

CITY OF MILFORD
CITY COUNCIL MEETING MINUTES
August 26, 2024

The City Council of the City of Milford met in the Joseph Ronnie Rogers Council Chambers in Regular Session on Monday, August 26, 2024.

PRESIDING: Mayor F. Todd Culotta

IN ATTENDANCE: Councilmembers Daniel Marabello, Madula Kalesis, Nadia Zychal, Lori Connor, Michael Stewart, Nirmala Samaroo, Katrina Wilson and Jason James Sr.

STAFF: City Manager Mark Whitfield, Police Chief Cecilia Ashe, and Interim City Clerk Katrina White

COUNSEL: Solicitor David Rutt, Esquire

Mayor Culotta and Councilmember James were in attendance virtually.

PUBLIC COMMENT

The Public Comment period commenced at 6:00 p.m. after which Solicitor Rutt read the public comment rules into record.

Terry Day was present and stated that he has been living in West Shores for five years and there were big potholes in the road. He wanted to know when the roads would be paved in West Shores.

Heather Content, Director of Government and Community Relations for the Delaware Municipal Electric Corporation (DEMEC) extended an invitation to the Annual Dinner that is scheduled on September 18, 2024 from 5:00 pm to 8:00 pm at Bally's in Dover, Delaware. She explained that there would be an industry panel that would include the President and CEO of American Public Power Association who will talk about the energy markets as a whole, Aces, their energy services provider, who will be talking about the energy markets and DEMEC power supply portfolio, Dustin Thompson from the Delaware Chapter of the Sierra Club, Adam Ward, who is a Federal Emissions Specialist and Kimberly Schlichting, President and CEO of DEMEC, who will be moderating the panel.

CALL TO ORDER

Mayor Culotta called the regular meeting to order at 6:06 p.m. Roll Call showed that there were nine members present.

INVOCATION AND PLEDGE

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

RECOGNITION

City Manager Whitfield introduced new intern, Lance Tressler, who will be working with the city for the next nine months and his service dog, Lizzie. Lance is retired from the Air Force, but on active duty. He's finishing up his bachelor's degree in sociology work at Salisbury State University and looks to continue his education there.

PUBLIC COMMENTS/FINAL DETERMINATION ©

Ordinance 2024-08

Application of Ribera Development, LLC on behalf of Westwood Subdivision for Final Major Subdivision 130.5 +/- acres of land located on the north side of Williamsville Road approximately 2,300 west of the Route 14 intersection; Comprehensive Plan Designation: Low Density Residential Zoning District: R-2 (Residential District) Present use: Vacant Proposed Use: Planned Unit Development Tax Parcel: MD-16-182.00-01-11.00 thru 21.00

Solicitor Rutt read the rules of Public Hearing into the record.

Director Pierce reviewed the staff report and analysis that was included in the packet. The applicant received preliminary major subdivision and conditional use, approval from City Council on April 25, 2022 for the Plan Unit Development. The public notice was advertised in Delaware State News on July 26, 2024, and all properties within 200 feet of the subject parcel were mailed a copy of the public notice.

Alan Dector, Pennoni and Associates, 18072 Davidson Drive, Milton, DE 19968, was present and explained the project. He stated that the overall design layout and all the infrastructure related to it is very similar to what was presented two years ago. They were here two to three months ago, asking for a final extension because there was one agency approval letter that they were waiting for. He said that they received it a month ago and were here for final approval.

Zack Prebola, Business Developer, Kent Economic Partnership, 555 S. Bay Road, Dover, DE 19901 was present and spoke in opposition to the project due to its proximity to rail. He explained that in Kent County there is very limited rail adjacent land that is used for businesses due to the mass expansion in the residential neighborhoods and developments being constructed near the rail. The rail land is a prime locator for industrial and agricultural development which create jobs for the community.

Chad Frye, 2122 Front Street, Houston, DE, 19954, was present and spoke in opposition to the project. He stated that he was opposed to the project for three reasons. The first being, the development is illegal, as it is significantly outside of R-2 zoning laws which this property is zoned. Second, 340 homes being built on the edge of town will create significant traffic which will encounter oversized agricultural equipment daily. The third reason being that Phase 5 of this development is the most environmentally sensitive portion of the property and is surrounded by blue water, stream and wetlands on three sides. The proposal for Phase 5 includes destroying the woods behind Baltimore Air Coil, which serves as a noise barrier and putting illegal size duplexes and single-family homes right against Baltimore Air Coil. He stated that Phase 5 should not be allowed and a buffer zone should be required on this size property between the surrounding industrial complexes of the area.

Craig Hoss, Griffith Lake area, was present and spoke in opposition to the project. He stated that the concept at the core, the principal postage stamp size property lines are a disaster. They are a blight to the community and add to congestion, crime, and cost of living.

Solicitor Rutt stated that this is a PUD, Planned Urban Development and under the code this allows for creative design and concept. So that is why you would have situations where the lot sizes in an R- 2 are 8,000 square feet, but they allow smaller design because they can cluster or group zoning applications on a parcel which then allows for greater open space. Also, it allows for street designs to be somewhat different. He explained that in this situation, the applicant went through the Plus process, came up with the design and utilized some of the Plus comments. The design for the preliminary subdivision went through the Planning Commission who made a recommendation to City council. City Council then gave preliminary approval to that Planned Urban Development design. At that point, it was up to the applicant to conform what the comments were from Planning Commission and City Council on the preliminary approval and then come back to Council with the final subdivision approval.

He further explained that according to Director Pierce and KCI, who reviewed this as well, all the State agencies have given their approval and the approval letters. Once the applicant has met all of the criteria, the Delaware Supreme Court has ruled that they have a By Right Subdivision. That means, if they meet all the criteria imposed by the municipality in their final subdivision, you don't have the right to deny it. It is By Right. They have met their threshold. Director Pierce's analysis was that they have met all the criteria.

Director Pierce added that over the summer of 2022 City Council adopted an ordinance that amended the procedures of the subdivision code. So going forward, final subdivision plans will not come back for a public hearing with the Planning Commission and City Council. They will be reviewed administratively as long as they've met all the conditions that were outlined by City Council at the preliminary review stage, have attained other agency approvals and obtained approval on the construction plans from the city engineer. This project came in under the prior ordinance, so we were still governing it under the old rule book. As those projects phase out, these final hearings will no longer occur unless the code is changed again.

Councilmember Wilson made a motion to approve the Final Major Subdivision with Chapter 230 Zoning and Chapter 200 Subdivision of Land. Councilmember Samaroo seconded. The motion carried Yes - 7, No - 0, Abstain - 1.

Councilmember Connor voted yes for the reason she is forced to by law.

Councilmember Zychal voted yes for the reason she is compelled to by law.

Councilmember Kalesis voted yes for the reason she does not have a choice.

Councilmember Marabello voted yes for the reason it is consistent with Chapter 230 of the Zoning Code, Chapter 200 Subdivision of Land and the Comprehensive Plan.

Councilmember Wilson voted yes for the reasons that she worked on the Comprehensive Plan and it was included in the Comp Plan at that time. It was approved by all of the State agencies, which has always been a guideline. This has been on the books since 2006 and the developers have gracefully walked through to check off and have tried to comply with everything that Council has asked them to do.

Councilmember James voted yes for the reason that it meets all of the requirements. The project has been vetted very carefully. The developer has listened and have complied with all of the changes, buffers and all that was asked of them. All of the state approvals have been obtained and there is a great need for housing.

Councilmember Samaroo voted yes for the reasons that it meets the Comprehensive Plan, is consistent with Chapter 230 Zoning and it meets the city construction standards.
Councilmember Stewart abstained.

ORDINANCE 2024-08

Application of Ribera Development, LLC on behalf of Westwood Subdivision
for a Final Major Subdivision

130.5 +/- acres of land located on the north side of Williamsville Road
approximately 2,300 west of the Route 14 intersection

Comprehensive Plan Designation: Low Density Residential
Zoning District: R-2 (Residential District)

Present use: Vacant Proposed Use: Planned Unit Development

Tax Parcel: MD-16-182.00-01-11.00 thru 21.00

WHEREAS, the owners of the property as above described herein have petitioned the City of Milford for the Final Major Subdivision; and

WHEREAS, the City of Milford Planning Commission will consider the application at a Public Hearing on August 20, 2024, whereby public comment will be taken and a recommendation will be made; and

WHEREAS, Milford City Council will hold a Public Hearing on August 26, 2024 to make a final determination following further review and additional public comment of the ordinance.

NOW THEREFORE BE IT RESOLVED, by the City of Milford:

In accordance with Chapter 200 of the City of Milford Code, the City Council hereby finds and determines, as follows:

Section 1. The Final Major Subdivision Plan of Ribera Development, LLC is consistent with the objectives, policies, general land uses and programs in the City of Milford Comprehensive Plan, Subdivision and Zoning Codes, in that it establishes obligations and conditions for the implementation of the Milford Corporate Center.

Section 2. The Final Major Subdivision Plan is in conformity with public convenience, general welfare and good land use practice.

Section 3. The Final Major Subdivision Plan will not be detrimental to the public health, safety and general welfare of this community.

Section 4. The Final Major Subdivision Plan will not adversely affect the orderly development of adjacent properties and will maintain the preservation of property values.

Section 5. Dates.

City Council Introduction: August 12, 2024

Planning Commission Review & Public Hearing: August 20, 2024

City Council Public Hearing: August 26, 2024

Effective: Ten Days following Adoption

MONTHLY FINANCE REPORT

Finance Director Lou Vitola reviewed the July 31, 2024 financial statement that was included in the packet.
(Pages 53-63)

He reported that cash was stable this month and utility receipts were strong offsetting the general fund on the operating side. The income statements generally look good. Both the general fund, and utilities are strong versus the budget. He explained that it will be strong August and September to kick off Fiscal 25 with a strong quarter. The Fiscal 25 budget was very difficult. Personnel expenses are going to be higher than they've been, and we've had to rely on utility transfers to a greater degree than usual. So, the utility performance is that much more important than it would be in an ordinary year. Ending on a positive with realty transfer taxes, the close to half a million dollars that was collected in July were attributable to June and expect somewhat more of the same as we get into the summer months.

Councilmember Zychal made a motion to accept the monthly financial report. Councilmember Wilson seconded. The motion carried unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Resolution 2024-14/Endorsement/SS4A Grant

Director Willis Shaffer reviewed the Resolution 2024-14 that was in the packet.

City Manager Whitfield stated that this is money to do planning. There is a lot more money that's available through the Safe Streets For All program but the first step is the planning process.

Councilmember Zychal asked if any of the funds could be used for the Comprehensive Sidewalk Plan.

Anne Marie Townsend, Rossi Group, was present virtually and answered that the grant is for safe streets and roads for all. So, she doesn't know that it can fully fund the sidewalk plan but thinks it can identify areas where the sidewalks are in a condition that are an impediment to safety, have missing segments of sidewalks or where they're not accessible under the ADA and may have components that can be covered under that.

Councilmember Wilson made a motion to accept Resolution 2024-14. Councilmember Samaroo seconded. The motion carried unanimously.

Authorization/Purchase/Police/Replacement Vehicles (Page 68 in the packet)

Chief Ashe stated that in prior meetings we had discussed throughout the budget the Take Home Car Program that was started several years ago. Through the ARPA money, we were able to fund the Take Home Car Program and presented today are the replacement vehicles. She explained that during the budget hearings, she presented and requested for \$295,000 to replace these vehicles. Currently there is an opportunity to purchase three 2024 Dodge Durangos and one 2024 Chevy Tahoe from Hertrich and will be creating a cost savings of approximately \$60,000 if able to make the purchase now, compared to the original request of \$295,000.

Councilmember Marabello made a motion to approve the purchase of the four vehicles from Hertrich under the FY25 Capital Vehicle Replacement Fund totaling \$227,231. Councilmember Wilson seconded. The motion carried unanimously.

Resolution 2024-13/Milford Ponds/Streets Acceptance³

City Manager Whitfield stated that, typically, it is the city's responsibility to take ownership once all requirements have been met with regard to the street construction and utility construction. That has been done and there are about 10 street segments that the city would be taking over from Milford Ponds that are listed out in the Resolution. It is Staff's recommendation that City Council authorize the resolution.

Councilmember Wilson made a motion to accept Resolution 2024-13. Councilmember Stewart seconded. The motion carried unanimously.

RESOLUTION 2024-13

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

WHEREAS, the Public Works Director has determined the water distribution system, sewer system, easements, sidewalks and public streets included in Milford Ponds Phases 1-1 to 1-6 have been completed in accordance with City standards and requirements; and

WHEREAS, the portion of Milford Ponds

- Phase 1-1 to be accepted includes Clubhouse Road and Patchwork Drive, lots 314-322 and 355-366, 21 lots total.
- Phase 1-2 to be accepted includes Pinwheel Drive, lots 473-480 and 524-530, 15 lots total.
- Phase 1-3 to be accepted includes Attic Window Court and Patchwork Drive, lots 511-523, 13 lots total.
- Phase 1-4 A and B to be accepted includes Patchwork Drive, lots 280-284 and 261-264 and 266-279, 23 lots total.
- Phase 1-5 to be accepted includes Cannors Court, lots 285-313 and 323-334, 41 lots total.
- Phase 1-6 to be accepted includes Calico Place and Central Park Blvd and Nine Patch Way, lots 254-260 and 488-503 and 531-537 and 550-559, 40 lots total as depicted on the Milford Ponds Plan, recorded in Sussex County, Plat Book 271, Page 9, on September 21, 2018; and

WHEREAS, approval to operate those utilities has been obtained from the applicable State agencies; and

WHEREAS, Milford Ponds LLC has provided the City of Milford with a maintenance bond for 10% of the value of public improvements and public utilities warranting said improvements for one year from the date of acceptance; and

WHEREAS, said developer has provided as-built drawings of the utilities to the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MILFORD, during a regular session of Council, by a favorable majority vote, accepts the water distribution system, sewer system, easements, sidewalks and public streets in Milford Ponds Phase 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6, that are to be dedicated for public use into the City of Milford's street system and public utility system.

BE IT FURTHER RESOLVED that the City of Milford shall assume responsibility for the future maintenance and repair of the water distribution system, sewer system, easements, sidewalks and public streets in Milford Ponds, Phase 1-1, 1-2, 1-3, 1-4, 1-5, and 1-6, as noted in this resolution.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Official Seal of the City of Milford to be affixed this 26th day of August 2024.

Mayor F. Todd Culotta

Attest: _____
Interim City Clerk Katrina L. White

Discussion/City Council Retreat¹

It was decided that The Council Retreat would be scheduled for Wednesday, October 23, 2024, at the Milford Police Department.

Councilmember Kalesis made a motion to go into Executive Session reference the below statutes. Councilmember Wilson seconded.

Pursuant to 29 Del. C. §10004(b)(2) Preliminary discussions on site acquisitions for any publicly funded capital improvements, or sales or leases of real property (3)

Pursuant to 29 Del. C. §10004(b)(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed²

The motion carried.

Mayor Culotta recessed the Council Meeting at 7:14 pm for the purposes as permitted by the Delaware Freedom of Information Act. Council relocated to the Conference Room for the closed session discussion.

Return to Open Session

At 8:12 p.m., Councilmember Wilson moved to return to Open Session, seconded by Councilmember Connor. The motion carried.

Potential Vote- Real Estate

Potential Vote-Personnel

No vote was taken.

Adjournment

Councilmember Stewart made the motion to adjourn. Councilmember Samaroo seconded. The motion carried unanimously.

Mayor Culotta adjourned the meeting at 8:13 pm.

Respectfully submitted,

Katrina L. White, MMC
Interim City Clerk/Recorder