

CITY OF MILFORD  
COUNCIL MEETING MINUTES  
May 28, 2024

The City Council of the City of Milford met in the Joseph Ronnie Rogers Council Chambers in Regular Session on Tuesday, May 28, 2024.

PRESIDING: Mayor F. Todd Culotta

IN ATTENDANCE: Councilpersons Dan Marabello, Madula Kalesis, Nadia Zychal, Lori Connor, Nirmala Samaroo, Katrina Wilson, and Jason James Sr.

STAFF: City Manager Mark Whitfield, Police Chief Cecilia Ashe, and City Clerk Terri Hudson

COUNSEL: Solicitor David Rutt, Esquire

ABSENT: Councilmember Michael Stewart

#### PUBLIC COMMENT PERIOD PRIOR TO MEETING

At 6:00 p.m., the Public Hearing comment session commenced, after which Solicitor Rutt read the public comment rules into record.

Nina Pletcher of 428 South Walnut Street talked about the shortsightedness of not hiring a full-time economic development/public information position. Economic development was identified as a priority in our current strategic plan, and she doesn't understand how this council plans to have a viable economic development plan without a full-time employee in the position. She spoke about the new Milford Corporate Center on Canterbury Road being developed and Emory Hill being hired as one of the outside entities to assist with its development. Milford's current staff is already to capacity with tasks and shouldn't be asked to take on any extra workload. Also mentioned was the utility newsletter that has not been done since the previous person in that position left. She also asked if those with complaints that are allowed to speak during communications need to be Milford residents.

Dave Wilson of Lincoln, stated his purpose for being here this evening to discuss some proposed legislation that was inspired by the recent event that transpired with the Annette Billings case. This legislation would provide a layer of protection for land owners in the future by preventing similar situations from occurring. This legislation would prohibit the City of Milford from condemning property outside the town limits though it would not prevent condemnation within the town limits of Milford. The city would still have the ability to acquire property inside and outside the city limits or request a property owner annex into the city. This Charter change will be introduced by him as the Senator of the 18<sup>th</sup> District though his intent is not to strong arm anyone and wants to be upfront with the information. Representative Bryan Shupe will be supporting the legislation as well. He wants to prevent similar situations from occurring and noted that the end of the legislation term is quickly approaching on June 30<sup>th</sup>. He asked that City Council consider this bill and prefer they move forward on with together.

With no one else wanting to comment, the comment period was closed.

#### CALL TO ORDER

Mayor Culotta called the Council Meeting to order at 6:13 p.m.

#### INVOCATION AND PLEDGE

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

#### MONTHLY FINANCE REPORT

Finance Director Lou Vitola referenced the April 30, 2024 financial statement is included in the packet. He shared that cash has been relatively stable especially in the general fund. He anticipated more of a dip, though instead cash looks good.

This time of the year, he usually puts less stock into the reserves page. Being a month away from having a new budget and the way the reserves are structured, it is dynamic with changes in budget levels, budgeted revenue levels, expenditures, the capital plan, and so forth. That will be entirely overhauled as we approach the 25 budget.

In terms of the P&L, both the governmental funds and utility funds are ahead of the budget. But behind when compared to the relatively strong 2023. Being a little bit ahead of the budget, not by a ton, is a recurring theme across departments. A lot of the departments and divisions have budget increases versus the prior budget and when compared to the 24 budget and comparing the increases to the projection, based on the savings in 24 remain under budget in a lot of areas.

Councilmember Marabello moved to accept the April 2024 Finance Director, seconded by Councilwoman Wilson. Motion carried.

*Authorization/Westwood Subdivision/Planned Unit Development and Preliminary Major Subdivision Extension 2*

The applicant proposes to construct a 340-unit Planned Unit Development consisting of 182 single-family detached dwellings and 158 single-family semi-detached dwellings as shown on the preliminary major subdivision plans.

Planning Director Pierce presented the Westwood Subdivision #2 extension. Applicant Ribera Development LLC received the initial Preliminary Major Subdivision and Conditional Use approval from City Council on April 25, 2022 and a request for an extension was approved by Council in April 2023. The approval letter is included in the packet.

He then reviewed the agency approvals noting the only outstanding issue is their Kent Conservation District approval for stormwater design.

The applicant resubmitted final construction plans to the city for review on April 12, 2024 and Planner Pierce will be scheduling the final public hearings before the Planning Commission and City Council at one of their upcoming meetings. It was reviewed by the Planning Commission at their May 2024 meeting who recommended the extension by a unanimous vote of those in attendance.

Representing the application was Alan Decktor, PD, of Pennoni Associates Incorporated of 18072 Davidson Drive, Milton, Delaware, also Project Manager of the Westwood Subdivision. He put together a timeline of the project, noting what has been added from a year ago is in red. He explained that most recently, they had waited approximately seven months for the DNREC wetlands permit, which ended being an approximate 18-month delay though that was received in the fall. With basically everything addressed, in December, Kent Conservation District asked for a third-party engineer's review due to the very complicated stormwater design. That plan includes thirteen ponds, a combination of wet infiltration and dry facilities, along with existing ditches cutting through the property.

That third party review took the past four months, though final approval has since been received. Currently, they are waiting for that final approval letter and the reason for the second request for an extension this evening.

Councilman James questioned the need for this to be scheduled for another public hearing before Planning and Council for final approval. He recalled the amendment to our code that allowed final approvals to be handled administratively if everything is substantially complete with no changes. Planner Pierce said he is wrapping up a handful of applications that were submitted prior to that ordinance amendment for administrative approval.

Councilman James still questions why it is necessary to have the applicant go back through a public hearing process and in his opinion, it seems contradictory. He understands the timeline, but asked if something can be considered to prevent these bodies from looking at this application again.

When asked if a year's extension is long enough for a subdivision of this complication. Planner Pierce also reported the subdivision code was also amended to change the extension time frame from one year to two years. It was again confirmed that council granted a one-year extension in April 2023, and this would be the last subdivision that started under the old code with the restricted one-year extension timeframe. No additional applications pending that fall under the old criteria.

It was confirmed that this second extension would expire one year from today.

Councilmember Marabello moved to authorize the one-year extension of the Planned Unit Development and Preliminary Subdivision for the Westwood Subdivision beginning this date, seconded by Councilmember Wilson. Motion carried unanimously.

*Introduction/Ordinance 2024-06/Amends Chapter 197/Streets, Sidewalk, Storm Sewers, and Other Public Places by Adding a new Article X*

Electric Director Tony Chipola explained this is a simple ordinance that permits a fee to be charged for the Electric Vehicle charging station. The following ordinance was introduced and is scheduled for a public hearing and final determination at the June 10, 2024 Council Meeting:

Ordinance 2024-06  
Amends Chapter 197 – Streets, Sidewalks, Storm Sewers, and other Public Places

Chapter 197 – Streets, Sidewalks, Storm Sewers, and other Public Places

Whereas, it is City Council's intent to inspire new technologies that create more sustainable communities, while reducing dependence on environmentally costly practices;

Whereas, Electric Vehicle chargers were needed in the downtown corridor to aid residents and visitors attending the City's Farmers Market, Public Library, Riverwalk, and other local shops and restaurants;

Whereas, Milford's location between major transportation corridors attracts drivers in need of public Electric Vehicle charging who are traveling on State Route 1 and US Route 113;

Whereas, the Electric Division of the City of Milford began pursuing public Electric Vehicle charging in 2022 through the application of a DNREC DC Fast Vehicle Charging Station Grant;

Whereas, the grant application was selected by DNREC for funding from the VW Mitigation Settlement Fund for the purpose of installing two Fast DC Chargers in the City Parking Lot adjacent to Northwest Front Street and Park Avenue;

Whereas, the City Council found it appropriate to create a comprehensive document which incorporates most, or all fees charged for services, by the City of Milford;

Whereas, on March 28, 2022, the City Council of the City of Milford adopted Resolution 2202-03, directing countless fees to be removed from various chapters within the City of Milford Code, along with other fee schedules, into one document entitled City of Milford Comprehensive Fee Schedule.

Section 1.

Now, Therefore, be it Resolved, a new Article X, entitled Electric Vehicle Public Charging Station and User Fees, will be added to Chapter 197, and such new Article X shall read as follows.

***Article X - Electric Vehicle Public Charging Station and User Fees***

Section 2. A new Section 197-36 is hereby added, along with Subsections 197-36(A), 197-36(B), 197-36(C), 197-36(D), 197-36(E), to read accordingly with new language indicated in bold italics.

**§ 197-36. Purpose, Payment, and Fees**

***A. Availability. Designated electric vehicle charging stations will be made available by the Electric Utility for public use within the corporate limits of the city at the user rates set forth in this Section.***

- ***Applicability. The fees set forth in the City’s Comprehensive Fee Schedule shall apply to all public electric vehicle charging stations owned and operated by the Electric Utility.***
- ***User fee rates. Public electric vehicle charging station service user fees will be provided and billed on a per session basis as follows:***

***\$1.00 per charging session plus \$0.34 per kWh***

***See City Comprehensive Fee Schedule for associated fee(s).***

- ***Payment of fees. Payment for electric vehicle charging station services will be collected directly from the customer at the point of service (the charging station or City facility at which the charging station is located) through credit cards or other payment processing services.***
- ***Associated Fees Moved to Comprehensive Fee Schedule. Fees referenced in §197- 36(C) shall be removed from this Ordinance and inserted within the City of Milford Comprehensive Fee Schedule and is subject to future updates authorized by the adoption of a resolution of City Council.***

Section 3. Council Action Dates.

Introduction May 28, 2024

Public Comments & Projected Adoption June 10, 2024

Effective Ten days following Adoption

*Adoption/Resolution 2024-10/Schedules FY25 Property Tax Appeal Hearing*

As part of the annual Property Tax Billing process, the City Charter requires An Appeal Hearing be scheduled for those property owners who wish to appeal the valuation of their property.

The hearing will be held on Monday, July 22, 2024 at 6:00 p.m. in the Council Chamber. Those who wish to appeal must contact Customer Service prior to 4:30 pm on Monday, July 8, 2024. Questions can also be directed to 302-422-6616.

RESOLUTION 2024-10  
Schedules Board of Revision & Appeal Hearing

WHEREAS, the provisions of Article VII, Section 7.05 of the Charter of the City of Milford state that Council shall cause a copy of the General Assessment, as adjusted, to be posted in two public places in the City of Milford and there to remain for the space of ten days for public information; and

WHEREAS, attached to said copies shall be notice of the day, hour, and place that Council will sit as a Board of Revision and Appeal for said General Assessment.

NOW, THEREFORE, BE IT RESOLVED, that on Monday, July 22, 2024 at 6:00 p.m., the City Council of the City of Milford will sit as a Board of Revision and Appeal for the 2024-2025 General Assessment.

*Review/City Charter Amendment/Subsection 3.01/Enumerated Powers/Eminent Domain Prohibition/Unincorporated Properties*

Mayor Culotta presented the Charter Amendment for the eminent domain prohibition of non-city properties. As Senator Wilson discussed, some language was developed by him and supported by Representative Bryan Shupe, that Council considers this language which prohibits eminent domain outside the city. Presently, Council has the authority to take property outside the city. There is no process within the county to approve or disapprove it. For example, the county is not aware of any annexation until the property tax records are changed.

Any property owner outside the city is at risk of the city being able to legally take their property. He would like to see a limitation that would prevent land from being taken for recreational purposes. Eminent domain should only be used for true public needs such as water, electricity, and sewer matters.

He also pointed out that eminent domain should be the absolute last course of action. Though it has been stated there will be no more eminent domain by the previous administration, that does not prevent it from happening again in the future.

Councilman James agrees with the Mayor Culotta in that eminent domain should be very restrictive and used in a rare instance for items of public need such as infrastructure, roads, utilities, etc. Then, and only then, and after every other avenue has been exhausted with the property owners should it be considered.

However, Councilman James also talked about the possibility of new roads when needed. Further consideration of that situation may also be considered. Regardless, there is a need to add more restrictive language to the charter. He also recalled that prior to this Mayor's election, a Charter Review Subcommittee was appointed, and recommended this be reviewed by that body.

Councilwoman Kalesis asked if this language that will be added to the charter as was submitted by Senator Wilson. She also does not agree to eminent domain when it comes to a park or a bike path, but reasons such as schools, roadways and other more urgent items are reasonable. She agrees the charter language should be much more restricted, though we should not abolish eminent domain completely.

It was agreed by council that taking land using the eminent domain process for recreational purposes is inappropriate.

Solicitor Rutt then explained the three methods of changing a municipal charter, which includes a bill being presented by a member of the general assembly which required adoption in each house by a 2/3 vote.

The eminent domain process was also explained in detail by the Solicitor. He also noted that eminent domain is embedded in the Delaware Constitution in that governments can acquire property through eminent domain by paying just compensation if for public use.

Councilwoman Connor asked if the recreational land restriction will apply to properties inside and outside the city, thus allow the taking of land only for public safety issues such as roads, utilities, etc., or will this only be restricted to those reasons for outside the city; she thinks there is a need to give reassurance to Milford's citizens.

Councilwoman Wilson believes eminent domain has its own place both inside and outside a city, though some restrictions are needed.

Mayor Culotta asked that Council think about how they prefer this to be phrased before it is addressed by the Charter Review Committee. The committee can review the suggestions, after which a final decision can be made by council before it is sent to the General Assembly.

Councilmember James emphasized the need for restrictions, but its use seems appropriate for utilities or infrastructure. Anything related to recreation should be done at arm's length and only through discussions with the

property owner. That in his opinion is a 'want', but electric, water and sewer are needs. He wants parks but not through eminent domain.

Councilwoman Zychal stressed the need for clarity in the language and assurance there is no ambiguity or gray area(s). She, too, is in complete agreement that eminent domain should only be used for a true need and not a 'want'. She also recommends there is no conflict in what the county allows, and the City of Milford allows.

#### ADJOURNMENT

There being no further business, Councilwoman Kalesis moved to adjourn the Council Meeting, seconded by Councilwoman Zychal. Motion carried.

Mayor Culotta adjourned the meeting at 6:48 p.m.

Respectfully submitted,

Terri K. Hudson, MMC  
City Clerk/Recorder