the convenience of staff when they do handwashing. Overall, the amount of water going into the sewage system is much less per sink than a sink in a private residence.

He noted that the hospital agreed to contribute toward the sewage pumping station by approximately 30% or \$550,000. On top of that, the City is asking the hospital to pay to use what has already been paid which is a little upsetting to him.

Mr. Peters said he appreciates any reduction or relief the City can provide.

Planning Coordinator Pierce then reported that the EDU calculation for the hospital is based on number of beds and not number of fixtures. He emphasized that if that number was based on fixtures, it would be outrageously high. The 142 beds calculate to 72 EDUs .

Chairman Mergner asked for clarification about the pumping station fee; Mr. Pierce explained that is the cost to develop the infrastructure required to serve the property. Bayhealth, along with two other entities, signed an agreement some time ago. In addition, the City of Milford is carrying a substantial number of units.

Mr. Pierce confirmed the money was put into an escrow account though the City is still waiting for acquisition of the easements in order to submit permits to DNREC for the force main that will serve Bayhealth.

Councilperson Peel confirmed that the scale for creating new jobs and the waiver of impact fees requires each job being created to last at least three years; Mr. Norenberg stated that is how the current code is written though it limits the waiver at 25 or more new jobs.

He is presenting another option for Bayhealth which he feels is a special project and unique. He reiterated the code will need to be amended if we proceed and that it should not only apply to the hospital project.

Mr. Norenberg further explained that we could continue using the maximum of 25 new jobs. However, his draft provides that in addition to the waiver based on the number of new jobs created, a developer constructing an employment center with at least 250 jobs and \$100 million of capital investment receive a waiver of up to 'X' additional EDUs.

He suggests the Committee consider that number based on their comfort level though this could set a precedent. The Committee may also want to think about capping or limiting the EDU count or provide another type of calculation.

Councilmember Peel noted that for every new five jobs created, Bayhealth is receiving another EDU waiver and asked if this should be written using a multiplier of five versus the way it is currently written; Mr. Norenberg said this mirrors the way the code is currently written.

Chairman Mergner agrees there may be a better way to rewrite this, but stressed the need for new jobs to be part of the calculation and not just the amount of the capital investment. He said the goal is to create new jobs and that has to be the biggest factor.

City Manager Norenberg reported that a couple weeks ago, he was told that the new hospital could add fifty new jobs compared to the current campus.

Chairman Mergner asked the Bayhealth representatives how many new jobs will be created as a result of the new hospital; Milford Memorial Hospital Administrator Michael Ashton stated that they estimate between 800 and 850 total employees. He pointed out there is also a multiplier known in hospital construction projects from a community standpoint and an estimate of 1.85 other community jobs are created with every hospital full-time employee equivalent.

Mayor Shupe said it is important to make the distinction between the manufacturer who is expanding an existing building and creating 25 new jobs, compared to the hospital who is building a new campus and has chosen to stay in Milford in city limits and is creating 50 new jobs, may be understated.

Chairman Mergner said he is still contemplating how to make this prorated or possibly a loan or fee payback into the future and help provide some additional funding up front. After a certain amount of years, it would then become more of a payback to the City once things were up and running. At that point, the hospital could budget that amount versus having to provide these start-up costs now.

The Chair asked if there are fees that can be postponed so the hospital can proceed with a little more ease at this point. He does not know that answer but was something he had considered.

Mayor Shupe feels the City should be more than happy to waive X amount of EDUs considering the addition of 250 jobs and a \$100 million in capital investments. Mr. Pierce suggested that job creation not even be considered and instead base the waiver(s) on the \$150 to \$200 million in construction costs.

The City Manager again noted the original code was based on job creation, which is why he referenced the 50 new jobs that are anticipated at the new campus. He was told there are 800 plus jobs being created from his conversation with Vice President Corporate Support Services Mike Metzger.

Mr. Norenberg noted that the current Bayhealth campus will also be vacated and they are in the process of finding a buyer. Also considered was transferring EDUs from that location and crediting the new campus. But that runs the risk of the new buyer having to pay EDUs at the old site. There will also be additional jobs created at the old site that should be taken into consideration.

The last thing is to negotiate and bring forward the development agreement to City Council in January.

Mr. Norenberg then suggested a motion be made with regard to the number of EDUs. He will then work on the code changes for the December Council meeting and suggests that Chairman Mergner report to Council at tonight's meeting.

When asked the cost of the EDUs being recommended to be waived, Mr. Pierce explained the 71 EDUs calculates to \$201,000 for water and \$106,000 for sewer.

Chairman Mergner confirmed the City is comfortable with that waiver amount. Mr. Norenberg pointed out that the \$201,000 and \$106,000 is what would be collected according to the current code. Council may be more comfortable waiving \$40,000, \$50,000 or \$60,000 based on job creation which is the economic development driver. In the meantime, the City will do their best to collect all other impact fees and budget accordingly for all other projects. Short of that, there is the potential that other rate payers will have to chip in on some of those projects.

Mayor Shupe verified that 50 EDUs would be the same scale as 250 new jobs; Mr. Norenberg explained that all three of those utilities turned into 50 EDU reductions is another \$220,000 reduction and the \$111,000 increasing to \$330,000. Mayor Shupe stated he is basing that on Section E of the City Manager memo in the packet. He feels that if we do this, it needs to be scaled up to 50 EDUs.

Mr. Norenberg clarified the difference in the two sections. He stated that A is related to job creation and E is based on the amount of capital investment with a minimum of 250 existing jobs and not the creation of new jobs.

He further stated that Section A and E could be stacked together because the new hospital will create 50 new jobs and

qualifies for 10 EDUs under Section A. An additional waiver could then be granted based on the capital investment. He is willing to come up with a new structure that makes more sense for the hospital.

Councilwoman Peel asked if we are now piecing two sections of the code to grant more waivers; Mr. Norenberg explained that he is coming up with a way to enable the code to be used for any project and not just the hospital.

Councilwoman Peel prefers to simplify the code and feels it is difficult to interpret as it currently exists.

Mayor Shupe feels a scale is needed on Section E based on additional EDUs. He said they have also discussed a way to compensate the hospital for the easement that was granted which would be another incentive on top of the EDUs though that can be later discussed.

The mayor recalls considering another incentive though he does not remember it.

Mr. Norenberg asked if Mayor Shupe is referring to their electric discount though that requires another code amendment; Mayor Shupe stated that he prefers it be done to scale.

Chairman Mergner is in favor of ways to assist the hospital and if the code needs to be changed, that can be considered. He suggests it be done in house though he is unsure if that can be accomplished in tonight's meeting.

He said it could require a follow up meeting because it took more time than was expected to really understand what was being presented.

The Chairman recommends City staff create the proposal based on tonight's discussion.

#### *Downtown Development Projects/RiverPlace & South Washington Street Properties*

Planning Coordinator Pierce referred to the memo outlining the highlights of the Rivertown Rebirth Plan/Downtown Master Plan adopted by City Council last January and included in the Downtown Development District application. Some of the mixed use projects were outlined as larger scale development opportunities.

He then referenced to one of the potential mixed use development projects, identified in the plan as the RiverPlace concept. This proposal would utilize the former site of the Washington Street water treatment facility and two additional City-owned parcels along the southern banks of the Mispillion River. He referenced an excerpt from the Rivertown Rebirth Plan pertaining to the RiverPlace project along with a location map for reference. The Plan recommended first floor commercial/dining with residential uses above.

Mr. Pierce explained that if the Committee supports developing these parcels, the next step would be agreeing to a method for disposing of the land. A Land Development Request for Proposals (RFP) can then be prepared. That would allow the City to set requirements and restrictions on the development. Private investors interested in developing the project would be asked to submit a proposal outlining the project; the firm's qualifications would also have to be reviewed by staff and City Council. The land disposition would not be solely based on the bid price for the land, but the proposed development scheme, timeline and design/physical characteristics of the project all taken into consideration.

Mr. Pierce is seeking a recommendation from the Committee on how to proceed with the RFP needed to develop the property.

Chairman Mergner confirmed the property is the location of the former Washington Street Water Treatment Plant and includes a couple adjacent properties as referenced on the exhibit as well as the current basketball court.

Mr. Pierce confirmed the property is currently zoned C-1 which is Community/Neighborhood Commercial. However a new Riverfront Development District is under consideration that would allow an increase in density and an additional one story of height for mixed use projects in the downtown area. That has not yet been formally reviewed by the Planning

Commission for a recommendation though that will be on their December agenda and before Council at the January 9, 2017 meeting.

The goal is to have all three of the parcels rezoned to the newly created district.

Chairman Mergner feels something is needed in that area and believes this would be a nice addition.

The City Manager added that in conjunction with the RFP, staff would need to initiate a couple other procedures related to the land provided to the City through the Delaware Trust Program as well as the grant assistance provided to develop the basketball court.

After speaking with State Parks, Mr. Norenberg believes they can free up the related restrictions by ensuring new parkland is provided elsewhere. The basketball court would have to be moved to a new location.

The City Manager asked the Committee to make a recommendation to City Council to identify the three parcels and use the RFP as the vehicle to solicit private sector proposals for development.

Chairman Mergner asked if there are additional costs that were not part of the current budget should Council agree to pursue this. Mr. Pierce said there could be some legal expenses and though the City could make the survey a condition of the RFP and require the potential developer to perform the survey and consider any issues.

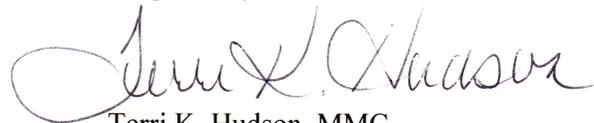
Councilmember Peel moved to recommend supporting the land disposition and proceed with the RFP process as has been discussed, seconded by Councilman Starling. Motion carried.

*Adjourn*

There being no further business, Councilmember Starling moved to adjourn the Committee Meeting, seconded by Councilwoman Peel. Motion carried.

The Committee Meeting adjourned at 6:54 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Terri K. Hudson". The signature is fluid and cursive, with a large initial "T" and "H".

Terri K. Hudson, MMC  
City Clerk/Recorder