

CITY OF MILFORD
COUNCIL MEETING MINUTES
April 20, 2022

The City Council of the City of Milford met in a Special Council Meeting on Wednesday, April 20, 2022.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Andrew Fulton, Todd Culotta, Brian Baer, Nirmala Samaroo, Jason James Sr., and Katrina Wilson

STAFF: City Manager Mark Whitfield, Deputy Chief Edward Huey, and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

Per the Limited Public Health Emergency Declaration issued by Governor John Carney on March 1, 2022, and the virtual meeting provisions provided in Senate Bill 94, Milford City Council Meetings and Workshops were held in the Council Chambers at City Hall though attendees were able to participate virtually.

CALL TO ORDER

Mayor Campbell called the meeting to order at 7:02 p.m. for the purpose of awarding the bids for the new Police Facility.

Bid Review & Award/MPD Facility

City Manager Whitfield opened by stating this is a culmination of the last few years of work of coming to the point of awarding bids for the police station. And thanks to the job that Becker Morgan, Richard Y Johnson, Public Work Director Mike Svaby and Finance Director Lou Vitola have done, he is happy to report all the bids came in just as Richard Y Johnson and Becker Morgan stated they would. As a result, there are very few surprises.

Public Works Director Mike Svaby then introduced Architectural Designer Bryan Cusick from Becker Morgan and Dean Johnson from RY Johnson.

He referenced the following information:

In January of 2022, Council gave permission for the City's Construction Management Firm Richard Y Johnson (RYJ) to advertise seventeen trade/bid packs for construction of the new Police Headquarters Building.

Design was finalized and during the week of February 14th, RYJ advertised these requirements on the open market. On March 22, 2022, bids were received, opened, and read aloud in a hybrid format – both publicly in person and by Microsoft Teams video conference beginning at 1:00 at City Hall.

Bids were then tabulated, and scopes verified by RYJ. Public Works, Finance, Richard Y Johnson, Becker Morgan Group and PD conferred about the various elements of the bid submissions, including the bid alternates, financing, and programmatic need.

As a result of the turgid economic environment, staff requested a Special Session of Council today, April 20, to share the result of the bids and engage in a dialog that would lead to Council's concurrence with award no later than April 21st, 2022, thereby insuring the bids' 30-day price validity. The project's needs are especially vulnerable to the steel commodity, specifically in the area of construction raw materials and the mechanical systems in the building's design.

The way the bid was structured into seventeen different bid packs, and a couple by trade.

The base bid consisted of the site work in the building and five alternates. The first alternate was the rehab of NE Fourth Street was an important one. They did not want a new facility and the associated street in a deteriorating condition.

The size of the parking lot, in an expanded fashion, was considered. Sod was considered in the front area. A storage building for the site was considered. Alternate five was a high-density filing system which allows storage of hard files.

Mr. Johnson then presented the bid tabulation sheet, showing all bids. Those highlighted green are the low bidder and recommended and if they have a role in any of the five alternates, there will be a number in there.

He stated that after the bids were accepted, they had scope reviews with all the contractors to make sure they were comfortable with their numbers and their scopes will work. That is documented and signed by the contractor verifying the specifications are correct.

Mr. Johnson stated that Zack Excavating is recommended for contract one/site work, with alternate one and two in the amount of \$1,939,124.

The second bid pack was contract was concrete and the recommended bidder is Gullwing. There is a substantial spread between them and the next bidder, but this is a firm they have worked with in the past and actually worked on Delaware State Police Troop 7.

The third bid pack was masonry, and the low bidder was L. Wilson Masonry whom they use on a regular basis.

The fourth bid pack is for steel work and the low bidder is RC Fabricators; the fifth bid pack is carpentry and general work, and the low bidder is Conventional Builders.

Mr. Johnson also noted that many of these contractors, such as Wilson Masonry, Gullwing and Conventional Builders are all local and out of Harrington and Houston.

Quality Exteriors (Harrington) is the low bidder for roofing and are out of Harrington; Precision Door (Dover) is recommended for the hollow metal doors and is the old Advantech.

Bid pack 8 is for aluminum, storefront/glass, and glazing. Low bidder is Walker Laberge. Contract nine is for metal stud drywall and the low bidder is Peninsula Acoustical.

Contract 10 is acoustical work with Master Interiors the recommended award. Contract 11 is for floors and Tri-State Carpet is the recommended bidder. Though they were the only bidder, the bid came in under was what estimated. They also have a storefront in Milford.

Contract 12 is for painting and the low bidder is M&S Painting. Contract 13 is casework and Modular Concepts was also the only bidder. That bid came in a little higher than the estimated budget, but they are a very reputable company who is used by RYJ on a regular basis.

Contract 14 is for mechanical work with Sobieski is the apparent low bidder.

Contract 15 is for fire suppression/sprinkler work and Bear Industries is the low bidder.

Filec Services is the low bidder on Contract 16 which is the electrical work.

Bob Breeding was the only bidder on Contract 17 and they recommend rejecting that bid which would have been for the maintenance building which is alternate number four.

Councilman Culotta asked why the metal building was not being awarded. City Manager Whitfield pointed out that all the alternates, including HVAC, electrical, came in around the estimated price, but that building came in about twice as high as estimated.

The City Manager said this can be considered at a later date with money remaining in the bond issue and funded at that point.

Councilman Culotta pointed out a metal building was bid and not a pole building; Mr. Johnson said there has been discussion since about changing the structure type to a pole type building which would be much more economical.

Director Svaby noted that the scopes were verified with the bidder, especially for all low bids and in some cases two or three deep.

He said alternate three for sod is not being recommended and came out higher than expected. Instead, it will be seed and grade at least for the first season.

Alternate four (maintenance building) is also not recommended and the estimate was about 72% higher.

Director Svaby talked to Chief Brown earlier today who confirmed he did not need to proceed with alternates three and four.

Councilman Culotta asked if the sod can be done internally. Director Svaby said that sod is an expensive investment and came in at \$35,000 for the front yard only. He added that grass is only as good as taken care of. The sod would need an irrigation system and that idea needs to be rethought. He noted that most projects start with seeding and grading and are very successful.

Finance Director Vitola referenced the summary of project costs as bid and was presented in this manner so that Council could tie the last thing seen at the January 10, 2022, bid authorization. Page six of the packet is RYJ's bid authorization that restated some of the variable fees.

Then page seven is a summary of page six. The following page is a recap, of the bids, and the following page puts it on par with the summary of the January 10, 2022, bids for comparability.

Director Vitola stated that the bottom line of the comparability is line 120, which is the January 10th design estimate versus the bid, excluding all those value engineering possibilities. Excluding those value engineering items; the bid is \$1.1 million in the base bit lower than the design estimates. The numbers look good with the exception of the maintenance building which is not being recommended.

Starting with the very first design estimates in fall 2020 and fall of 2021, sound numbers were provided and when the costs were escalating last fall, the city was warned that something needs to be done to ensure the project comes in as budgeted. Those things were the breakout of these alternatives, and the value engineering items.

He agrees that Becker Morgan and RYJ provided great flexibility and after the bid, there is even more flexibility to manage the project as it proceeds. They actually coming a little better than the worst case expected seven months ago.

On page ten, the key to Director Vitola's comparison to January 10th, is the target \$12.9 million based building costs only. Once all the other ancillary costs of the project were added, the financing target was still hit. The bids ended up being \$100,000 below that target. Not only did the bids come in favorably compared to the January 10th estimate, but they also came in favorable to the internal target tied to the referendum.

The grand total, with all other costs added, less our cash financing, result in a financing requirement of \$102 a year or \$8.51 a month increase for the average residential property taxpayer (line 133 and 134).

Below that is the publication he created that described the process and the referendum and the potential for the debt financing to the community. What was presented is though there is a \$20 million limit, the hope was the building could come in as low as \$12.5 million, but no more than \$15 to 17.5 million range, which it ended up being.

The last thing he wanted to point out is line 145 which takes the base bid and all alternates, adds all the ancillary costs to each bid as a decision-making point and whether Council agrees with staff's recommendation to eliminate the maintenance building at a \$1.9 million that the design estimates were at \$900,000. If that were included, the full impact can be seen on line 145. As a result, the recommendation is based on needs versus wants and costs versus expectations.

Councilman James said he likes to acknowledge the hard work that people put in. He wants to acknowledge Mayor Campbell and when he saw the costs starting to escalate, and knowing the citizens put their trust to stay at a certain range and Mayor and Council gave them their word to vote on a referendum based on the numbers presented. He was determined

to stay within the boundaries to prevent deceiving the taxpayer. He thinks the Mayor deserves a lot of credit for standing firm on that.

In addition, Councilman James commended Public Works Director Mike Svaby, City Manager Whitfield and Finance Director Vitola, as well as the Citizens Advisory Committee for their part. And especially all the extra work Chief Brown has done overseeing the project while he learned a great deal about costs and bidding.

Councilman Culotta agreed noting that costs increase each year. He is very impressed with RYJ and Becker Morgan's work in keeping the bids within budget.

When talking about the tax increases, including the increased school tax approved by the referendum, Mayor Campbell pointed out that increase will not be as bad because it is fortunately shared by other communities including Lincoln, Ellendale, Houston, Slaughter Beach and of course Milford.

Councilman Fulton said he continued to bring up the various budget, tax increases and utility increases, is still something more out someone's fixed income pocket. Like or not, he pointed out we are a bedroom community that focuses on healthcare. Councilman James said that is another reason why it is important to acknowledge Mayor Campbell drawing a line in the sand that this project would not go above what was promised the taxpayers we would spend.

Public Works Director said if there are no additional questions, he would like to proceed with the bid awards.

Councilmember Marabello confirmed that between the builders and the city, there is a \$1.2 million contingency and that there will not be any unusual surprises with the project. Finance Director Vitola said his only caution is that the owner's contingency already has items already slated that will fall into that category. Some examples are basically anything that Becker Morgan was not contemplating or considering in the context of building the facility like financing costs when we ultimately closed on the land, which had costs. Plus, interest will be capitalized over the construction period and that will be a cost included in the owner's contingency. Also, the closing costs on the permanent financing, as well as an insurance policy for a builders risk premium over the construction period to protect the City from anything catastrophic happening. That is important because we cannot add facilities to our insurance coverage until they are complete.

Mayor Campbell then opened the floor for acceptance of each of the 17 bids.

Councilmember Boyle moved to award the contract for site work, bid package number one, for the Milford Police Facility, to Zack Excavating in the amount of \$1,939,124, to include the base bid and alternates one, two and five. Motion seconded by Councilmember Culotta. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for the concrete work, bid package number two, for the Milford Police Facility, to Gullwing Contracting in the amount of \$293,000 to include the base bid and alternates one, two and five. Seconded by Councilmember Fulton. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for masonry work, bid package number three, for the Milford Police Facility to L Wilson Masonry in the amount of \$790,000, to include the base bid and alternates one, two and five. Motion seconded by Councilmember Culotta.

Councilmember James recused himself from this item as he is currently involved in a personal contract with L Wilson. Motion carried with Councilmember James not voting. All others voted affirmatively.

Councilmember Culotta asked if it is necessary for Councilman James to recuse himself, though he can do what he wants, but because he hired one of the bidders for personal work. Solicitor Rutt said yes, he should recuse himself.

Councilmember Boyle moved to award the contract for steel work, bid package number four, for the Milford Police Facility to RC Fabricators in the amount of \$868,000, to include the base bid and alternates one, two and five. Seconded by Councilmember Fulton and carried with no one opposed.

Councilmember Boyle moved to award the contract for carpentry and general work, bid package number five, for the Milford Police Facility to Conventional Builders, in the amount of \$1,076,360, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember James. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for roofing work, bid package number six, for the Milford Police Facility to Quality Exteriors, in the amount of \$933,252, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Fulton. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for metal doors and hardware, bid package number seven, for the Milford Police Facility to Precision Doors and Hardware, in the amount of \$232,230.63, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember James. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for aluminum storefront/glass, bid package number eight, for the Milford Police Facility to Walker Laberge, in the amount of \$183,600, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Culotta. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for drywall and metal studs, bid package number nine, for the Milford Police Facility to Peninsula Acoustical, in the amount of \$1,317,000, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember James. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for acoustical work, bid package number ten, for the Milford Police Facility to Master Interiors, in the amount of \$259,080, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Culotta. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for floor coverings, bid package number eleven, for the Milford Police Facility to Tristate Carpet, in the amount of \$479,440, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Fulton. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for caulking and painting, bid package number twelve, for the Milford Police Facility to M&S Painting, in the amount of \$66,570, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Fulton. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for casework, bid package number thirteen, for the Milford Police Facility to Modular Concepts, in the amount of \$108,125, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Fulton. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for mechanical work, bid package number fourteen, for the Milford Police Facility to JF Sobieski Mechanical, in the amount of \$2,085,000, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember Marabello. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for the fire sprinkler system, bid package number fifteen, for the Milford Police Facility to Bear Industries, in the amount of \$98,780, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember James. Motion carried with no one opposed.

Councilmember Boyle moved to award the contract for electrical work, bid package number sixteen, for the Milford Police Facility to Filec Industries, in the amount of \$2,272,000, to include the base bid, and alternates one, two and five. Motion seconded by Councilmember James. Motion carried with no one opposed.

Councilmember Boyle moved to reject the contract for pre-engineered metal building, bid package number seventeen, for the Milford Police Facility from Bob Breeding General Contractors LLC, submitted in the amount of \$488,970. Motion seconded by Councilmember Fulton. Motion carried with no one opposed.

ADJOURNMENT

There being no further business, Councilmember Boyle moved to adjourn, seconded by Councilmember Culotta. Motion carried.

The Council Meeting adjourned at 6:47 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder

CITY OF MILFORD
COUNCIL WORKSHOP MINUTES
April 20, 2022

The City Council of the City of Milford convened in a Workshop Session on Wednesday, April 20, 2022, beginning at 6:52 p.m.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Daniel Marabello, Mike Boyle, Andrew Fulton, Todd Culotta, Brian Baer, Nirmala Samaroo, and Jason James Sr.

STAFF: City Manager Mark Whitfield, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilperson Katrina Wilson

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Homeless Report/Update

City Manager Whitfield recalled that Council had asked what is being done in Milford with regard to the homeless population. In addition, there was also a report put together by IACP Locla Fellow Melody Barger that outline some possibilities that may want to be considered.

He then introduced Martha Gery of 13 Mill Street, Milford, was present on behalf of Milford Advocacy for the Homeless, which is a grassroots organization formed in Milford last January. She reported the following:

The goal is for two things. One is to serve as an advocacy, meaning whatever services are out there, pull them all together, have them work together, and not create something new if something is already exists. A board member was also in attendance.

There are about 550 in the community that work with them in different capacities. One of their other goals is working with other cities so that it is not more desirable to be in Milford, but that every one of the locating communities is doing the same thing. .

She presented the mission and vision statement that supports serving the community of the homeless people and making sure that they are given a comfort level. They don't want them to become dependent on them but do want them to live in some sort of a human comfort. That is what they work toward not existing.

They try and do everything in a way that treats them as a common citizen. Someone that is valued and someone that get services, just like any other citizen.

Ms. Gery and her husband moved into Milford officially four years ago her job disappeared and decided to work from home. She works for Cisco Technologies who supports this program and do what they call Time to Give by giving her time off for these presentations, in addition to money.

She looked for the homeless in Milford and could not find them. She wanted to see where they were and what could be done for them. After almost a year of looking, she went to see Jim Martin, another board member, and ask him how to find the people. He referred her back to Brandywine Counseling. Thanksgiving 2020 they partnered with them to deliver meals, because Brandywine gets funding for the building and the people and rely on donations of all kinds. That November and December, they had a couple hundred meals at the most. By January 2021, they were doing 400 meals and in January 2022 did 900 meals. It was expanded beyond the bag lunch for breakfast and lunch, and every day they make sure that Brandywine has food for the homeless or anyone else who is in need. That is defined as either food insecurity or housing insecurity and are supplied to feed about 25 or 30 people every day.

Last January, after going through Covid, and deciding they really wanted to do more and to make sure those in need in the community were supported. They became a nonprofit and started supplying small two-person tents with a sleeping bag and a backpack and clothing in July.

They also gave them bikes because if they had transportation, it would give them an opportunity to get a job, and it also helps they are not corralling in one single place.

In November, they received a large donation and were able to give them all new 10-foot high tents and new sleeping bags and clothes and food.

In February of this year, they started with larger tents because many people could not stand up in the tents, considering they are in them all day long when it's bad weather or in the winter. That has been done twice this year. They are now at the place where they have food security every day and some sort of covering.

Some of the goals for 2022 are expanding the Saturday and Sunday hot dinners which has been done. They are hosting fun events for the homeless, just like anybody else that wants to go to the movies or do something other than think about all the things that are going wrong.

They are working on a business plan for a 24/7 shelter. Ms. Gery is not for a flophouse shelter and is talking about someplace there would be a community and they would learn how to be active members of society, how to do a budget, how to get a job, being drug free and resolve any mental issues.

They also looking for a small transportation bus. The hospital often calls them to transport people that are being released from the hospital over to code purple and getting people to code purple by picking them up. They would like to make the bus some obnoxious color and drive it around all of Milford so anyone having or any kind of need for clothing would see the bus in order to be serviced.

The business plan for a warming room is also in progress. Thinking ahead, Brandywine is open from 8am to 3 pm. From 3pm to 8am, there is a gap and they have nowhere to go when it is freezing outside. Having a large warming or cooling room where they could come, watch television and play games until we could transport them over.

It would also be nice to have some kind of storage, kitchen, showers, and bathroom. They do not have a place and the public bathrooms, which she urges the City to consider, for the community. On the weekends, there is no place to get showers and no place to go to the bathroom.

People ask why they don't get a job and why are they panhandling. A lot of these people have lost their documentation and to have a legitimate job, some kind of photo ID is needed, in addition to another form which is typically a social security card. To get a social security card, an ID is needed and to get an ID, an address is needed.

They are trying to partner with Brandywine and Nan has started to help by going out and work with the people, like case working. Find out who needs that documentation. Brandywine has partnered with Catholic Charities to get the money for them and Brandywine will take them to Dover to get their IDs and social security card.

They are also partnering with people in the community who have jobs available.

Housing is a huge issue and the cost of apartments in our or smaller homes is exorbitant. There is nothing less than \$1,000 and \$1,200 is more the average for a very small home and is unaffordable. Looking into the future, group homes are being considered, where they could share the costs. Three or four people sharing a place. That is only around \$500 and anybody working a job in this area could afford \$500.

Ms. Gery then presented a list of the projects are basic needs. People having clothing and always in need of jeans and sneakers. A pair of jeans is \$15 and they have thirty people they are serving constantly which is \$30 x \$15.

One of the things that happens is when they get a job. Before they were getting all the food from Brandywine and were able to wash their clothes and get a shower. When they get a job, they have to pay for all their own food. Brandywine is closed and it costs \$20 to \$25 to do one load of clothes.

Their life has completely changed and their idea is to help them. Some of the programs are what they want to do to help them. They are going to be speaking at the Milford Public Library the second week in May on a Friday to talk to the community about homelessness, what it is, how people can help and get some awareness of why they are panhandling or why they don't get jobs.

The week after that, they are sending out invitations to another event at the library because a coalition has been created of different businesses, both in this community and adjoining communities to try and make sure we have services for these people. That list can then be provided to them.

They are making an impact and are creating the advocacy and are helping those in need. That has been accomplished without grants and any kind of funding. There have been a number of people that have helped and the Elks did a fundraiser last year that raised just under \$5,000. The community gave everything to them for free---their time, the food that was sold and the Elks gave them the building at a no cost.

They have also received some private donations that were fairly large and recently the Milford Rotary has been very supportive as well. They do not have a lot of places to get money and are now looking to get grants. They have applied for the \$50,000 city grant to meet some of these projects that are outlined.

She referenced the organization links that include an Amazon smile, a Facebook business page and most of the information is on their working group page that are all public. They also have a website that includes a donation link.

Council had a few questions, one about their safety and security and medical needs. Ms. Gery said they do their best to encourage them not to be violent. They also encourage to live in community versus by themselves which is a safer situation. She also noted that Nan is a nurse and they just began some street medicine, to ensure their overall wellness. They are also looking for a doctor that could help and prescribe where needed. She also frequently transports them to the hospital.

Ms. Gery said they have not experienced any criminal behavior and she tells them she is on their side and is working with them. Anything criminal should not be seen though some are high when she goes back there. They do call the police if there is violence. She has been out with Captain Huey and his team twice this past week to visit the local encampments. She shares with the homeless the police are here to help and if there is a complaint, they are asked to move from the location.

Ms. Gery very recently started working with the Behavioral Health Specialist who has done some Narcan events for them.

When asked what is being doing to help moving this process forward, because the police have had complaints about criminal behavior and mainly from neighbors who have people walking through their yards. Councilman Culotta is constantly getting complaints from business owners about the homeless panhandling at the McDonalds intersection and are causing some safety problems and harassment issues.

He prefers not enabling them; Ms. Gery explained she had a family member who was homeless for 15 years and she kicked him out of her house. There were illegal things going on, but they have the leg up and they want to do the work. They try to do the minimum to keep them safe and alive. They have only been around for a little over a year and only have so many members. If she is able to get the volunteers, they will create programs to help them to get the mental health connections as soon as they need it. They just got someone who is a mediator who will be working with them. They want a job program because if they have security of food, of home and a job, they are more likely to be successful by getting out of homelessness. That usually takes two to three attempts because it is a hard transition because they are not socialized. Because of that, they lose a lot of their common courtesies and knowledge. They have to rework back into that.

They want to get them into a program to get them to be a productive person within the community.

Ms. Gery shared a number of ideas they have to find a location to be able to put them. If there is already a building there, that is even better. But find a location that will be acceptable to the community, because no one wants anybody in their backyard. But getting a piece of property where they can get the services they need so it is not too far out. Getting a place is number one.

There is a place in Reading that is a 225-bed facility and this is exactly what they do and have had great success. They have to sign that agreement that requires them to do certain things. If not, they will not have a place there. Once they have a place where they can be served and monitored, more progress will be made.

She confirmed that on a daily basis, they serve meals to just under 30 people. Last summer, it was 50 and that only includes the people that are consistently there and living in tents or out on the street in the weather. They also have a population 10 that live in their cars. They also have transitional people who are sleeping on couches and have been taken in by family member and are in and out of homelessness.

They are also aware of a number of people who are on the brink of homelessness because they have been renting and often the landlord has sold the home and now they do not have a contract for their lower rent, or they don't accept coupons. Then all of a sudden, they don't have a place to go. Currently here are a handful of people that are in the encampment right now that have jobs and can afford about \$600 but cannot find a place. None are children at this time though many have children that are with family, friends or social services.

Ms. Gery also reported there are about 150 children in our school system that are homeless. They are just not back in that encampment.

When asked if the organization has had any successes of moving someone from homeless to having a home and a job; Ms. Gery said just this week, a couple went from living in a tent for years and were able to get an apartment for under \$100 a week. They just moved in and they will help them.

Last month a gentleman who lived in his car, now has a place. The quicker they can help and get them out of that mindset of homelessness, the better.

Mayor and Council thanked Ms. Gery for the information.

Ms. Barger then referred to the following memo focused more on the homeless on a state and national level and in other communities in Delaware:

Homelessness is a salient issue in almost every single community in the United States. As winter closes in, concerns about sheltering the local homeless population get closer to the forefront of city minds. This memo addresses potential solutions to the homeless problem in Milford, utilizing data gathered from both cities in Delaware and from solutions that are employed in the more national context. Solutions are addressed by type, rather than city, with examples and resource links can be found in the memo in the Council packet.

National Programs

Housing First

Rather than being simply a solution, Housing First is a model that has proven to be successful when utilized. The idea is simple: housing must come before other necessities, such as having a job, receiving substance abuse treatment or other important factors in maintaining a self-sustained lifestyle. Too often, housing provided to the homeless is predicated on various barriers, such as being drug-free, having a job, only staying a few nights, not having children etc. A Housing First approach eliminates those barriers and suggests that, when housed, individuals can more effectively address other solutions like substance abuse treatment and income. Known for its success when utilizing the Housing First approach, Columbus, Ohio has reduced its unhoused population to 1800 people (out of 800,000) in 2018. Similarly, the state of Utah has reduced its unhoused population to fewer than 200 as of 2015 utilizing the

Housing First model. Studies examining the Housing First model have found that when homeless individuals are rapidly rehoused, between 75% - 91% of them stay housed. Often, once an individual is housed, they are offered other supportive services such as job assistance and treatment programs. It has also been found that Housing First costs less than a homeless shelter program by the year. Thus, this model has been shown over the years to offer better results at a lower cost than other models.

Sequim, WA Service Unification

The town of Sequim, WA found its services were redundant and that the funds they allocated to fight homelessness were not being used effectively. In order to better address their use of funding, Sequim created a program known as the Sequim Health and Housing Collaborative that unified their service delivery and allowed their funds to stretch much farther than before. Sequim's unified service delivery functions much like a microcosm of the Continuum of Care – providing services that are broad in range and do not overlap.

Permanent Supportive Housing

Supportive Housing is a program model that has been nationally studied and has proven to be successful in providing permanent housing for homeless individuals. Often those that are homeless cannot maintain housing due to treatable issues such as substance abuse and mental health issues. Thus, simply providing housing is not a realistic solution to their needs. However, supportive housing combines the provision of housing with wrap-around services that provide treatment, job assistance, and other support services on a voluntary basis. However, it should be noted that participation in those supportive housing programs should not be a condition of living in the housing. Subsidies and rent-setting can be used to ensure affordability. An example can be Harrisonburg VA, which provides permanent supportive housing in the form of their apartment development called Commerce Village. Rents are set at a specific rate to ensure affordability, and residents have access to a property manager and to a Peer Specialist to connect them with supportive services.

Community First Manhattan

This program was developed in Manhattan by the Community Navigator group. The focus of this program is to meet unhoused people where they are, provide direct support (such as clothing, blankets etc.) and form relationships before connecting them with more permanent support services like treatment, housing, health care etc. An on-the-street program, Community First fills the gap between support services that are available and people who can take advantage of the support services. It also lessens the contact of homeless people with the criminal justice system and serves to redirect them away from jail time and court mandates.

Rapid Re-Housing

This model utilizes three core principles to provide housing quickly for those experiencing homelessness. The purpose is to prevent homeless individuals from experiencing long periods of homelessness and to help them obtain services necessary to stay in housing for a long period of time. The three principles are as follows: housing identification, rent and move-in assistance, and case management. Housing identification consists of finding housing for those experiencing homelessness to move into, recruiting landlords to serve the population, and designating housing specifically for homelessness people. Rent and move-in assistance helps to cover the costs associated with getting into housing, which are often prohibitive for homeless people. Lastly, case management consists of providing stabilizing services to help people navigate the necessary steps to maintaining their housing. Once the threat of homelessness is over, their case can be closed and rapid re-housing can end (although case management can continue where appropriate).

Shipping Container Apartment Complexes

A few localities have been using shipping containers to provide low-cost housing to homeless and low-income individuals. Salt Lake City, Utah has been creating apartment complexes built from unused shipping containers. Because they're ready-made, it makes the cost of building lower and thus allows the housing to be lower-price. It

also saves building materials during a period of time when building materials are particularly costly. Similarly, Lost Angeles and Washington, D.C. have also utilized this innovation to create low-cost housing for the homeless.

3D-Printed Houses

Some places have taken up 3D-printing tiny homes for the homeless as an effort to overcome the shortage of building materials and provide low-cost but high-quality shelter. This idea has been utilized in other countries more broadly than in the United States, but it is gaining some traction in the U.S. as well. Houses can be built utilizing a printer from ICON and is made utilizing concrete as the main material.

Delaware Local Programs

New Castle County Hope Center

This is a program offered by Friendship House (a Wilmington, DE nonprofit) that converted a dis-used Sheraton hotel into a homeless shelter. This shelter offers temporary housing to up to 400 individuals with the intent of moving residents to more permanent housing. The shelter also offers mental health services on-site and allows animals to stay in the shelter as well. The program was developed utilizing \$19.5 million in CARES Act money, and their first guest to reach permanent housing did so in early April 2021.

Springboard Collaborative Pallet and Tiny Home Shelter

Springboard Collaborative (TSC) is providing small, safe, warm and dry housing opportunities by partnering with Pallet Inc. to provide shed-like houses for homeless individuals. These “villages” will also be connected to wrap-around services such as health, substance abuse treatment, job training, mental health assistance and more. There is also additional on-site infrastructure developed that will provide showers and restrooms for the village. However, the Pallet Shelter Village is only step 1 of a 3 step plan.

Step 2 involves a more sophisticated village with broader infrastructure, self-sufficient tiny cottages (both individual and family sized), recreational and treatment spaces, and community and individual gardens. The goal is to provide an even more effective network of wrap-around services in the tiny home village than in the pallet shelter village. The final step looks more broadly at the Delaware environment as a whole and seeks to provide access to affordable housing, personal and mental wellness opportunities, needed support services, education and employment as needed. This program is being developed in Georgetown, DE but has also been tried in Tallahassee, Florida as well as several communities in California. It should also be noted that Salisbury, Maryland is also utilizing Pallet Shelters to construct a tiny home village, so there is a growing contingent of Pallet Shelter communities on the East Coast.

Statewide Programs in Delaware

The Delaware Continuum of Care

The Delaware CoC is a collaborative program of homelessness stakeholders that provides services to the homeless in Delaware. Once an individual is enrolled in the CoC, they have access to a wide variety of services that cannot be offered by a single service provider. The lead agency for the Delaware CoC is Housing Alliance Delaware, a nonprofit that offers a several housing assistance and emergency shelter programs. It is important to be involved in the Delaware Continuum of Care in order to provide centralized care for unhoused individuals (rather than trying to provide services that may be offered by another organization at the same time).

In terms of what is feasible for Milford, there are some barriers to care. Models such as Housing First, Rapid Re-Housing and Permanent Supportive Housing are cost-prohibitive for small localities and general function better on a federal or state level (or a large locality). If there are not millions of dollars available to be allocated toward homelessness and a large enough housing base, it is not possible to provide services that require a lot of money and manpower.

An approach like Sequim's unification of services is a promising idea at first, however, this system functions much like a microcosm of a Continuum of Care. This may be helpful in a large state with a large population, but it seems unnecessary in a small state like Delaware, which has a small enough land mass and population that a single state Continuum of Care can provide the necessary services needed. A suggestion may be for Milford to become more closely linked with the Delaware Continuum of Care and provide more direct services in the area.

Another suggestion is to model Georgetown's efforts to provide housing specifically to their homeless population. Springboard's three-step plan may have some copiable solutions that may function for a small locality. Pallet shelters are an inexpensive way to obtain short-term housing and can be utilized no matter the funding of a locality (if you can only afford four pallet shelters, that's four more than before).

She suggests that Milford examine some of the innovations such as pallet shelters and shipping container complexes, or possibly even a 3D Printer, and consider what may be feasible to provide in terms of low-cost homelessness solutions.

A discussion followed about bathrooms accessibility within the units though most communities have communal bathrooms.

Ms. Gery said she has been in contact with Pellet Inc. who provides a person who designs and creates the facilities to meet the needs based on their size and population.

Various forms of housing was then discussed and it was agreed that a community with rules is a much better situation than the squatting that is occurring and growing throughout the City.

City Manager Whitfield agrees that from a city standpoint, we need to be part of the solution and assist where we can to be consider some solutions. A city government is not good at doing housing projects but making them happen is something that the city can support. But where we put them, how we do it and the regulations needed are something that needs to be worked through with planning and zoning to see how to make it happen.

Council Liaisons

The City Manger referred to the following memo written by City Solicitor Rutt that outlines some of the questions that Council had with regard to having Council liaisons and Council committees.

You asked me to research FOIA opinions to help provide some clarity to the Milford City Council regarding how "committee" is defined and under what circumstances meetings will be subject to FOIA's notice requirements.

WHAT CONSTITUTES A COMMITTEE UNDER FOIA?

The purpose of the Delaware Freedom of Information Act is to ensure, "that our citizens shall have the opportunity to observe the performance of public officials and to monitor the decisions that are made by such officials in formulating and executing public policy...." 29 Del. C. §100001. "Public body" is broadly defined in 29 Del. C. §100001(k) in order to foster the open nature of performing public business.

In Del. Op. Att'y Gen. 19-IB09 (February 22, 2019), the Attorney General's Office set forth the two-part test used to determine whether a committee is a public body and, therefore, subject to FOIA.

First, we must determine whether the entity is a "regulatory, administrative, advisory, executive, appointive or legislative body of the State, or of any political subdivision of the State," which includes a "[board, bureau, commission, department, agency, committee, ad hoc committee, special committee, temporary committee, advisory board and committee, subcommittee, legislative committee, association,] group, panel, council, or any other entity or body established by an act of the General Assembly of the State, or established by any body established by the General Assembly of the State, or appointed by any body or public official of the State or otherwise empowered by any state governmental entity." If the first part is met, we then must determine whether the entity is supported in whole or in part by any public funds, expends or disburses any public funds, or "is impliedly or specifically charged by any other public official, body, or agency to advise or to make reports, investigations, or recommendations." Both parts of this test must be satisfied in order for an entity to be considered a "public body" under FOIA. (citations omitted).

Based on the foregoing definition, the appointment of 3 Council members to investigate and fact gather on certain issues of interest to the City and report back to the Council constitutes the creation of committees. The Council has appointed each committee “to advise or to make reports, investigations, or recommendations” to the Council. As public bodies, all committee meetings must comply with the FOIA public notice requirements by publicly posting notice of the date, time, location of and agenda for the meeting and prepare minutes of each meeting. 29 Del. C. § 10004(e) and (f).

In Del. Op. Att’y Gen. 02-IB33 (December 23, 2002), the Attorney General’s Office found that the Town of Camden violated FOIA when a Council member met with the Mayor to discuss a land use application. The Town argued that no meeting occurred because only two of the five Council members were present and, therefore, a quorum did not exist. The Attorney General disagreed. It determined that the Town Council created a Review Planning Committee consisting of three members, and that a quorum of the committee was present when the Council member met with the Mayor, thereby triggering compliance with FOIA.

As stated in the Town of Camden opinion, “[i]f the public body has five members, and appoints a committee of three members, then a meeting of a quorum (two) members of the committee will be subject to FOIA.” Id. This applies to Milford’s Town Council as well. If the committee includes two Council Members and a department head, and the two Council members, or one Council member and the department head, meet (whether formally or informally) and discuss the issue at hand, a meeting has taken place because a quorum of the committee was present. No action has to be taken for that meeting to be subject to FOIA. “The application of the open meeting law does not turn on whether the Council took any ‘official action’”. Del. Op. Att’y Gen. 02-IB07 (Mar. 22, 2002). “The open meeting law applies to ‘fact gathering, deliberations and discussions, all of which surely influence the public entity’s final decision.’” Id. (quoting Levy v. Board of Education of Cape Henlopen School District, Del. Ch., C.A. No. 1447 (Sept. 11, 1989) (Chandler, V.C.)).

In Del. Op. Att’y Gen. 17-IB12 at 2 (June 19, 2017), the President of the Wilmington City Council appointed a Council Leadership Team consisting of the President, five City Council Members and select members of their staffs for the “purpose to ‘meet regularly with the [City’s] Administration to discuss high-level City-related issues’ and provide a summary of each meeting to the full Council.” The Attorney General’s Office determined that the Team was a public body subject to FOIA, but qualified its holding by stating:

However, we make this finding on the very narrow basis that the Team is a formally appointed body of the Wilmington City Council. Members of legislative and executive branches of municipal governments should not be discouraged from having informal meetings to discuss matters of public interest, so long as those meetings do not involve sufficient members of the legislative branch to constitute a quorum and are not attempts to evade FOIA’s public meeting provisions. Id. at 7. See also Del. Op. Att’y Gen. 17-IB54 (October 10, 2017), which held that a Commission established by a Resolution of the City Council is a public body.

You also expressed concern that, under the right circumstances, the three Council members on any given committee could constitute a quorum in terms of a Council vote on their committee issue if only five Council members are present at the meeting. While the chance of this situation occurring is rare, it is a possibility. To avoid this, it would be prudent for the Council to adopt a policy limiting the number of Council members on any given committee to two. Of course, that committee will be subject to FOIA notice requirements and must maintain minutes of each meeting. In any event, it is important to stress to Council members that consensus votes are prohibited under FOIA and that actions taken in this manner are voidable, because all Council votes must be taken in open session.

SOCIAL GATHERINGS, WORKSHOPS AND OTHER MEETINGS

The Delaware FOIA statute defines a “meeting” as “the formal and informal gathering of a quorum of the members of any public body for the purpose of discussing or taking action on public business.” Id. § 10002(b). Whether a gathering is subject to the FOIA notice requirements will depend on the type of meeting and what is or is not expected to be discussed or acted upon.

Social Gatherings, Civic or Service Clubs, Etc.

As a general rule, Council members may attend social gatherings as long as City business is not discussed or acted upon. The Attorney General’s Office held that, “[m]eetings between one or more council members and citizens for

purposes of local civic or service club meetings, election campaigns, debates, etc. (provided the public official(s) did not constitute a quorum of the Council or any committee thereof) would probably not fall within FOIA. On the other hand, two or more council members meeting with a specific interest group to discuss public business could very well fall within the Act, especially if the persons happen to be members of the same sub-committee or designated to investigate a particular issue.” Del. Op. Att’y Gen. 96-IB02A (October 17, 1996).

Workshops

Workshops are also subject to FOIA. In Del. Op. Att’y Gen. 02-IB07 (Mar. 22, 2002), the Chancery Court held that FOIA applies, not only to gatherings where a public body takes formal action, but also to a “workshop” held at a local restaurant. Otherwise, “there would be no remedy to deter Board members from privately meeting for discussion, investigation or deliberation about public business so long as the Board reached no formal decision at that private meeting.” (quoting Levy v. Board of Education of Cape Henlopen School District, Del. Ch., C.A. No. 1447 (Sept. 11, 1989) (Chandler, V.C.)). The Council must always keep in mind that, “the open meetings law applies to ‘fact gathering, deliberations and discussions, all of which surely influence the public entity’s final decision.’” Id.

National Conferences

In Del. Op. Att’y Gen. 07-IB13 (May 10, 2007), the Attorney General’s Office held that the Board of Trustees of Delaware State University’s attendance at a national conference was not subject to FOIA’s notice requirements, because there was no evidence that a quorum of the members discussed any specific matters of public business. It went on further to explain:

A national educational or training conference – attended by representatives of public bodies from around the country – serves a different purpose. Such conferences are designed to provide training or background information about common issues rather than to address and take action on matters of public business pending or likely to come before any one public body. We do not believe that the legislature intended FOIA to apply when members of a public body attend a national, regional, or state conference or convention to hear speakers on subjects of general interest. If the purpose of the conference is for general education and social interaction, then we do not believe that attendance at such a conference by a quorum of a public body amounts to meeting for purposes of FOIA. The open meeting law should not be construed to deter public officials from attending conferences and training sessions to improve their management and leadership skills and to learn from their counterparts in other states. That is not part of the policy-making process which FOIA entitles citizens to monitor and observe. If a conference concerns a topics of general interest, even one that might affect how a public body might view a future policy issue, the educational session itself would not involve the conduct of public business because the session would be too remote from any actual decision making. Id. at 3 (Emphasis added).

Retreats

Retreats may or may not be subject to FOIA depending on the facts. In Del. Op. Att’y Gen. 04-IB18 (Oct. 18, 2004), the Attorney General’s Office stated that, “[a] retreat is usually intended to bring members of a public body together in a more relaxed, social environment to focus on policy issues and not to take action on specific matters of public business. The purpose of the open meeting law, however, is to open to the public the entire deliberative process of public bodies. When a retreat is used by a public body to discuss issues within the body’s policy-making authority, the public may have a right to attend and receive the same advance notice, including an agenda, which is required for more traditional meetings.” Del. Op. Att’y Gen. 04-IB18 (Oct. 18, 2004) (citing Levy v. Board of Education of Cape Henlopen School District, C.A. No. 1447, 1990 WL 154147, at p.6 (Del. Ch., Oct. 1, 1990) (Chandler, V.C.)

Joint Meetings

Certain matters may give rise to joint meetings of two or more public bodies. In Del. Op. Att’y Gen. 97-IB13, this occurred when the Mayor and three Lewes City Council members attended a meeting with the Chamber of Commerce to discuss “matters of public concern”. The meeting was not publicly noticed. In its analysis, the Attorney General’s Office explained:

The issue turns on whether members of a public body attending such a joint meeting are there simply to listen and learn, or whether they actively participate in the discussion or resolution of any issues of public concern. Even though the members may not vote on anything at the joint meeting, the same issues may be raised at a later meeting of the single public body. That creates at least the appearance that decisions affecting the public are being crystallized out

of the public view, and the public vote is only a “ceremonial acceptance.” Levy v. Board of Education of Cape Henlopen School District, Del. Ch., 1990 WL 154147, at p.7 (Oct. 1, 1990) (Chandler, V.C.). “[R]arely could there be any purpose to a nonpublic pre-meeting conference except to conduct some part of the decisional process behind closed doors, ... [A] sunshine statute, being for the benefit of the public, should be construed so as to frustrate all such evasive devices.” Id.

Id. at 4. In this particular instance, no FOIA violation was found because the Chamber of Commerce is not a public body and because no public business was discussed. However, the Attorney General’s Office offered some sage advice for future meetings.

The City is cautioned, however, that attendance by members of the Council at meetings like the one with the Chamber of Commerce may trigger the requirements of FOIA. To make certain that their attendance is merely to listen and learn, it behooves Council members to take notes or otherwise memorialize the proceedings, in case there is a question raised in the future about the applicability of FOIA. When in doubt, all that the Council need do is to give notice of the attendance by members at a meeting sponsored by another body, the date, place and time of that meeting, and the subjects to be discussed. Such notice requires only a modicum of time and effort, and will help save the City from any FOIA scrutiny. Id. at 5.

Policy Considerations

The City should consider adopting a strict policy prohibiting the discussion of public business at a Chamber of Commerce, SCAT, conference or other social setting that is meant to be informational only. Once public business is raised, the Council steps into FOIA territory which will not only require prior public notice, but it will also require maintaining minutes of the meeting.

Council members also need to be mindful that socializing in public, carpooling and the like can raise questions as to whether they are discussing public business outside the open meeting setting. There may be an appearance of impropriety even though none exists. See Del. Op. Att’y Gen. 96-IB26 (July 25, 1996) (“We caution the Council to keep in mind that non-public activities of Council members, such as the tour in question, will always be viewed with suspicion by the public and the courts. Such activities foster distrust which undermines the Council’s ability to govern effectively and leads to complaints such as this one.”) If challenged, the person who makes the allegation, “must make at least a prima facie showing that a meeting occurred.” Del. Op. Att’y Gen. 05-IB10 (Apr. 11, 2005) (citing Gavin v. City of Cascade, 500 N.W.2d 729, 732 (Iowa App. 1993), for the proposition that “[a] plaintiff must show substantive proof of a secret meeting rather than mere speculation in order to shift the burden of going forward.”). However, “the Council will always have the burden of proving that the activity in question did not involve a non-public meeting of the Council in violation of FOIA, and any doubt about the issue will be resolved in favor of the public, rather than the Council.” Del. Op. Att’y Gen. 96-IB26 (July 25, 1996).

CONCLUSION

Although two or more Council members meeting and working on a specific issue with a department head constitutes a committee subject to FOIA notice requirements, it is our opinion that one Council member meeting with a department head, the City Manager or both together should be permissible. To the best of our knowledge, the Attorney General’s Office has not yet determined that such a meeting will constitute a committee meeting subject to FOIA notice requirements.

Because the purpose of FOIA is to permit the public to view the actions of the government, when in doubt, it is always best to notice the meeting by posting the agenda on the door of the public body’s office, if there is one, or the meeting place at least 7 days in advance of the meeting. While it is not required under the FOIA statute, posting all meeting agenda on the City’s website on the Public Calendar conveniently provides valuable information to the public and demonstrates the City’s intention to conduct business transparently. The bottom line is, err on the side of giving notice rather than assuming a meeting does not require notice be given.

this really grew out of the question that came out of your retreat, where three people were assigned to a particular issue, and that was a committee that that was a committee at ad hoc committee of Council so.

Solicitor Rutt stated that bottom line is, any committee requires a notice of the meeting time, date, place, and you have to keep minutes.

In light of that, the question of a liaison that was floated would consist of Councilmembers meeting with department heads would in fact be considered an ad hoc committee. However, one councilmember can meet with the City Manager or Police Chief and discuss matters without it falling under FOIA.

When asked for questions, Councilmembers questioned the educational intent and tied that into several scenarios that involved a quorum of council. Councilmember Culotta said all of council are equal and no one is more or less important than the other. He thinks it came out of getting rid of committees.

He said he is interested in economic development and Jason is interested in finance. He doesn't under the big deal of still having the committees if everyone is still on them; Mr. Whitfield said that based on what Solicitor Rutt is saying. The problem was for the four years he was involved, the committees met very sporadically and last year, finance was one of the few that met on a regular basis.

Councilmember Culotta suggest all eight members be on every committee and is the solution. He asked if someone can be the chair of the committee or does it have to be the mayor; Mayor Campbell said that when we have committee meetings, then it comes back to Council and have the same discussion twice. That seemed like double the work and time consuming. It simply prolonged any decision being made.

Councilmember Culotta said if we return to committee meetings, whatever is discussed should not be discussed and voted on again at the Council meeting the same night. The committee meeting is similar to a workshop and a discussion should occur and the matter be postponed until a later date or vote to move to an agenda item on the Council agenda.

It was agreed that with committees, a select group of Councilmembers is receiving more information than Council as a whole. In his opinion, all Council is equal and Mr. Whitfield does not like providing information to one person and not everyone else. Whether that is in a committee meeting, his office or in a memo.

Councilmember Fulton agreed that the committee members have most likely agreed to what was discussed at that committee meeting. There is already a quorum in favor of the vote before the balance of Council is made aware of a situation. He agrees with the City Manager that three people should be in charge of one thing and the other three in charge of another. That is the reason it was changed to workshops where all of Council were in attendance and could participate.

Councilman Culotta remembered that when he first got on Council, everybody was showing up for all the committee meetings. And then it was changed, and only the committee members could participate.

Solicitor Rutt said anyone can show up, but cannot sit at the dais and participate.

Councilman Culotta prefers all eight members be on the committee. Solicitor Rutt confirmed that the vote still has to be taken to a Council meeting with the same eight people.

Mayor Campbell asked if everyone is on the committee, but they will have to bring it to a Council meeting to vote. Solicitor Rutt said that can be done without any discussion.

Councilman Marabello asked if everyone is on every committee, a quorum of five is needed. Without that, no recommendation can be made. It was agreed that if there is no quorum, there should be no meeting.

A long discussion followed regarding quorums.

Councilmember Boyle asked if a committee of the whole is being considered, in which topics are discussed before a Council meeting. The committee of whole then recommends it be taken to Council and it is then added to the Council agenda and voted on the same night. He sees a problem of what Council will talk about and possibly interests they want the staff to discuss. Then take it forward. That would require a committee of the whole, listening to topics, make a recommendation and take it to Council. Those same items should be on the agenda at the Council meeting.

The item must be on both agendas and ready for a vote of Council. No action can be taken until it is added to the Council meeting.

Councilmember Culotta presented his opinion on economic development. He can talk to the Mayor who might listen to him or not, he can talk to the City Manager and maybe he listens, but maybe he doesn't. But there has been no discussion in an open legal meeting with other Councilmembers. He could talk to Councilman Boyle, he could talk to Councilman James, but if he talks to too many people it could be a FOIA violation.

Solicitor Rutt noted the City Clerk suggested the consent agendas. Jumping ahead at the order of business, item five is approval of consent agenda. There could be a committee meeting on economic development. The committee recommends to Council approval of a \$5,000 grant. Then it goes on the consent agenda and needs no discussion. The consent agenda is then approved which includes that item.

Councilman Fulton agrees it appears they are being repetitive and repeating the same information with the same discussions. Sometimes it generates new questions, but the outcome is almost always the same. It just takes a lot longer to get there.

Councilmember James agreed it the redundancy that gets to you It is grueling in his opinion.

Councilmember Culotta said he is going to reiterate the need for committees to iron out police, economic development or a finance item. It makes sense that if it discussed in the committee, it should not be seen on another agenda for discussion.

City Manager Whitfield suggests going back and looking at the workshops since beginning in January, one of the items was sidewalks. That would have fallen under a public works committee, though it was a committee of the whole because it was discussed by eight members at a workshop. The building code was discussed and sprinklers. That could have been discussed at a committee, but again, it was discussed by council as a whole acting as a workshop. In his opinion, the committee is already meeting as a whole in a workshop session.

Councilmember James agreed and suggests changing the workshop to a committee meeting without adding a third meeting. Council is already discussing these items, but under a different name. Councilmember Culotta said that there can be no vote in a workshop. Councilmember James said that is why he said make it a committee meeting instead of a workshop.

Councilmember Culotta disagrees asking how four different topics can be discussed at a workshop. He said the committee meetings are related to the structure of the City government—public works, police and economic development. Councilmember James said the same discussion is going to occur at a workshop.

Councilmember Culotta said that Council has always had workshops, committee meetings and council meetings. The Mayor decided that this has become redundant and it is pointless. So he decided to assign a councilmember to be a liaison in charge of a department. Then the Solicitor said that cannot be done and it opened up another can or worms. He said Council needs to either go back to the committees or don't have committees but he does not think how you get across certain items.

Councilmember Fulton said as was discussed and sometimes a committee meeting could be held. But for the most part, the only two meetings a month would be a committee meeting and a Council meeting. Nothing more.

City Clerk Hudson explained that what happened when the last City Manager was hired, he began to schedule the committee meetings every month or every other month. These committees, including the economic development committee, did not really have topics to discuss at each scheduled meeting. So they were discussing the same topics over and over. It became more than redundant.

Prior to that, the police committee maybe had two meetings a year, when it was needed. However, finance is a little different because that changes daily. All other committee meetings were only scheduled when a topic needed to be discussed.

When asked how many were really active, Ms. Hudson said only the finance committee was really active on a regular basis. Councilman Culotta said if the committee chair works with the Mayor to schedule the meeting, three times a year is about right. The number of meetings should be established by the chair because that is his priority agenda.

Mayor Campbell also pointed out that we have guest speakers at workshops on a regular basis.

Mr. Whitfield pointed out we have budget hearings coming up. That could be changed to a Finance Committee meeting.

Solicitor Rutt said from what he is hearing, perhaps an outline of what the meetings would look like. If one meeting was structured as a committee meeting/workshop, like tonight. Then a second meeting in the month when all that is voted on through a consent agenda.

Councilmember Fulton said if that were to occur, we could schedule a time for the public to have a voice during the Council meeting. Right now, there are many people very upset they don't have a voice to City Council. Even though their emails are read and their concerns are brought before Council. However, there needs to be a strict time limit.

Mayor Campbell pointed out that Georgetown and Seaford are presently experiencing very volatile residents speaking at a Council meeting. They are yelling and cursing and when the gavel came down, they do not stop.

City Clerk said it also needs to be determined whether the comments would only apply to agenda items. It was not a time for a free for all. There was 15-minutes designated at the beginning of the meeting.

Solicitor Rutt said the requirement at Sussex County is to sign up in advance and provide your name, address and the agenda item they want to comment on.

City Manager Whitfield expressed concern about residents who want an answer to a question, which should not be allowed. It should not turn into a debate and instead, an opportunity for give their opinion on a matter.

There was a recommendation that the monthly reports also be included in the consent agenda because the information is provided in advance.

Council Rules of Procedure

A discussion followed about public input and Council agreed that anyone that spoke could only address agenda items. They also agreed to designate a 15-meeting time frame with a three-minute limit per speaker. Solicitor Rutt suggested any sign up in advance of the meeting on a clipboard, with their name, address and topic. The city clerk would then announce each speaker.

City Manager Whitfield said he has also seen it where the public comment period can be held at workshops, committee meetings or any meeting of Council and it was confirmed that it should only occur at a formal Council meeting.

Under FOIA, public comment is not required. However, it is allowed, it must be open to anyone but perimeters can be set. Maximum time and comments restricted to agenda items.

Solicitor Rutt had some other comments. Under the executive session, 1) calls it to order in open session. 2) motion to enter executive session and that should also say in open meeting.

Under new business, it says presentation, city council discussion, questions. Then it says deliberations and he recommends eliminating deliberations.

He would also eliminate adjournment because that occurs when Council is back in open session and is already listed as an agenda item.

Under public hearings, most jurisdictions including Georgetown, Seaford, Milton and Sussex County Council do this, when the public hearings are called to order, the Mayor would announce the public hearing and then turns it over the solicitor who runs the public hearing portion. At the end of the public hearing after public comments are taken, he would turn it back to the Mayor for deliberations and a vote.

When asked if council takes comments prior to the public hearing, or after, Solicitor Rutt said it would be after. During the course of the public hearing on zoning applications where public comments are required, if a councilmember has a question of the applicant, that Councilperson asks to comment and then asks the question and keeps the question on what is there in front of them.

Solicitor Rutt emphasized that any comments by Council need to be on the application and not about riding by a property and observing that. It is also improper to comment about they really like what the developer is doing, for example.

Councilman James said rules of procedures are great and there is a need to embrace it to allow Council to be much more productive during their meetings.

Solicitor Rutt said he recommends turning the public hearings over to the solicitor to run that part. Then it is turned over for a vote.

Solicitor Rutt said that at last night's Planning Commission meeting, there was 25 people or more that sat here for more than an hour while they addressed technical issues. One of the problems was two members were participating virtually. One member was on vacation, one member never shows and two members were virtual. Three were in the Council chambers but nothing could occur. The virtual meetings are for public accommodation and not as much for the member accommodation. Under the virtual meeting statute in Title 29, 1006(a) titled open meetings, virtual meetings, reasonable accommodation for members with a disability. It states that a member attending a meeting through the use of an electronic means of communication, as a reasonable accommodation, is considered present for all purposes as if the member is physically attending.

Solicitor Rutt said if available, Councilmembers should attend. It is a bad look for the public if you are not. If it is an Emergency, on vacation, at work or for some reason you have to stay home with a sick child, that is a reasonable accommodation.

Councilmember Culotta agrees that everyone lives in town and there should be an effort to be here. However, we are in a new age and the technology is here. Just because something didn't work does not mean we change our policy. He said we paid a lot of money for this technology. If that means and Dale and his staff need to be here for every Council meeting because it is a live event, then so be it. But where we are with technology today, he should be able to attend the meeting from anywhere.

Solicitor Rutt said his point is that if everyone had been here. With a quorum, that agenda could have been amended and some things, like a vote on a final site plan that had no public input, could have been done. It was a very bad look in his opinion and many people grumbling.

Because a council meeting is an event, Councilmember Culotta feels the necessary support staff should be instantly available should there be a problem.

City Manager Whitfield noted there is proposed legislation that will require a quorum of members at the site of the meeting before it could be called to order.

Solicitor Rutt also added that under the parliamentary or additional procedures and some of the things here, one of the things he has noticed is a lot of unnecessary discussion. First, Mayor Campbell runs the meeting and he has the ability to cease or limit discussion that is unrelated.

At the last meeting, there was a lot of discussion about a stop sign on South Walnut Street. There was no motion and what happened is Mr. Puddicombe made a suggestion or recommendation to authorize DelDOT do a traffic study.

That is what should have been voted on. Councilmember Fulton said he made the motion and it passed. Solicitor Rutt said eventually, but there was a long discussion of fifteen minutes on everything but the recommendation.

Councilman Culotta said there was a lot of people that showed up and he receives calls all day long from people on South Walnut Street that say speeding and safety is an issue. He said it is his job to present those concerns during the meeting.

Solicitor Rutt said now that is going to DelDOT and it will come back with something and that discussion will occur again. Everything that was said in that fifteen minutes that none of us will ever get back, is gone and will be said again. He is only suggesting to think about that because at the end of these meetings, when Councilmember are complaining they have been here four hours. He suggests that Council think about what is before them, what has been requested and in that instance by staff, or is there a motion and what is the discussion. Just kind of reel it in to prevent these long conversations where information is repeated again and again.

Councilman Culotta said the Mayor is in control and he has the gavel whether someone speaks too long or a Councilmember rambles on too long.

Councilmember complained that a Councilmember could go on and on, then another Councilmember could speak after every other Councilperson speaks and asked if there is some rule or procedure that needs to be considered with regard to how often or how much a Councilperson speak.

Solicitor Rutt said under Robert's Rules, there are two opportunities for discussion. Nothing more. Councilmember said he would like to see the rules enforced uniformly.

City Clerk Hudson also pointed out that in parliamentary procedure, one member talks and is unable to talk again until every other member has had an opportunity to speak, should they choose to talk. Council agreed to try and abide by that.

Councilman Culotta said as a politician he needs to say things, or make things clear in a Council meeting. Then if it is controversial or that popular it can then be relayed in the news. But it is the Mayor's job to say we are done with this discussion. Councilman James does not feel it is fair to Mayor Campbell to require him to hit the gavel constantly throughout a meeting, and some professional courtesy is needed.

CIP Review

City Manager Whitfield referred to the updated CIP list and asked if there are any other items that are needed or that should be removed.

Councilman Marabello asked if the public bathrooms are listed. He asked if they are planned for the park area and would like something downtown so they can be used during the many events that occur there. Mr. Whitfield explained that P&R Director Dennehy suggested placing it next to the pump station on Washington Street, though that does not mean that is the best location. It is still open for debate, but there is a money for one included in the current CIP.

P&R Director confirmed the bathrooms at Tony Silicato Park are open during daylight, and typically 6:00 am to 9:00 pm. They are set up on a timing system with control panels and locks and opens on its own. The City's cleaning crew handles the maintenance and based on the time of the year, is cleaned anywhere from three to five times a week.

It was suggested that if a standalone bathroom is placed in the park, an ATM should be added in the area as well.

Councilmember Fulton said that during the break, they talked about having internet open for people to use and he does not see it. City Manager Whitfield said he will add that. He explained that if we want to provide free broadband city wide or certain areas, there are issues that need to be addressed first, including the Public Services Commission. Councilmember Culotta said if he can get it at his house, why would he pay Comcast.

Mr. Whitfield said we can determine what is legal for the City to do and what it could cost and how to implement it.

The CIP is on the April 25, 2022 agenda for adoption.

There being no additional items on the agenda, the Workshop concluded at 7:36 p.m.

Respectfully submitted,

Terri K. Hudson, MMC
City Clerk/Recorder