

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
April 22, 2019

Milford City Council held a Public Hearing on Monday, April 22, 2019 in the Joseph Ronnie Rogers Council Chambers at Milford City Hall, 201 South Walnut Street, Milford, Delaware.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilmembers Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson

Mayor Campbell called the Public Hearing to order at 7:06 p.m.

*Ordinance 2019-08  
Amends the Zoning Code of the City of Milford  
Chapter 230 Section 230-21(b)  
Article IV - Off-Street Parking and Loading/Medical and Dental Offices or Clinics*

Planning Director Rob Pierce stated that on July 14, 1997, Council approved an amendment to section 230-21(b) of the zoning code that changed the calculation for medical and dental offices or clinics from “1 per 100 square feet gross floor space for medical and dental offices or clinics” to “1 per 150 square feet of gross floor area for medical and dental offices or clinics.” It appears there was an error during the codification process and the language to be stricken was actually incorporated into the code book.

In the manner in which it is written, it appears there is an option for a range between 1 per 100 square feet gross floor space to 1 per 150 square feet of gross floor space. Because of the length of time that has passed since the adoption, it is being presented again to clarify the intent.

The ordinance was reviewed at the Planning Commission during their April meeting at which time they approved the amendment by a unanimous vote of 4 to 0.

Mr. Pierce reiterated that the change will allow for medical and dental offices or clinics to allow the parking requirement to be one per 150 square feet of gross floor area and revert to what was intended under the 1997 amendment.

Councilman Culotta asked why it was changed in 1997 from 100 to 150; Mr. Pierce explained that one per one hundred requires a significant amount of parking for a medical office which is actually excessive or more parking than is needed, in addition to reducing the amount of impervious surface.

Councilman Culotta asked what happens if more parking is desired; Mr. Pierce said more parking is permitted, though the minimum is one per 150 square feet. The maximum would be based on amount of impervious surface allowed.

Mayor Campbell opened the floor to public comment; no one responded. The public comment session was then closed.

Councilmember Boyle moved to adopt Ordinance 2019-08 as presented, seconded by Councilmember James:

**ORDINANCE 2019-08**  
Amends the codified Zoning Code of the City of Milford  
Article IV - Off-Street Parking and Loading pertaining to Medical and Dental Offices or Clinics

WHEREAS, on July 14, 1997, the City Council of the City of Milford (the "City Council") adopted an ordinance that amended Chapter 230, Zoning Code, Article V, Section 2, Subsection B; and

WHEREAS, it has been discovered that a codification error was made and the language to be deleted remains in Chapter 230, Zoning Code; and

WHEREAS, from time to time, Chapter 230, Zoning Code has been amended, language added, repealed and stricken; and sections and subsections renumbered; the last occurring on May 29, 2012 when Ordinance No. 2012-07 was adopted; and

WHEREAS, City Staff wishes to clarify the original intent of the Ordinance, now reflected in Chapter 230- 21(B), by striking ‘from 1 per 100 square feet gross floor space for medical and dental offices or clinics to’;

WHEREAS, City Council now desires and proposes to amend Chapter 230-21(b) by correcting said codification error and upon adoption of this Ordinance, will have the same legal force and effect it intended when it was adopted on July 14, 1997.

The City of Milford hereby ordains:

SECTION 1.

That Article IV-Off Street Parking and Loading, Section 230.21(b), currently reads as follows:

Medical and dental offices or clinics [**Amended 7-14-1997**]

From 1 per 100 square feet gross floor space for medical and dental offices or clinics to 1 per 150 square feet of gross floor area for medical and dental offices or clinics

SECTION 2.

That Article IV-Off Street Parking and Loading, Section 230.21(b) shall be modified where language deleted is shown stricken as follows:

Medical and Dental Offices and Clinics [ <b>Amended 7-14-1997</b> ]	<del>From 1 per 100 square feet gross floor space for medical and dental offices or clinics to</del> 1 per 150 square feet of gross floor area for medical and dental offices or clinics
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SECTION 2. Dates.

City Council Introduction: April 8, 2019

Planning Commission Review: April 16, 2019

City Council Review/Public Hearing: April 22, 2019

Motion carried.

*Ordinance 2019-12*

*Amends the Zoning Code of the City of Milford*

*Chapter 230 Section §230-11*

*R-3 Garden Apartment and Townhouse District*

Mr. Pierce explained that this would amend Chapter 230-11 regarding the R-3 District.

The proposed code amendment would allow a tiered approach for conditional uses for the R-3 zoning district, similar to what is provided for the permitted uses in the R-1, R-2, R-3 and R-8 zoning categories. There is similar language in the R-2 zoning category that also allows a tiered approach and states that all R-1 conditional uses are also conditional uses in the R-2 zoning district. However, that language was not incorporated into the R-3 section.

The amendment would allow the conditional uses in R-1 and R-2 be conditional uses in R-3. Daycare centers, professional home occupations, schools, churches, social clubs, civic organizations, cultural facilities, and bed and breakfast operations would be allowed in the R-3 zone with a conditional use approval by City Council.

This ordinance was also unanimously approved by a 4-0 vote of the Planning Commission with an amendment recommended by the City Solicitor. Mr. Rutt recommended replacing the section that references the R-2 district, with R-1 and R-2 districts for the purpose of clarifying that both R-1 and R-2 would be permitted in the R-3 zone.

Councilmember Peel confirmed that conditional use approval will still be required; Mr. Pierce confirmed that is request and explained this amendment is the result of an applicant interested in starting a daycare in an R-3. And though they are permitted in R-1 and R-2 districts with a condition use. This would now allow it to be permitted with conditional use approval.

Council will see the conditional use application in an R-3 district at a future meeting.

Mayor Campbell opened the floor to public comment. No one responded and the floor was closed to public comments.

Councilmember Boyle moved to adopt Ordinance 2019-12, amending Section 230-11 and allowing any conditional uses approved in the R-1 and R-2 districts be added to the R-3 district as conditional uses, as recommended by the Planning Commission, seconded by Councilmember Peel:

**ORDINANCE 2019-12**  
CODE OF THE CITY OF MILFORD  
PART II-GENERAL LEGISLATION  
CHAPTER 230-ZONING  
ARTICLE III-AREA AND USE REGULATIONS  
§230-11 R-3 Garden Apartment and Townhouse District

WHEREAS, the City of Milford has adopted a Zoning Code and one of its purposes is to create districts for said purposes to promote the health, safety, morals and general welfare of the City of Milford; and

WHEREAS, the specific zones and regulations are designed to facilitate adequate provisions of utilities, schools, parks and housing and open space; to lessen congestion on streets and facilitate the safe movement of traffic thereon; to provide safe pedestrian walkways; to stabilize and enhance property values; to prevent the overcrowding of land; to facilitate adequate provisions for doing public and private business and thereby safeguard the community's economic structure upon which the prosperity and welfare of all depends to help ensure the safety and security of home life, foster good citizenship, create and preserve a more healthful, serviceable and attractive municipality; and

WHEREAS, the City Council finds that adding the conditional use requirement meets those objectives in addition to assuring the criteria is appropriate and consistent in comparison to other districts within the City of Milford Zoning Code.

The City of Milford hereby ordains:

Section 1. Section 230-11(C) of the Zoning Code of the City of Milford is hereby amended by inserting language shown as italicized and underlined and removing language indicated by strikethrough.

§ 230-11. - R-3 Garden Apartment and Townhouse District.

In an R-3 District no building or premises shall be used and no building shall be erected or altered which is arranged, intended or designed to be used except for one or more of the following uses and complying

C. Conditional uses subject to special regulations. All uses specified as conditional uses in the R-2 District and subject to its area regulations, and the ~~The~~ following uses may be permitted with the approval of a conditional use permit by the Milford City Council in accordance with the provisions of Article IX of this chapter:

Section 2. Dates.

Council Introduction April 8, 2019  
Planning Commission Public Hearing April 16, 2019  
City Council Public Hearing April 22, 2019

Motion carried.

*Southeast Neighborhood Master Plan/Transportation Improvement District*

Mr. Pierce advised that DelDOT's Planner Sarah Coakley was in attendance as a follow up to the presentation related to Transportation Improvement Districts.

He again reminded Council that the establishment of a Transportation Improvement District is a goal and objective of Milford's Southeast Master Plan, which was prepared and adopted by City Council in 2011 and re-emphasized in Milford's 2018 Comprehensive Plan adopted in January 2018.

Mr. Pierce noted that the City is obligated by the agreement to solicit public comments related to the initial level of service standards. He offered to again present the level of service standards and review those details. However, those standards may change as they proceed with the process over the next six months as they finalize the projects and associated fees with the TID.

Ms. Coakley stated the first item is called the service standard which is what DelDOT will aim for when identifying needed transportation improvements within the TID. It is a measure of delay at intersections and is comparing the number of seconds that vehicle has to wait in line queuing up to an intersection, stopping, going through the intersection and speeding back up to the speed limit. If everyone was going the speed limit and not having to slow down and going straight thru would be zero delay. It is based on the speed limit and other related factors.

Absent the TID, DelDOT plan identifies improvements looking at the comprehensive plan and working with the Dover Kent County Metropolitan Planning Organization. They also have a planner assigned to each of the three counties. Both the Kent and Sussex County work together in Milford to identify projects.

As each individual development comes in, they are required to maintain a level of service D, which is no worse than a 55 second delay per vehicle at controlled intersections. This TID agreement maintains the level of service D criteria within the TID boundary.

Individual approaches can still be E or F. They would not leave it that way and instead come back with a list of proposed improvements as are shown on a map.

Discussions are then held about potential funding for additional work to make each approach level of service D or leave at E or F.

As a result, the agreement aims for D and if that is not meant, they will be back to discuss how to move forward.

She stated that for all facilities, 95th percentile queue lengths should not exceed available turning lane lengths and through movements should not queue through adjacent intersections.

Ms. Coakley continue to review other factors and service standards including the coverage of all state-maintained facilities, including intersections with City streets.

Currently there are two intersections that do not meet the level of service criteria at Route 113 and Fitzgerald and Johnson Road and Route 1 and Sharps Road and the first locations where improvements would be identified.

DelDOT will be reviewing several areas to lower the speed limit to 35 miles per hour once the agreement is signed.

- \* Cedar Creek Rd, from Cedar Creek north, to 35 mph
- \* Wilkins Rd/Cedar Neck Rd, from SR1 overpass to Elks Lodge Rd stop sign, to 35 mph
- \* Elks Lodge Rd, from Wilkins Rd to Marshall St, to 35 mph

All transportation manual design standards would govern the identification of improvements.

DelDOT Functional Classification Map, design standards, and Complete Streets Policy are assumed and minimum lane widths for State-Maintained Roads:

- \* 11-foot through lanes
- \* 10-foot turning lanes (12-foot for two-way left turn lanes, 15-foot for a right turn lane if a 5-foot bicycle lane is included)
- \* 5-foot shoulders on local roads
- \* 8-foot shoulders on collector and minor arterial roads
- \* 10-foot shoulders on principal arterial roads

Subdivision streets in the City would be dedicated to the City and be maintained privately or by the City. DelDOT's coordination manual will apply to any state-maintained streets and access to state-maintained roads.

DelDOT's Development Coordination Manual applies to access on State-maintained roads

Subdivision streets in City will be built to City standards and for private or municipal maintenance

Crash data will be reviewed and the Delaware Manual on Uniform Traffic Control Devices and other criteria as adopted by DelDOT will be used for intersection control evaluation and design

Roundabouts shall be considered first as a means of intersection control, along with safety, capacity, and rights-of-way/property impacts.

They work with DART to consider any new bus stops and will consider the objectives of Milford's Southeast Master Plan.

There is a scenic byway that goes through Milford on Cedar Creek Road and Route 1 Business and Southeast Front Street and if there is a corridor management plan for those roads, they would consider that in the recommendations.

Inadequate drainage is known to exist and shall be addressed on Wilkins Road between Elks Lodge Road and Cedar Creek Road.

The City's Bicycle and Pedestrian Master Plan will also be reviewed when making design decisions related to bike and pedestrian facilities.

After the agreement is signed, the Master Plan and the Comprehensive Plan will be reviewed for bike and pedestrian plans in the southeast neighborhood. An inventory of state roads will also be done within the TID area for lane and shoulder widths, etc. A list and mapping will be generated showing what roads will be improved. Cost estimates will also be proposed.

DelDOT will also model the future land use plan from the Master Plan in order to figure out in 2045 what would be needed, if everything was built out.

The modeling process can take a few months to complete. After that she will plan a series of meetings to present different options for improvements.

Mayor Campbell opened the floor to public comment, as is required in the agreement. No one responded and the hearing was closed.

Councilmember Peel moved to authorize the DelDOT Transportation Improvement District Agreement, seconded by Councilmember Boyle. Motion carried.

There being no further business, Mayor Campbell adjourned the meeting at 7:29 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder

MILFORD CITY COUNCIL  
MINUTES OF MEETING  
April 22, 2019

A Meeting of Milford City Council was held in the Joseph Ronnie Rogers Council Chambers at Milford City Hall on Monday, April 22, 2019.

PRESIDING: Mayor Archie Campbell

IN ATTENDANCE: Councilpersons Christopher Mergner, Mike Boyle, Lisa Ingram Peel, Todd Culotta, Owen Brooks Jr., Douglas Morrow and Jason James Sr.

STAFF: City Manager Eric Norenberg, Police Chief Kenneth Brown and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmember Katrina Wilson

#### CALL TO ORDER

Mayor Campbell called the Council Meeting to order at 7:31 p.m.

#### INVOCATION AND PLEDGE

The Pledge of Allegiance, followed the invocation was given by Councilmember James.

#### RECOGNITION

##### *Proclamation 2019-05/Municipal Clerks Week*

City Clerk Terri Hudson and Deputy City Clerk Christine Crouch were recognized for the 50<sup>th</sup> Anniversary of Municipal Clerks Week.

City Manager Norenberg read the following proclamation into record:

WHEREAS, The International Institute of Municipal Clerks (IIMC), a professional nonprofit association with 14,500 members comprising City, Town, Township, Village, Borough, Deputy and County Clerks throughout the United States, Canada and fifteen other countries, celebrates its 50th Anniversary of Municipal Clerks Week this year; and

WHEREAS, Beginning in 1969, IIMC sponsored Municipal Clerks Week and in 1984, Ronald Reagan was the first President to sign a Proclamation officially declaring Municipal Clerks Week the first full week of May, thus publicly recognizing the essential role Municipal Clerks play in local government, and the importance of their responsibilities; and

WHEREAS, The oldest professional among public servants, the Municipal Clerk's primary function is to serve as the Mayor and Council's foundation, while preparing agendas, publishing legal notices, recording and transcribing meeting minutes, drafting ordinances and resolutions, preserving historical records, administering elections, protecting the City seal, and ensuring compliance with local, state, and federal requirements in relation to contracts, grants, and other official documents and acts, all while serving as the clearinghouse for information about the City and its community; and

WHEREAS, Municipal Clerks pledge to be ever mindful of their neutrality and impartiality, rendering equal service to all; and

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education sessions, workshops and meetings of their state and international professional organizations.

WHEREAS, This celebrated week is an appropriate time to recognize the exceptional accomplishments of this municipality's Office of the Municipal Clerk, and in particular City Clerk Teresa Hudson, Master Municipal Clerk and Deputy City Christine Crouch, Certified Municipal Clerk.

NOW, THEREFORE, I, ARTHUR J. CAMPBELL, MAYOR OF THE CITY OF MILFORD, do hereby recognize the week of May 5 through May 11, 2019, as Municipal Clerks Week, and extend my appreciation and applaud the untiring work ethics of Municipal Clerk Teresa Hudson and Deputy City Clerk Christine Crouch, and to all Municipal Clerks for the vital services performed and their exemplary dedication to the communities they represent.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 22<sup>nd</sup> day of April in the Year of Our Lord, Two Thousand Nineteen.

The proclamation was presented to Ms. Hudson and Ms. Crouch.

*Proclamation 2019-09/Economic Development Week*

City Manager Norenberg read the following proclamation into record:

WHEREAS, economic developers promote economic well-being and quality of life for their communities by creating, retaining, and expanding jobs that facilitate growth, enhance wealth, and provide a stable tax base; and

WHEREAS, economic developers stimulate and incubate entrepreneurship in order to help establish the next generation of new businesses, which is the hallmark of the American economy; and

WHEREAS, economic developers are engaged in a wide variety of settings including rural and urban, local, state, provincial, and federal governments, public-private partnerships, chambers of commerce, universities, and a variety of other institutions; and

WHEREAS, economic developers attract and retain high-quality jobs, develop vibrant communities, and improve the quality of life in their regions; and

WHEREAS, economic developers work with passion and dedication here in the City of Milford, Delaware; and

NOW, THEREFORE, I, Arthur J. Campbell, Mayor of the City of Milford, Delaware, do hereby proclaim May 6 to 11, 2019 as "National Economic Development Week" and recognize the contributions of our community economic development partners, including Downtown Milford, Inc. and the Chamber of Commerce for Greater Milford, salute the City of Milford staff engaged in Economic Development, and in particular Rob Pierce, and remind community members and business persons of the importance of this community celebration that supports expanding career opportunities and improving quality of life.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Milford to be affixed hereto this 22<sup>nd</sup> day of April 2019.

He then recognized Planning and Economic Development Director Pierce for his work with the City Manager and other economic partners in Delaware.

*Proclamation 2019-10/Honoring Outgoing Councilman Christopher Mergner*

Mayor Shupe recognized Councilman Mergner presenting him with the following proclamation:

WHEREAS, Sworn in by the Honorable William J. Walls, Jr. on June 23, 2014, Christopher H. Mergner has served as a Councilman for the City of Milford after being elected to fill the remaining term left vacant by then newly elected Mayor Bryan W. Shupe; and

WHEREAS, Christopher H. Mergner has served as a member of the Community Affairs, Public Works, Finance, Economic Development, Annexation and Charter Review Committees during that period of time; and

WHEREAS, Christopher H. Mergner also served as Milford's representative on the Kent Economic Partnership Committee beginning in 2016, providing outstanding public service to the residents and businesses in Central Delaware through his conscientious efforts; and

WHEREAS, major accomplishments have taken place during his tenure as a Councilmember of the City of Milford, including the planning and completion of the \$314 million Bayhealth Sussex Campus, riverwalk and greenway expansions, formation of private/public partnerships, initiation and implementation of downtown revitalization efforts, redevelopment of vacated subdivisions, approvals of major healthcare projects, essential transportation improvements and other capital needs; and

WHEREAS, Christopher H. Mergner has decided not to seek re-election to Council and his term expires on May 6, 2019, and

WHEREAS, Christopher H. Mergner has devoted his time and attention to these important functions and has served well in his capacity as a member of City Council.

NOW, THEREFORE, BE IT HEREBY PROCLAIMED BY THE MAYOR AND COUNCIL OF THE CITY OF MILFORD, IN COUNCIL MET:

1. The Mayor and Council express their extreme appreciation to Christopher H. Mergner for devoting his undivided attention and rendering his guidance and leadership ability to the City of Milford over the past five years.
2. Christopher H. Mergner is hereby recognized and commended for many outstanding accomplishments during his tenure as Councilmember made possible by his commitment, devotion, thoroughness, good judgment, integrity and concern. Best wishes are extended to him in his future endeavors.

Councilman Mergner spoke about his time on Council, adding that he took this opportunity to be more active in the community. He thought I was a great ride and will miss his economic involvement. He acknowledged the City Department heads adding that he will be around and hopes to become involved in something similar in the near future.

#### COMMUNICATIONS & CORRESPONDENCE

Included in packet.

#### UNFINISHED BUSINESS

No items to discuss.

#### NEW BUSINESS

##### *Approval/Milford Little League Agreement*

Work continues on the agreement and the Little League Board is currently reviewing the most recent draft. Once they have provided their authorization, the agreement will be presented to Council for ratification.

##### *Carlisle Fire Department Quarterly Update*

President Kevin Donovan introduced himself noting that though the agenda reflects a quarterly update, he was under the impression they were reviewing their financials. He introduced Duane Fox, Past Chief and Chief Engineer, who will be presenting the information.

He noted that a document was provided today and apologized for being late.

Mr. Fox said he has been a member of Carlisle’s Board for several years during which time the fire department has gotten much busier. He then provided the following statistics:

	2016	2017	% Increase	2018	% Increase	2019 (Projected)*
<i>Fire Calls</i>	476	564	18%	664	18%	700+
<i>Ambulance</i>	2,850	2,933	3%	3,140	7-8%	3,400

*\*Based on 2019 First Quarter*

Mr. Fox explained that although they are called a volunteer fire department, it is really a combination fire company due to having paid staff. Due to the small number of EMT volunteers, they would not be able to provide the ambulance service currently available through the company.

Of those totals, 75% of their runs are within the City of Milford due to the increase in commercialization. In addition, they respond to automatic alarms, EMS calls, fire and public assist calls.

In addition, they have a dedicated number of volunteers who are fire police. They typically put out more than 1,000 volunteer hours per year by helping with parades, funerals, car accidents and city calls (traffic lights, electric and utility emergencies). Doing this allows the police officers to leave those scenes and back to patrol.

Of the projected 3,075 calls within the limits of Milford, 525 will be fire calls, 2,550 will be ambulance calls which equates to 8.5 calls per day. They have 24-hour EMS coverage on one rig and just added a second 12-hour rig in order to cover the number of runs. Carlisle employs two full-time EMT’s and the balance of 17 part-time employees. They also have a paid secretary/supervisor that costs a total of approximately \$450,000 a year to cover the runs in the City of Milford and the little bit of county in their jurisdiction. As a result, they pay \$335,000 (or 75%) to provide paid staff solely in the City of Milford.

An average ambulance call runs \$700 a run though they only receive a 60% return and even less when considering Medicare and Medicaid. Medicaid will pay the fire company \$75 for a \$700 ambulance run and cannot be billed higher. Medicare pays a certain percentage though the balance can be billed.

The fire company offers an ambulance club, which is a way to offset related costs over the year. Today that membership is \$50 and any additional fees that due after the insurance is billed is waived for members.

He recalled several yeas ago, under City Manager Dick Carmean, the City started charging the fire company utilities. Prior to that, they did not pay for water and electric. As a result, the contribution was slightly higher to offset that cost. From 2001 to 2003, the fire company was receiving \$52,000. Following they received the below amounts:

2004	\$77,000
2005-2006	\$102,000
2007	\$200,000 (to purchase a tanker and pumper)
2008-2009	\$150,000

Following the economy downturn, Council asked Carlisle Fire Company to reduce their contribution. The fire company was very willing to do that.

Mr. Fox said that was a gentleman’s agreement because there was nothing in writing. Also, during that time, the City promised to give them the money that was saved over those years at a future date. As a result, it was decreased to \$140,000. They have received that amount up to January 2018.

In 2019, they received zero dollars.

Mr. Fox took into consideration the prior increase of 40-45% when the fire company went from \$77,000 to \$102,000, though he realized that was unreasonable. He then considered a 10% increase which would result in a \$300,000 payment today.

Mr. Fox looked at the number of residential units in Milford which was based on the number of water meters. The water department explained there are water customers outside of the City though that number is not as large in comparison to electric customers. As a result, there are about 3,840 residential units that are metered/billed in the City of Milford, 615 commercial units of which 13 belong to the City.

He then used \$50 a unit which calculates to \$192,000 a year to protect those units. To protect the brick and mortar commercial units, which the fire company does on a regular basis, is \$150 or \$92,250 for a total of \$284,250.

As a result, the fire company is asking the City to provide \$290,000 this year. Of that, the City will get back \$35,000 to \$40,000 for utilities, which reduces that number to \$250,000 to \$255,000.

Mr. Fox emphasized that does not pay for the EMS staff that cost \$332,000 and that is where the City's money will be used to provide EMS service to the residents within the City. They will continue to volunteer to provide fire service though young kids don't want to do it anymore. He himself may have ten or so years left which will put him close to 70. There is a big gap of firefighters that have ten and thirty years of experience.

He noted that there is a nursing home, dementia unit, veterans' home and a hospice in Milford, in addition to the proposed assisted living/nursing home at the Milford Hospital, adding that all those patients have to be transported to the Bayhealth. In addition, there are more planned residential units in Milford. All of that straps the fire and police departments. They can only hope that when the fire whistle blows, firefighters show up.

Mr. Fox said he is asking from the City, a fair and balanced figure of \$290,000.

A discussion followed that \$100,000 was appropriated in the current budget and they have been negotiating a contract, as was done, with all other non-city entities, for many months. The plan approved by Council was for \$100,000 to come out of the general fund and \$40,000 to come out of the enhancement fund thru a potential increase of .25% (from .25 to .50%). However, that the fire company representatives did not agree to that which required other discussions and negotiations.

When they were asked what they do with the money from the City, their response was that it was none of their business. Mr. Fox explained that they were asked what the fire company has done with the \$1 million provided them over the past ten years.

Mr. Fox explained that every year, the fire company comes before City Council and requests funding requests and provides information on where the money has been spent. Their secretary has the documentation which is provided annually every year.

However, he does not feel the Carlisle Fire Company should have to again present the same presentations from the past nine years when they have already heard and seen that documentation. He said the fire company tell them every year where the money is spent.

Mayor asked if representatives canceled at least four to five meetings; Mr. Fox said he does not know that but he has attended every meeting he is supposed to come to. The fire company was asked if the money from the City was used for capital or operating expenses and they were told that is not for the City to ask.

Mr. Fox said he did not say that when he sat here during the one meeting.

Mayor recalled Carlisle asking for the money in the enhancement fund and the City stated that they would have to look into whether or not that could be handled in that manner. That was one of the meetings that no one showed up. Four refusals followed after which a meeting was held in which nine people were in attendance.

There was discussion about whether the agreement correlates with the funding; he does not remember tying any money to a written agreement.

Solicitor Rutt explained that the agreement that is being worked on, along with Carlisle's Attorney Rogers, lays out how Carlisle Fire Company and the City interact moving forward, in terms of budget request timing, information provided, etc. Mr. Rutt pointed out they are the largest recipient of funds. It talks about how the money is to be used, public outreach programs, etc., in addition to how the enhancement fund is to be addressed. Under the current enhancement fee ordinance, Mr. Rut said he looked at the history of the ordinance. In the last version he received from Attorney Rogers, states the enhancement fund in total would be turned over to Carlisle though that is not what the ordinance states.

The current draft does not tie the actual appropriation from last year to the contract.

Councilman Brooks and Morrow feel it is bad faith to hold the money over the head. They agree the contribution is not tied into the contract.

Councilman James recommends that Council conducts themselves in a meaningful manner when this is being discussed. If he understands this correctly, the 2019 donation is what has not been provided.

Mr. Fox said it is weird because the fire company comes before Council in April and it is never paid until the following January.

Councilman James confirmed that the money that has not been issued is not related to the contract that is being considered and instead was under the contract in place at the time. Councilman Morrow said there never was a contract.

Solicitor Rutt said there had been some agreements in the past.

Mr. Fox explained that before the lengthy contract, the fire company had a two-page contract in which the appropriated amount was stated in that contract which required them to provide service to the City of Milford. Every year, they have been asked to account for the money and each year when they show up during the budget meetings, they account for last year's money and inform Council what they will use the money for this year.

He noted that last year, their representatives did not understand some of the perimeters that is placed on how they ask for money and they made a mistake and asked for a capital improvement. He further stated that the City's money is only 10% of their total working budget. He just told Council the fire company will spend all that money in employees every year. Instead, they are nice enough to break it down.

Mr. Fox said they were told only \$100,000 would be provided this year; and they would receive \$40,000 of their own money. He added that the money put in the Carlisle Fire Company Enhancement Fund cannot be touched except to give it to the fire company and the agreement presented years ago when this came up.

Mr. Fox explained that this was recommended years ago because Sussex County started doing the same thing. Carlisle had some members that felt they were missing out on the Kent side because they do not do it. The representatives approached the City Manager at the time and hammered out an agreement ordinance and what he had been told, though he was not in those negotiations, is that money is available for Carlisle to use though it has to be requested and the City prefers it be used on capital expenses. In the meantime, the City is going to put it into an account and collect the interest.

He noted that Sussex County gives them the funding every year and the fund starts again each year. However, it is divided between eighteen other fire companies in Sussex County. However, they happen to be a Kent County fire department by location, so they only get half of the enhancement money that comes from the building fund in Sussex County. It is actually split up 18 and a half times and after a certain figure, you receive whatever has been built in your territory.

He said that Carlisle has also asked for money from that enhancement fund at different times. They are willing to do that until that is how they get funding. Now, the City is taking away from his funding that is for special projects and giving that as part of the appropriation which does not set well with him.

Pointing out that all firefighters have other jobs and other obligations, he is sure that is why they weren't showing up for meetings. He recalled that Mr. Donovan tried to find people and had scheduled meetings that were moved because there were not enough people to attend and he did not want to waste the City's times with only one or two people.

According to Mr. Fox, the enhancement fund was offered to them in full. When asked how much is in it, Mr. Fox said he is unsure because at the time, the fire company was having to pay an attorney to figure out why the City was giving away that money by not making Bayhealth pay that fee. He recalled the City asked the fire company if they were willing to waive the enhancement money. First of all, they should not have been put in that position because it is not their ordinance. Because now, Bayhealth is not happy with Carlisle Fire Company because they made them pay \$300,000 into that enhancement fund that they were trying to save. He said that ordinance and agreement states that everyone pays into that fund. They built a building to house the ambulance and they paid that enhancement fund.

Councilman James wants to maintain some order so that he can understand what it is he is trying to decide. He is hearing is that there is an enhancement fund, which is separate from the budget appropriation, and there was a two-page agreement up until some point in time and asked when that ended. And there is a current agreement under negotiations.

Councilman James asked when the two-year agreement ended or did it exist until some point in time.

Mr. Fox said that was in effect until sometime in the middle of 2018. After that, the new proposal was presented. However, the fire company still received the two-page agreement because they were still negotiating and instead accepted the two-page agreement they had forever.

They are still under negotiations and they just received the agreement a week or so ago.

City Manager Norenberg recalled when this was discussed during the budget adding that it was never said they would take the \$40,000 from the enhancement fund money. However, an increase to the enhancement fund was considered to generate at least \$40,000 or more. For some reason, that was ruled out by the fire company who did not want the increase.

Mr. Norenberg said the discussion about the enhancement fee with Bayhealth was also mischaracterized. Councilmembers that were present at that time, did not want a conflict between Bayhealth and the fire company. Instead, the City agreed to see if there was a possibility for a compromise and a win-win solution, where the fire company and the hospital would be happy with the results. There was no intent to pick a winner or loser and never wanted to make a decision that neither would be happy with, but ultimately that no-solution was negotiated between Carlisle and Bayhealth and the fee was collected and the balance in the fund as of last month was \$455,000, which is published every month in the finance report.

Mr. Norenberg said there was a section in the draft agreement, which is also included in the two-page agreement Mr. Fox referred to, in some form or another, that states 'if Council awards a grant to Carlisle, it shall pay the grant in full on or before --- date and following the passage of the budget'. That spells out the agreement is part of the granting document.

He also recalled that last year, during June and July, there were new agreements with the Boys and Girls Club, DMI and Milford Museum. It was agreed that all City agreement be consistent because the two-page agreement did not have a lot of the current terms and provisions, etc. that a modern, updated agreement contains. They were trying to standardize the format and content of all four agreements, which is when Mr. Norenberg said down with the President and Treasurer to talk about the new agreement. At that time, the President said they will need to review it and then get back to the City. He asked the agreement be sent electronically and some meetings were scheduled, though several were postponed and canceled, after which Carlisle's attorney became involved sometime in August or September and subsequently, Mr. Rutt because involved as well.

Mayor Campbell recalled that when the budget was being reviewed and Chief was asking for five additional officers, when the Carlisle Fire Company's \$140,000 contribution came up, it was compared to the cost of the five new officers. When that was explained to Carlisle, their comment was that was a bad decision on the City's part. However, Mayor Felt it was a good decision based on the needs of the police.

In the meantime, Mr. Rutt has gone through the contract and many things were different than what has been explained. He said the reason the meetings were canceled is because a FOIA was submitted. When the information was received, it was a huge surprise the amount of money Carlisle has. Its members were very upset about that. And the only reason the FOIA was submitted is because they refused to sit down with the City and talk about those things.

Since then, he has met with them three times with Mr. Norenberg and Mr. Rutt, and it was always the same thing. He said this is what really happened. He said if that is what the agreement said and that is what they were going by.

Councilperson Peel did not realize the City was placing a conditional use on the \$100,000 when it was appropriated. She recalled the discussion about the capital improvement. She said she might be naïve or misunderstood though she was very surprised they had not received the \$100,000. Mayor Campbell recalled the discussions because he was on Council at the time.

Mr. Fox then explained the contract says that City Council, and specifically the City Manager or one of his designees, gets to see their books. He said they have been an incorporated business since 1802. The City's money is 10% of their budget and Carlisle did say they could not see their books, because its none of the City's business.

He said how he saves money and where he pinches pennies to make things happen, because this year, he has to buy a \$1.5 million ladder truck. He asked where is that money coming from though it is not coming from the hospital. Because after that bridge burnt up, they can no longer go there and ask them. And the ladder truck is going to be used on the tallest building in the City of Milford.

Mr. Fox continued by stating that the condition would allow them to see their books and the fire company said no they will not. As a result, the City went to the State Fire Commission which can be done by anyone who submits a FOIA. After they told the City no, that it was really none of their business, they said they would be happy to tell them and they are happy to tell them, as they do every year when they present their needs and where each penny the City gives them goes. He thinks it is fair to do that every year.

However, he said how they spend the state appropriations and how they raise money, is the Carlisle Fire Company's business and he is pretty sure the City is not hunting up other incorporated businesses asking them to show the City their books. If the City wants to run the fire department, he agrees they should see the books, but that includes fire and EMS, but the books are available.

But at 10%, Mr. Fox said that does not warrant the fire company to give their entire books to the City to find out if the 10% is warranted.

Councilman Boyle disagreed explaining that this money is not the City's, but instead belongs to the taxpayers of the City of Milford and asked if he is saying they have no right to know where their money is going. Mr. Fox said that is absolutely not what he said. Councilman Boyle said the City gives to four different organizations and periodically, and typically quarterly the other organizations come in and inform Council what they are doing and provide financials. He cannot understand how this is a burden to come before Council and say this is what we are doing in the best interest of the City of Milford with your money.

Councilman James agreed stating that is what he always thought that was asked upon every organization who receives funding from the City.

Mr. Fox said it was the way it was asked as much as anything. If anyone wants to see his proposed budget, he has no problem with that.

Councilman Boyle further explained that what is being asked is if the taxpayers' money is being used wisely. That information simply reaffirms that and provides reassurance to the taxpayers. But by saying the City cannot see what they do and it is none of the City's business is a bad message to be sending.

Councilmember Peel said there is a distinction between the fire company's overall budget and what we're giving.

Mr. Fox said the \$1.4 million that is spent in the books have to be presented to the State of Delaware because they appropriate the most amount of money. They have no issue at all telling the City where the \$100,000 or \$290,000 goes. They stand before this Council every year and tell them where this money is going to be spent.

But they will not say how they will spend all the money the fire company gets from appropriations through the State of Delaware because they tell the commission that and the auditors office. Mr. Fox said he agrees the citizens should know exactly where their money is spent and they will tell the City that. But how Carlisle invests their money to pay bills to do what they do, is the Carlisle Fire Company's business that is overseen by the commission. That happens because they are volunteers and as can be seen in the newspapers, money does disappear and it is accounted for. But that is not a problem.

He reiterated that every year, they tell City Council where the City's money was spent and the documentation is provided.

Councilman James said he agrees with Councilman Boyle, as he has said to many people out loud, that it is the responsibility of this Council to make sure the taxpayer's money is accounted for, properly documented and they have the right to know where it is going. From what he just heard from Fireman Duane Fox say that is what they are willing to do.

Mr. Fox said the problem is they are being required to turn the books over to the City. It does not say they only continue to provide information on where the \$140,000 has been spent.

Solicitor Rutt referenced the two-page agreement that requires the fire company to furnish personnel, equipment, at its own risk and expense to attend fires and related occurrences in the City and the City in turn agrees to pay Carlisle \_\_\_ dollars. The earlier agreements (early 1990's) indicated specific items the money is to be used for.

According to Mr. Fox, there have been good-faith or handshake agreements with the City, which happens all the time. The fire department is not against a contract, though some of the bits and pieces need to be negotiated.

Mr. Rutt stated that there have been a lot of negotiations, which he considers the document to be a memorandum of understand, which Mr. Rogers and he disagree with as well. There was something submitted, there was a response and a response has gone back. He feels the latest response does not seek all of Carlisle's books and records, but instead seeks other grant requests.

Mr. Rutt noted that any type of grant application he has been involved in, requires what other funding sources have been sought, but he has not had a response from Mr. Rogers.

They do not that Sussex County provides numerous funding pieces that are called different things—such as fire company grants, ambulance grants, though he agrees that Carlisle only receives half of the other fire departments in Sussex County receive.

It is Mr. Rutt's understanding that Kent County also make some type of funding, in addition to the state and other entities.

However, Mr. Rutt does not want a misconception that this is all one-sided from the City to Carlisle because some of the things that came back were a little bit skewed in the other direction. His intent was to lay out the relationship of Carlisle and the City of Milford and make it clear so that people sitting around this table, who may not be here ten years from now would have no questions. That is the reason this needs to be hammered out so that everything is clear and there are no questions later on, because this is a big number for the City of Milford, its taxpayers and Carlisle Fire Company.

Mr. Fox said this is a year contract because the funding is going to be different every year. They will not stay at \$140,000 forever.

Mr. Rutt read from the proposed contract:

If City Council awards a grant to Carlisle, it shall pay the grant, in full, on or before the ---- day of ----- following the passage of the City budget. Carlisle shall use the funds granted as it deems reasonable and necessary in accordance with Section B(2).

He noted that section B(2) is part of the budget request, and how Carlisle intends to use funds requested from the City for the upcoming year.

Mr. Fox said that is the reason he is here. Instead he is here to ask and provide documentation as to why Carlisle needs the money and where the money will be spent. He reiterated that \$290,000 is the request emphasizing that the money will be spent on electric, water and trash of which \$35,000 to \$40,000 is that range. The additional \$250,000 to \$255,000 will be used to offset the cost to provide ambulance service/EMS service to the citizens of the City of Milford. That includes salaries, taxes, etc. included in an employee's pay. That estimated figure is \$332,537.

Council agrees they should receive the \$100,000 earmarked that should have been provided in January.

Councilman Mergner agreed the money should be provided but we need to continue working on the agreement to address these future items so there are no questions and we do not have to go through this again.

Unintelligible conversation.

Councilmember Peel said the \$100,000 was approved in June; Councilman James said that Mr. Fox says the fire company provides a presentation every year. He asked if they had already come or after this became an issue to say how they will spend it.

Unintelligible conversation.

At the time this came up, Mr. Fox stated that President Donovan and then-Treasurer Joe Mriss came before this Council and asked for the same amount of \$140,000 they have always received since 2010.

Councilman James again asked if the \$100,000 approved was after the fire company had done their presentation and provided the information on how the money would be spent or is that what is being done now.

Councilmember Peel said it was supplied in paper.

City Manager Norenberg explained that they were asked to provide this information on the first night of the budget hearings so that Council is able to act more accordingly in planning the remaining budget. Councilman James confirmed that the \$100,000 has been satisfied; Councilmember Peel said yes that is why she is very surprised they never received their money under the conditions that had been set previously. She was not under that understanding.

Mr. Fox said they ask and say this is what they project to spend the City's money on and they do that every year. But the City has not given them any money so no they have not come and said how they will spend no money. But they will come back each year, as they always have, report how it will be spent though it will be on utilities and employees' salaries.

In addition, Mr. Fox pointed out they do that in writing every year. Councilmember James said he understands.

There was a misunderstanding about the two-page agreements and how current they were.

Councilman Boyle said it sounds like there has been a signed agreement and believes there is a need for a signed agreement in place that is needed in the future.

Mayor Campbell summarized stating that the Carlisle Fire Company is given the \$100,000 and Attorney Rutt and Attorney Rogers will settle what will occur henceforth. He agrees the \$100,000 is for 2019.

A discussion then occurred about whether there was a need to vote on the \$100,000 because Council already voted on it though there was a question about issuing a check without an agreement as was done with the other organizations;

Mr. Rutt asked if when the budget was approved last June, the funding was approved for the various organizations and dispersed once the agreements were in place;

Councilman Mergner recalled each coming and talking about what they would use the money for and does not recall a contract being significant.

It was agreed the fire company provided answers to what the money was going to be used for; Councilman James said that is what he is hearing as well. Councilmember Peel said she did not understand there be specific conditions tied to the money.

Again, there were questions about whether a vote was needed; Councilman Morrow argued that it had already been voted on and a vote wasn't needed.

Councilman Boyle pointed out we are now discussing Council procedure and asked if Carlisle's representatives could sit down while this is worked out.

After reviewing the minutes, Solicitor Rutt read portions of the minutes noting that the minutes are somewhat unclear whether the agreement would be tied into the payment:

*The Carlisle Fire Company consideration to increase the enhancement fund fee and reduce the contribution, paid by the general fund to \$100,000. Mr. Norenberg explained it is important to ensure the fire company they will not lose revenue because of the increase to the enhancement fund. Currently it is ¼% thought presently determining the amount needed to guarantee there is no gap.*

*Councilman Morrow agrees that any additional costs they encounter are the result of growth. He recalled several years ago when the police chief proposed a public safety development fund that was identical and the intent was to assist with funding of the new police facility.*

*It was confirmed the enhancement fund could be used for capital expenditures. Councilman Morrow recommends they be combined with some type of performance type tracking system that has been absent over the years. He recommends the same criteria apply to DMI, Milford Museum and Carlisle Fire Company.*

*Ms. Frederick suggested asking for the fire company's profit and loss statement, income and expenses and what they are receiving and spending their money on. Councilwoman Peel agrees adding that she asked for the same information from DMI and was concerned that their increased request was tied to a guaranteed salary increase.*

*Mr. Norenberg explained that the agreement will identify quarterly reports, an evaluation process and other performance measures planned for other entities that receive taxpayer funding.*

*Councilwoman Wilson said this has been discussed on many occasions and recalls when the President of Carlisle Fire Company used to come before the council and provide the information. She feels the City was at fault for not requesting that information as was agreed with both parties at that time.*

Councilmember Peel said the ambiguity falls in where we are talking about the specific capital fund and having something there. That is why she thought that was appropriate at the time.

Solicitor Rutt then referenced the charter regarding the administration of the budget that states as follows:

*Section 6.06. Adoption of the budget shall constitute appropriations of the amounts specified therein, as expenditures from the fund indicated, and shall constitute a levy of the property tax therein proposed.*

Mr. Rutt feels that based on what was approved last year and what the minutes state, \$100,000 has been appropriated as expenditures from the budget. From going forward, each entity receiving money must have some type of agreement in place so that Council has something to rely on now and in the future.

Council agreed that next year, an agreement must be in place, but this year the \$100,000 should be paid.

Based on the conversation, Mr. Norenberg does not feel another vote is needed. Mr. Rutt stated that it was voted on last June as part of the adopted budget and that the intent of Council was that all agreements be in place with all the receiving organizations as part of the budgeting process for this coming year.

Mayor Campbell summarized the conversation, stating that the \$100,000 be paid and when the budget is discussed in June, the money will be appropriated though the expenditure will not be made until the agreement is in place.

It was confirmed there is \$100,000 in the general fund budget; the intent was to increase the Carlisle Enhancement Fee to provide additional funding and to make up the difference, though that was never agreed to. If Council wished to proceed, an ordinance would need to be created.

When asked if a motion was needed, Council stated no motion is needed though the consensus of Council agreed.

#### *Alcohol Waiver/Chapter 77/Alcoholic Beverages/Riverwalk Freedom Festival*

Angela Dorey, Riverwalk Freedom Festival Chairperson was present and briefly reviewed the request submitted March 25, 2019 which states as follows:

Once again, the Chamber of Commerce for Greater Milford is hosting the 19th Annual Riverwalk "Freedom" Festival scheduled for Saturday, September 14, 2019. As we did in the past, we will hold the event all on one day, with the vendor and children's activities beginning at 9 am on Saturday, ending with fireworks after dark that evening. The enclosed area in Bi Centennial park known as the Red, White and Brew Garden continues to be a hit, rain or shine. We are diligently planning this year's festival, so we want to begin accurately advertising the details of the event. We request permission to host the Beer Garden in Bicentennial Park again.

We will use the same layout that worked so well with the Red, White & Brew Garden, and will have a fenced off area in a small section of the park with a view of the stage. A map is attached for your information. We will be checking identifications and hand stamping those above age 21. This will allow them to purchase beer and wine with cash during the festival in the designated area. We will reserve the right to recheck identification as deemed appropriate. As the Delaware Alcoholic Beverage Control regulations permit, the designated area will be family friendly, so all ages will be permitted to enter the area. We will have the entrance/exit clearly marked with eyelevel signage that no alcoholic beverages are permitted beyond the designated area. We will have a portable restroom in the enclosed area, as well as multiple trash bins. We plan to have cornhole and food vendor(s) in the area as well. We will provide several open tents to provide shade and cover and we will follow all Delaware Alcoholic Beverage Control regulations regarding alcohol service, including obtaining a Gathering License.

The Beer Garden would open at 12 noon on Saturday, September 14th and will close at 10 PM. All beer and alcohol sales will end promptly at 9 pm.

We are requesting your approval to waive the restrictions against alcohol in the park from 11 am until 10 PM on this date. If you have any questions, please contact me at 302-588-3573 or by email at [angeladorey@comcast.net](mailto:angeladorey@comcast.net).

Councilmember Peel moved to approved the Alcohol Waiver submitted for the Riverwalk Freedom Festival on September 14, 2019, seconded by Councilmember James. Motion carried.

#### *Certification/2019 City of Milford Voter Registration*

City Manager referenced the list of registered voters in the packet for the upcoming April 27, 2019 election.

Councilmember Brooks moved to certify the 2019 Voter Register, seconded by Councilmember Peel. Motion carried.

*City of Milford 2019 Comprehensive Plan Amendment/Office of State Planning/PLUS Submissions:  
Amendment #1/SE Master Plan/TDR Receiving Areas  
Amendment #2/Marina-Del Project/Commercial to Moderate Density Residential Future Land Use  
Amendment #3/S. Rehoboth Boulevard Corridor/Commercial to Industrial Future Land Use  
Amendment #4/Windward on the River Commercial & Residential/S. Rehoboth Blvd  
Amendment #5/Kaplan Property/302 Polk Avenue/Employment to Low Density Residential*

Mr. Pierce referenced several items needed for comprehensive plan amendments being submitted to the State Planning Office for plan review in May. After their approval, formal public hearings will be scheduled.

Amendment #1 Transfer Development Rights Receiving Area:  
Moving further south and putting it all on one parcel will make the program easier to operate, versus the multiple strip lots currently included.

Amendment #2 Marina Property on Route 36  
The applicant has already submitted their PLUS application to the State Planning Office for a residential use on the southern portion and commercial in the northern portion of the parcel. The commercial and moderate density residential line to accommodate their development plans.

Amendment #3 Rehoboth Boulevard Parcels changed to Commercial  
The property owners want to remain industrial and the City is honoring that request and will submit it for review to the State Planning Office.

Amendment #4 Windward on the River Development  
Involves a mixed use of residential/apartment and commercial at the Swain Property and Webb Farm again shifting the commercial line to allow more moderate density.

Amendment #5  
And older home that was converted to a doctor's office on a parcel adjacent to the former Milford Memorial Hospital and the applicant has requested it revert back to a low density residential due to the elimination of the medical use.

Once comments have been received back, the ordinances will be prepared and public hearings scheduled.

*Approval/Funding Appropriation/Riverwalk Decking & Upgrading Project Change Order*

*City Manager Norenberg stated that we are in the final stages of the removal and replacement of the wooden decking on the Riverwalk Project and a final change order is needed as a result of some recently discovered additional work behind Gods Way to Recovery.*

*Parks and Recreation Director Dennehy was present and explained that when the deck boards were removed, a compromised area of wooden joists and beams was found. The new composite deck boards can be attached without this area first having the beams and joists removed and replaced.*

*The proposal from the contractor totals \$47,410.56 and the additional work needed by the design professional totals \$2,000.00 for a total of \$49,410.56. Mr. Dennehy approached DNREC who administered the Outdoor Recreation Parks and Trails Program who gave him a verbal commitment of 50% of this cost in a grant, contingent upon a match for the other 50%.*

*The City Manager has approached local legislators to fund the remaining 50% balance out of the Community Transportation Funding.*

*Councilmember Culotta confirmed this is the second change order and what is being found is normal. He asked if steel or aluminum will be added to prevent this from happening again.*

*Mr. Dennehy said there was no contingency on the project though on a residential project, there is typical a 20% contingency. He does not recall the amount of the first change order and believes it was in the \$20,000 range, which takes it to \$52,000 which is not costing the City any money. However, that puts it just above the 20% contingency had that been added.*

*He feels that by using the newer composite materials should last much longer into the future.*

*Councilmember Peel moved to approve the Change Order in the amount of \$47,410.56, seconded by Councilmember Mergner, contingent upon the funding being approved by a grant from DNREC and funding from CTF funding. Motion carried.*

#### *Approval/Bayhealth Hospital/Fiber Optic Lease Agreement*

Public Works Director Whitfield asked Council to consider the use of the City's fiber network by Bayhealth Medical Center Incorporated to connect Bayhealth Imaging and Bayhealth Dickinson to Bayhealth Sussex Campus Hospital. The lease is for a one-year period and renews automatically. The City will receive \$90/fiber strand mile annually and is similar in terms as the fiber lease with Milford School District and Caulk Company.

*Councilmember Culotta moved to authorize the two Bayhealth Medical Center Incorporated (Bayhealth Imaging and Bayhealth Dickinson) Fiber Optic Lease Agreements, as presented, seconded by Councilmember James. Motion carried.*

#### *Approval/AT&T/Cell Tower Lease Agreement*

Mr. Whitfield reported the Public Works Department are asking City Council to consider a recommendation to enter into a lease with New Cingular Wireless PCS, LLC for the use of the Washington Street Water Tower for the purpose of installing cellular equipment. The lease is for a five-year period, commencing on the date of construction and includes an automatic four additional five-year renewal options.

The City will receive \$2,153 per month initially, with a three percent annual escalator.

The lease is similar in terms and conditions as the Southeast Tower lease with Cellco Partnership (Verizon).

It was confirmed that the renter typically comes to Milford when there is a need for cellular services in this area. Councilmember Culotta said anything we can do to help these companies creates more revenue for the City.

When questioned about maintenance, Mr. Whitfield confirmed that the Washington Street tower is the only tower in the City with lead paint on the exterior. At some point, it will need to be sandblasted off though he estimates ten more years before that occurs.

Councilmember James moved to authorize the execution of the attached lease of the Washington Street Water Tower with New Cingular Wireless PCS, LLC, seconded by Councilmember Peel. Motion carried.

#### EXECUTIVE SESSION

Councilmember Morrow moved to go into Executive Session reference the below statutes, seconded by Councilmember James:

*Pursuant to 29 Del. C. §10004(b)(9) Personnel Matter*

Motion carried.

Mayor Campbell recessed the Council Meeting at 9:17 p.m. for the purpose permitted by the Delaware Freedom of Information Act.

*Return to Open Session*

Council returned to Open Session at 9:24 p.m.

*City Manager Performance Evaluation*

Mayor Campbell announced that no action was needed as a result of the discussion in Executive Session.

ADJOURNMENT

There being no further business, Councilmember Mergner moved to adjourn the Council Meeting, seconded by Councilmember Culotta. Motion carried.

The Council Meeting adjourned at 9:25 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder