

CITY OF MILFORD
CITY COUNCIL MEETING MINUTES
October 28, 2024

The City Council of the City of Milford met in the Joseph Ronnie Rogers Council Chambers in Regular Session on Monday, October 28, 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: Police Captain David Wells, Interim City Clerk Katrina White, City Manager Mark Whitfield

ABSENT: Police Chief Cecilia Ashe

COUNSEL: Solicitor David Rutt, Esquire

PUBLIC COMMENT

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

Senator Dave Lawson stated that he was representing the BMX track in Milford and was there to answer any questions that the council had in reference to the renewal of the 5-year lease with the City of Milford.

Lisa Parsons, 138 Vale Boulevard, Greenwood, DE 19950, was present and stated that her daughter rides the BMX track. She said it provides stable athletic participation, a family atmosphere, boosts the kids' confidence and team spirit.

CALL TO ORDER

Mayor Culotta called the regular meeting to order at 6:11 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

Captain David Wells, Milford Police Department, introduced two new employees who were both finishing their field training programs.

Patrolman Benjamin Mitzel, who came from Denton Police Department, grew up in Milford and graduated from Milford High School in 2015. He currently lives in Milford with his family.

Patrolman Dylan Connell, who came from the Delaware Department of Corrections where he served as a canine handler, is a recent recruit graduate of the Delaware State Police Academy. He received the Outstanding Recruit Award and the Firearms Proficiency Award. He currently lives in Milford, also.

Proclamation 2024-25/ Extra Mile Day

Mayor Culotta read the Extra Mile Day proclamation which was included in the packet.

PUBLIC COMMENTS/FINAL DETERMINATION ©

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

Ordinance 2024-09

Application of Milford Ponds, LLC

for Revised Planned Unit Development

178.03 +/- acres located along the east side of

Route 113 5,500 feet south of the Seabury Avenue intersection

Comprehensive Plan Designation: Moderate Density Residential

Zoning District: R-1, R-2 & R-3 with PUD

Present use: Planned Unit Development Proposed Use: Planned Unit Development

Tax Parcel: 1-30-3.00-264.00, 1-30-3.00-264.01, 1-30-6.00-

108.00, 1-30-6.00-167.00 thru 558.00, 1-30-6.00-601.00 thru 691.00

Director Pierce reviewed the staff report and analysis that was included in the packet.

Tim Metzner, Davis, Bowen & Friedel, 1 Park Avenue, Milford, DE 19963, was present and explained the project. He stated that he is requesting a Revised PUD for the Milford Ponds Development to make modifications to eliminate Phase 4, the apartment area, out of the PUD entirely because that will be a separate project. He explained that the overall layout doesn't change. The road configuration, the lot locations, and the open space all remain the same from the original PUD. The deviations that are being requested are consistent with what was originally approved. The original setbacks and the lot sizes are all consistent.

There were no public comments.

Councilmember Connor made the motion to approve Ordinance 2024-09 Revised Planned Unit Development. Councilman James seconded. The motion carried unanimously.

Councilmember Marabello voted yes for the reasons that it was approved by the Planning Commission, consistent with getting the proper signatures and no material change to what they were approved before. Councilmember Kalesis voted yes for the reason that it is consistent with the previous requests and if all of the required signatures are obtained.

Councilmember Zychal voted yes for the reason that it was approved by the Planning Commission. It seems consistent with the plans that were put forth and also, as long as they get the signatures that are required.

Councilmember Connor voted yes for the reason it's consistent with all the requirements.

Councilmember Stewart voted yes as long as all of the required signatures are obtained.

Councilmember Samaroo voted yes for the amendment, the waiver that was included, and the signatures from the residents.

Councilmember James voted yes for the reason that he thinks that bringing back the different type of housing and giving a choice of housing type, with the re-addition of the townhouses is great for this community.

Councilmember Wilson voted yes for the reasons that it is in the Comprehensive Plan, meets all the PUD requirements and all departments/agencies have signed off on it.

Councilmember Wilson stated that she hopes when they get to the next phase of the apartments and wanted to say on the record to all of the developers and future developers that we are in housing crises, and we want to someday accommodate all of our citizens at all economic levels within our city.

Ordinance 2024-10

Application of Milford Ponds, LLC on behalf of Milford Ponds – Phase II

for Revised Preliminary Major Subdivision

27.572 +/- acres located at the southwest corner of

Flying Geese Drive and S. Walnut Street

Comprehensive Plan Designation: Moderate Density Residential

Zoning District: R-1, R-2 & R-3 with PUD

Present use: Planned Unit Development Proposed Use: Planned Unit Development

Tax Parcel: 1-30-3.00-264.01, 1-30-6.00-558.00, 1-30-6.00-600.00 thru 688.00

Director Pierce reviewed that staff report and analysis that was included in the packet.

Tim Metzner, Davis, Bowen & Friedel, 1 Park Avenue, Milford, DE 19963, was present and represented the project.

Solicitor Rutt asked Mr. Metzner if he were to give his presentation, would it be different than what he gave before and if he had anything to add to it. Mr. Metzner stated that the only thing that he would add was that they are requesting Preliminary Major Subdivision approval.

Solicitor Rutt asked if his other comments would be incorporated into the record before Council. Mr. Metzner answered yes.

There were no public comments.

Councilmember Kalesis made the motion to approve Ordinance 2024-10 Revised Preliminary Major Subdivision for Milford Ponds Phase 2. Councilmember Samaroo seconded. The motion carried unanimously.

Councilmember Wilson voted yes for the reasons that it is within the Comprehensive Plan, all agencies have signed off on it and it is Phase 1 & 2, which go together.

Councilmember James voted yes for the reason that it does meet the requirements of the city and it has been signed off on by all of the relevant agencies.

Councilmember Samaroo voted yes for the reason that it's consistent with their planning.

Councilmember Stewart voted yes for the reason that it's consistent with the planning.

Councilmember Connor voted yes for the reason that it's consistent with the requirements and planning has approved it.

Councilmember Zychal voted yes for the reason that it is consistent with the planning and meets all approvals. Councilmember Kalesis voted yes for the reason that the application is consistent with the plans. Councilmember Marabello voted yes for the reason that it was approved by the planning board, 7 to 0, and it's also consistent with the Plan Unit Development and the requested waivers.

COMMUNICATIONS & CORRESPONDENCE

Councilmember Wilson reported that she received calls in reference to late night construction at Banneker Elementary School.

Councilmember Zychal reported that a resident had concerns about the speeding on Walnut Street in the past on Halloween night and would like to see more monitoring.

Councilmember James mention that the Elks Lodge held its First Responders Banquet and deferred to Capt. David Wells to speak about the City's police officers and dispatchers who were recognized. Captain Wells reported that Sherry Bennett was named Dispatcher of the Year. Danny Burgos and Anthony Quiroz were recognized for their work as detectives. Rhett Malone was named as Officer of the Year.

MONTHLY FINANCE REPORT

Finance Director Lou Vitola reviewed the September 30, 2024 financial statement that was included in the packet. (Pages 120-131)

He reported that it was a strong month for cash receipts as expected given the tax due date. So, about half of the tax balances were booked by the end of September and the rest will follow in October. The city received the first quarter, \$70,000, of the Municipal Street Aid Grant from the State. He further reported that although it was a light month for permits, impact fees, special use funds and things like that, the payment for the refuse truck that was approved was made. That was almost a half a million dollars and a lot of progress is being made on a lot of the budgeted projects and equipment purchases. The performance of the governmental and the utility funds are great.

Councilmember James made a motion to accept the monthly financial report. Councilmember Samaroo seconded. The motion carried unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

Authorization/ Lease Renewal/ First State BMX, Inc.

City Manager Whitfield reviewed the lease agreement that was included in the packet. It is the exact same lease that had been signed in previous years with no change other than the term which will be for 5 years, the same as in the years past. He said the staff recommends that council award the lease to First State BMX, Inc.

Councilmember Wilson made the motion to approve the First State BMX, Inc. lease. Councilmember James seconded. The motion carried unanimously.

Authorization/ Award Contract/City Manager Recruitment

Mayor Culotta stated that City Manager Whitfield has announced his retirement. They need to start the search for a new city manager and having a recruiting firm do that would benefit them.

City Manager Whitfield stated that a quote was requested from a company called MGT. MGT is the new name of Gov HR which is the same company that helped recruit for the police chief.

City Manager Whitfield reviewed the presentation that was included in the packet. (Pages 140-175) The cost for the recruitment services is \$24,000, which is \$1,100 less than what the police chief's recruitment. He recommended that the funds be taken within this present city administration budget. He explained that funds that can be used was for a staff position that has not been filled yet. He recommended that Council consider the proposal, if it meets Council's expectation, and to authorize him to execute the contract.

Councilmember Wilson asked which staff position he was referring to. City Manager Whitfield answered that it was the Economic Development and Community Engagement position which were filled soon but it had been budgeted for a full year.

Councilmember James made the motion to authorize the City Manager to move forward, authorize and execute the contract with MGT. Councilmember Wilson seconded. The motion carried unanimously.

Discussion/Marijuana Regulations ©

Mayor Culotta stated that Delaware state law, which will take effect in end of March, will allow for recreational marijuana dispensaries in the State. They have also allowed municipalities to develop their own ordinances, limiting or denying, and the city is handling that, as well. If the city doesn't do anything, it will be allowed within the city based on the current retail zoning. So, the city has to do something and come up with some kind of language. He explained that most of the other cities around Milford, especially the beach areas, have already made their decisions. This has nothing to do with medical marijuana because that is already legal. So, there's not much to be discussed there as far as it being allowed.

Solicitor Rutt explained that this is an informational session on a land use issue. The State has already determined the fact that recreational marijuana may be allowed, but it is as the mayor said, it's giving the municipalities an opportunity to opt out. It has not given that opportunity to the counties. The counties can develop their own controls, such as distances from certain other activities, like schools, churches, etc. But the counties cannot deny recreational sales, whereas municipalities can or the municipalities can adopt an ordinance which will allow certain conditions and regulations on it.

Planning Director Rob Pierce reviewed the Marijuana Land Use presentation that was included in the packet. (Pages 76-184)

James Duran, 409 S. Walnut Street, Milford, DE 19963, was present and asked for more places in town to take dogs because there is speeding down the city streets and it is a safety issue.

Trish Marvel, 6525 Shawnee Road, Milford, DE 19963, was present and stated that there are various arguments on both sides of the issue and unanswered questions. For example, it will bring more business into the town or it will deter businesses from coming into town, it will decrease illegal drug sales or it won't make a difference and illegal drug sales will continue, and Milford will receive huge revenue benefits to only the state receives benefits. She said that it started to be introduced around September of 2022 or 2023 and feels like if that's the case, the city isn't very far along because December is right around the corner and doesn't have the answers. She stated that Dover, Millsboro, Bethany Beach, Rehoboth, Seaford, Lewes, Middletown, and

Georgetown rejected this idea and asked if the council members or mayor have spoken to these towns. She asked if the current Milford medical marijuana facility is grandfathered in. She asked if the city has defined ordinances to mitigate problems because of the store such as loitering laws, location, or limitations. She also stated that just because the State said that the city is allowed to do this doesn't mean the city has to move forward. She concluded by saying that there needs to be some moral compass in making these decisions, think about the community and think about what the long-term effects are of having this in the town. She stated that she is a no for recreational marijuana.

Lisa Parsons, 138 Vale Boulevard, Greenwood, DE 19950 was present and spoke in favor. She stated that she is a medical marijuana cardholder and the places are very secure. She stated that it will allow other people, like seniors and those who can't get the medical marijuana, to have access to be able to alleviate their pain.

Valeria Coverdale 30069 Stagecoach Circle, Milford, DE 19963, Knollac Acres, was present and spoke in favor. She stated that in April of this year, State Police issued a safety advisory for Sussex County, after seeing a significant spike in drug overdoses and having listened to this debate in legislative hall for over 5 years, one of the key purposes of this legislation was to offset the impact of the black market and its low quality, tainted products. Retail manufacturing and testing sites are all necessary to ensure that safe products are being delivered to the customer. Banning the sale of marijuana in town through zoning or ordinances, will not get rid of the product, but will only allow for the black market and illegal sellers to continue to have the competitive edge over that of the safe product that's been tested by the State. She further explained that the further exclusion of marijuana sales only aims to completely ban the establishment of stores, pushing Sussex residents to either drive to Maryland or further up to Newcastle County or Kent, again moving that revenue to a potential market of \$251,000,000.

Emily Wilkins, Vice President of Operations First State Compassion, 262 Baird Avenue, Dover, DE 19963, was present and spoke in favor. She stated that they are one of the local medical facilities in Milford with a cultivation and manufacturing site. They have been in Milford for about 3 or 4 years and are facing tougher regulations from the State now than they ever have and security measures will be heightened compared to their current medical regulations. She explained that the worry about loitering is all being handled through the regulations. She thanked the City of Milford for helping them with the medical marijuana and hopes it will support recreational marijuana.

James Grant, 2014 Milford-Harrington Hwy, Milford, DE 19963, was present and stated that one nice thing about Milford is that it already has the luxury of having marijuana growing facilities here and they've been here a while. He asked if there had been complaints from those facilities or complaints about them. He stated that he is set back when it comes to restricting what one can do with one's land. He stated that he is hearing, as a developer, that affordable housing needs to be provided and then they are being told that they are overdeveloping and taking away the community. He further stated that when we start restricting on what can be done in our industrial parks and in our retail centers, we limit it. He asked if it really needed to be restricted. He stated that the more it is restricted, the more costly it becomes.

David Henry, 31 Riptide Court, Frederica, DE 19946, was present and spoke in favor. He stated that he is a medical marijuana patient and been in almost every brand of dispensary in the State of Delaware. They are secure. He stated that he chooses to spend his money in Milford because he loves Milford and this is where he is raising his kids. He stated that he should be able to go and spend his money here for whatever it may be.

Katelin Staub, 4443A Vermont Drive, Dover, DE 19901, was present and spoke in favor. She stated that she is a medical marijuana patient and given the history of the black market, Milford is one of the biggest places where she would be coming to purchase things on the black market. She stated that she has never felt safer than coming down here to the dispensary itself and every single one of the security guards she has met has either been a member of governor's task force or SWAT. She explained that they have mirrored fronts so no

one can see inside. She stated that she has never felt more confident in recreational sales saving parts of Milford from the reputation that has preceded it.

EXECUTIVE SESSION

Councilmember Wilson made a motion to go into Executive Session reference the below statutes. Councilmember Connor seconded. The motion carried unanimously.

Pursuant to 29 Del. C. §10004(b)(4) Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation

Mayor Culotta recessed the Council Meeting at 7:21 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 7:33 p.m., Councilmember Marabello moved to return to Open Session. Councilmember Stewart seconded. The motion carried unanimously.

There was no vote necessary from the Executive Session.

Adjournment

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

Mayor Culotta adjourned the meeting at 7:33 pm.

Respectfully submitted,

Katrina L. White, MMC
City Clerk/Recorder