

**Millburn Township Committee Meeting Minutes**

Minutes of the Regular Meeting of the Township Committee of the Township of Millburn, in Essex County, New Jersey, held in Town Hall starting at 7:00 PM on the above date.

Mayor Lieberberg opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, are advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:00 PM on April 21, 2020.

Mayor Lieberberg asked all those present to stand for the Salute to the Flag.

Upon call of the roll, the following Committee members were recorded present: Cheryl H. Burstein (via conference call), Jackie Benjamin Lieberberg, Tara B. Prupis, Dianne Thall Eglow and Richard J. Wasserman. Also present were Business Administrator Alexander McDonald, Township Attorney Christopher Falcon (via conference call), Township Clerk Christine Gatti and Assistant Administrator Jimmy Homs.

**Approval of Agenda**

Mayor Lieberberg asked for a motion to approve the agenda. The motion was offered by Ms. Thall Eglow and seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

**Minutes**

Mayor Lieberberg asked for a motion to approve the March 17, 2020 regular meeting minutes. The motion was made by Ms. Prupis and seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

**Reports**

The following statement was made by Mayor Lieberberg:

*“Good evening fellow TC members and those joining us remotely, thank you for your attendance.*

*Our residents with the virus now number 112. This information is constantly evolving and we will continue to bring you all the numbers as we receive them.*

*We continue to persevere as a Township—essential services are continuing and I am grateful that we have the infra-structure in place to continue to support our Senior Citizens and most vulnerable residents with food deliveries and our well stocked food pantry.*

*Thank you to Down the Block, MSH Flag, MEND, the Chamber of Commerce, MSH health support, The Mask lady, MSHVFAS and our Police, Fire, DPW and our Town Hall employees as well as the countless others who continue to work hard to serve and support our local community and our neighbors.*

*This week is virtual spirit week—Today is Millburn’s Blue and White Day—Wednesday—Planting/yard work or Bike riding, Thursday—Township Day (what you love most about Millburn Township) and Friday—Play Day-show us your sidewalk or family game activity. #MillburnSTRONG –please post on our TC Facebook page--*

*I also want to let you know that I have been in contact on a regular basis with our County Leadership and Congressman Malinowski who is working hard in Washington for our residents—He believes the House will pass the Cares II Bill on Thursday which will bring more financial resources to our local businesses –*

*I also want to remind everyone that the primary has been moved to JULY 7<sup>th</sup>—*

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*Also—PLEASE fill out your census data--- this Essential data will be used to address infra structure spending and requisite funding on a Federal Level”*

Ms. Prupis reported that she and Mr. Wasserman have been meeting with the downtown visioning subcommittee to discuss the RFPs coming in by the 16<sup>th</sup>. She noted that 6 proposals came in on Thursday. She said they met today to discuss the next steps. She announced that the next meeting is May 6<sup>th</sup> and she will provide an update thereafter. Mr. Wasserman commented that they are looking at a long term vision and that will include retail. He said the intent is to keep the township vital with visioning and redevelopment. Ms. Prupis stated that interviews will take place in June once restrictions from the pandemic are relaxed. She said we are starting to plan and will keep reporting back.

Mr. McDonald reported the township beautification league is forging ahead with plantings in the parks and the township is assisting where we can. He advised that the senior food program is going well and 12-16 grocery deliveries are being made every Tuesday and Thursday. He reminded people that there is a COVID 19 email available for specific questions regarding the virus. He stated that the Short Hills train station roof project is 95% complete. He announced that he is pushing to have Old Short Hills Road paved in May while everything is quiet.

**Public Comment**

Mayor Lieberberg made the following statement:

*“Due to the COVID-19 pandemic Millburn town hall will be closed to the public for this meeting and directions to access our livestream meeting through YouTube has been properly noticed. There will be an opportunity to comment during the announced public comment period. You shall only comment when prompted that public comment period is open. Please be advised that you must be registered with YouTube in order to comment which is a free service. Please be advised that your name, address and submitted comment will be read into the record. The best way to have questions addressed is to contact Millburn Township Town Hall at 973-564-7000 or by contacting the proper officials directly and all contact information is available by visiting the Millburn Township website at <https://www.twp.millburn.nj.us/>.”*

Ms. Lieberberg opened the public comment period.

Mr. Homsy stated there were 33 people tuned in and suggested waiting a few minutes to see if any public comments are submitted.

No one submitted comments therefore Mayor Lieberberg closed public comment.

**Public Comment – Consent Agenda**

Mayor Lieberberg asked if there were any comments or questions regarding items on the Consent Agenda.

Mr. McDonald announced that there is a resolution before the Committee that extends the Tax Collector’s grace period to May 10, 2020.

No other comments or questions were presented.

**Consent Agenda**

Mayor Lieberberg asked for a motion to approve the items on the consent agenda. Ms. Thall Eglow made a motion to approve the consent agenda which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

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**RESOLUTION 20-097  
APPROVE BILLS PAYABLE**

**RESOLVED** that the Township Treasurer be and hereby is authorized to accept for payment and pay bills or items as they appear on Schedule dated April 21, 2020, in the following accounts:

General	\$	717,582.87
Capital Fund		486,341.29
Parking Utility - Operating Fund		8,326.07
Dog Trust Fund		126.00
Escrow Trust Fund		6,928.45

**RESOLUTION 20-098  
AUTHORIZE THE REFUND OF TAX OVERPAYMENTS**

**NOW, THEREFORE BE IT RESOLVED** that the Treasurer of the Township of Millburn be and he is hereby authorized and directed to the draw warrants to pay the payees listed below in the specified amounts;

<u>Make check payable to:</u>	<u>Type</u>	<u>Amount</u>
Liping He & Xiao Huang c/o Valerie Hofer Esq Trust Account 241 Radcliffe St. 1 <sup>st</sup> Fl. Bristol, PA 19007 Block 1901 Lot 20 288 Taylor Road South	Tax Appeal 2019 taxes	\$ 2,211.78
Dennis & Angela Coleman c/o Valerie Hofer Esq. Trust Account 241 Radcliffe St. 1 <sup>st</sup> Fl. Bristol, PA 19007 Block 2204 Lot 5 15 Chestnut Place	Tax Appeal 2019 taxes	\$ 5,411.72
Mitchel Feather c/o Valerie Hofer Esq. Trust Account 241 Radcliffe St. 1 <sup>st</sup> Fl. Bristol, PA 19007 Block 3606 Lot 1 157 Long Hill Dr.	Tax Appeal 2018 taxes (\$985.24) 2019 taxes (\$999.74)	\$ 1,984.98
Robert & Annie Shick c/o Valerie Hofer Esq. Trust Account 241 Radcliffe St. 1 <sup>st</sup> Fl. Bristol, PA 19007 Block 3801 Lot 9 33 Robert Dr.	Tax Appeal 2018 taxes (\$1,445.52) 2019 taxes (\$1,466.80)	\$ 2,912.32
Stanley & Caron Alpert and Michael A. Vespasiano Attorney Trust Account 331 Main St. Chatham, NJ 07928 Block 4206 Lot 8 48 Dorison Dr.	Tax Appeal 2018 taxes (\$8,830.99) 2019 taxes (\$10,890.99)	\$ 19,721.98
Dmitriy & Maria Trofimov and Michael A, Paff Esq. P.O. Box 6767 495 N. Bridge Street Bridgewater, NJ 08807 Block 4407 Lot 3 40 Exeter Rd.	Tax Appeal 2017 taxes (\$670.02) 2018 taxes (\$686.62) 2019 taxes (\$696.73)	\$ 2,053.37

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Kannan & Gokila Amalraj c/o
Valerie Hofer Esq. Trust Account
241 Radcliffe St. 1st. Fl
Bristol, PA 19007
Block 4903 Lot 23
386 White Oak Ridge Rd.

Tax Appeal
2019 taxes

\$ 1,034.48

RESOLUTION 20-099
AUTHORIZING THE EXTENSION OF THE SECOND QUARTER GRACE PERIOD

BE IT RESOLVED, Title 54:4-67 permits up to a ten day grace period and the COVID-19 pandemic may impact the ability to remit the second quarter taxes in a timely fashion;

NOW, THEREFORE BE IT FINALLY RESOLVED that the Millburn Township Committee authorizes the extension of the grace period for the 2020 second quarter taxes to May 10, 2020 and all payments received after the May 10, 2020 deadline will be subject to interest calculated to the due date of May 1, 2020 pursuant to State Statute.

RESOLUTION 20-100
APPROVAL OF SELF-EXAMINATION OF 2020 BUDGET RESOLUTION

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Township of Millburn has been declared eligible to participate in the program by the Division of Local government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2020 budget year.

NOW THEREFORE BE IT RESOLVED by the Governing Body of the Township of Millburn that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

- 1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
a. Payment of interest and debt redemption charges
b. Deferred charges and statutory expenditures
c. Cash deficit of preceding year
d. Reserve for uncollected taxes
e. Other reserves and non-disbursement items
f. Any inclusions of amounts required for school purposes.
2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).
3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.
4. That pursuant to the Local Budget Law:
a. All estimates of revenue are reasonable, accurate and correctly stated,
b. Items of appropriation are properly set forth
c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

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5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

**RESOLUTION 20-101  
APPOINTMENT OF FIRE SUBCODE OFFICIAL - STARZYNSKI**

**WHEREAS**, it is deemed necessary to have a New Jersey Department of Community Affairs licensed Fire Subcode Official employed by the Township to provide plan review and inspections services as described in the New Jersey Uniform Construction Code, N.J.A.C. 5:23-1 et. seq; and

**WHEREAS**, the Township has a need to perform said required plan review and inspection services; and

**WHEREAS**, the position of Fire Subcode Official was previously filled by Anthony Alfano, effective December 2, 2017; and

**WHEREAS**, it is necessary to make a new appointment to the position; and

**WHEREAS**, Dave Starzynski has submitted the appropriate documentation verifying his possession of the necessary technical skills to perform the job function required; and

**WHEREAS**, a municipality shall appoint a Subcode Official and/or inspector in order to perform the duties required by the Uniform Construction Code; and

**WHEREAS**, appointments shall be accomplished by any mechanism acceptable to the municipality; providing however, that a written record shall be kept; and

**NOW THEREFORE BE IT RESOLVED** by the Committee of the Township of Millburn, that Dave Starzynski (DCA License # 011456) be employed by the Township of Millburn in the position of Fire Subcode Official effective April 6, 2020; and

**BE IT FURTHER RESOLVED**, that recognizing the need to provide adequate staffing and inspection services such duties are required by the New Jersey Uniform Construction Code;

**BE IT FINALLY RESOLVED**, that the appointment of Dave Starzynski shall be governed by the regulations contained within the New Jersey Uniform Construction Code and the policies and procedures of the Township of Millburn, New Jersey. Compensation, work hours and inspection times shall be established by the Township of Millburn.

**RESOLUTION 20-102  
AUTHORIZING ADVERTISEMENT OF BIDS -  
MOUNTAINVIEW ROAD IMPROVEMENTS**

**BE IT RESOLVED** by the Township Committee of Millburn in the County of Essex, that the Township Clerk be and is hereby authorized and directed to advertise, as required by law, in the ITEM, a newspaper published in said Township, an Invitation to Bidders for sealed proposals to be received by the Township Clerk of the Township of Millburn in the County of Essex, New Jersey, for:

**Mountainview Road Improvements**

**BE IT FURTHER RESOLVED** that the sealed proposals will be opened and read in public at Town Hall, Millburn, New Jersey at a date and time to be determined and in the event no bids are received at that time, then authorization to re-advertise is hereby directed.

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RESOLUTION 20-103
APPROVE RAFFLE LICENSES

WHEREAS, the following have submitted application to the Township Clerk to conduct a raffle, providing all required identification and the appropriate fees; and

WHEREAS, the Police Department is in receipt of a copy of the application per the regulation of the Legalized Games of Chance Control Commission.

NOW, THEREFORE, BE IT RESOLVED that the following be approved:

Millburn Education Foundation, Inc.

Resolution

Resolution 20-104 – Authorize TRC Environmental Corporation to Perform Continued Remediation Services to Address Environmental Contamination at the Former Exxon Station Located on Essex and Main Streets at Block 701, Lot 6 on the Tax Map of the Township of Millburn

Mayor Lieberberg reviewed the purpose of the resolution and asked for a motion. Ms. Prupis made a motion to approve, which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

RESOLUTION 20-104
AUTHORIZING TRC ENVIRONMENTAL CORPORATION TO PERFORM CONTINUED REMEDIATION SERVICES TO ADDRESS ENVIRONMENTAL CONTAMINATION AT THE FORMER EXXON STATION LOCATED ON ESSEX AND MAIN STREETS AT BLOCK 701, LOT 6 ON THE TAX MAP OF THE TOWNSHIP OF MILLBURN

WHEREAS, by Resolution No. 13-129, the Township of Millburn (the "Township") authorized the award of a contract to TRC Environmental Corporation ("TRC") to provide the Township with Licensed Site Remediation Professional ("LSRP") services and for the purpose of undertaking the remediation of the site located at the corner of Essex and Main Streets upon Block 701, Lot 6 on the Tax Map of the Township, more commonly known as the Former Exxon Station (the "Site" or the "Former Exxon Station Project"); and

WHEREAS, TRC has provided the Township with such LSRP services at the Site and in furtherance of same, TRC has conducted various environmental investigation and remediation activities pursuant to those proposals issued in or around April 2013, January 2014, May 2015, and February 2018 each of which was authorized by Resolution of the Township Committee, namely, Resolution No. 13-129, Resolution No. 14-030, Resolution No. 15-113, and Resolution No. 18-065, respectively; and

WHEREAS, TRC has submitted a supplemental proposal entitled "Letter Agreement for Environmental and LSRP Services" ("Proposal") dated February 24, 2020, a copy of which is attached hereto as Exhibit A, setting forth the below-described recommended scope of work together with an estimate for same; and

WHEREAS, as set forth in the Proposal, TRC proposes conducting an additional scope of work in order to continue to, inter alia: achieve vertical delineation of groundwater contamination; document horizontal delineation of soil contamination; investigate and address historic fill materials, as may be necessary; and confirm concentrations of volatile organic compounds (VOC) in soils (collectively, the "Scope of Work"); and

WHEREAS, the Township desires to execute the Proposal attached hereto, as an amendment to the original agreement between the Township and TRC in or around April 2013, in order that TRC may undertake the Scope of Work and continue to investigate and remediate the environmental contamination at the Site in accordance and compliance with all applicable laws, rules and regulations.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Millburn:

1. The Township Committee does hereby authorize TRC to perform the tasks set forth in the Proposal dated February 24, 2020 which are estimated to cost up to \$107,000.00.
2. The Mayor or her designee is authorized to execute an amendment to the existing contract between the Township and TRC in substantially the form of the Proposal, which is deemed acceptable by the Township's Attorney and which shall be on file and available for public inspection in the Office of the Township Clerk following the full execution of same.
3. Township staff and/or counsel are authorized and directed to undertake any tasks necessary to effectuate the purposes of this Resolution.
4. TRC shall be paid from funds appropriated for the purposes set forth herein in accordance with the duly adopted budget of the Township.
5. The Township Clerk is in receipt of a Certification that the funds referenced herein are available.
6. The Township Clerk is authorized and directed to cause a copy of this Resolution to be published in the official newspaper of the Township within ten (10) days of the date hereof.
7. This Resolution shall take effect immediately.

**2020 Budget Hearing /Consideration of Adoption**

**Resolution 20-105 – Read 2019 Municipal Budget by Title**

Mayor Lieberberg brought forth Resolution 20-105 for consideration. Ms. Thall Egloff made a motion to approve, which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

**RESOLUTION 20-105  
READ 2020 MUNICIPAL BUDGET BY TITLE**

**WHEREAS**, pursuant to N.J.S.A. 40A:4-8, as amended by Chapter 78, P.L. 1964, the- municipal budget as advertised, may be read as its title at the public hearing, a complete copy of the approved budget, as advertised, shall be posted, in the principal municipal building and township website, and is made available to each person requesting the same, during said week and during the public hearing; and

**WHEREAS**, the Township Committee of the Township of Millburn hereby determines that the above conditions have been met.

**NOW, THEREFORE, BE IT RESOLVED** that the municipal budget shall not be read in full, but its title only.

Mayor Lieberberg introduced the Township CFO, Jason Gabloff. Mr. Gabloff reviewed the tax rate, stating that there is a \$51.13 increase on the average taxpayer. He provided a brief overview of the larger expenses. He advised that the township is are prepared financially and will continue to provide services to the residents and are well positioned to get through 2020. Mr. McDonald added that he and Mr. Gabloff have been meeting regularly over the last two weeks to stay on top of the current situation and to prepare to make important decisions that will impact 2021. He reviewed loss of revenue and spoke about taking spending seriously. Mr. Gabloff stated the largest part of the budget is non-discretionary items. He said only 14% is discretionary spending. Mr. Gabloff and the Township Committee discussed the budget and how it is distributed between the schools, county and locally. Mr. McDonald advised that the township does have a challenging time ahead and noted a few areas that

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have potential to be problematic. He thanked the Township Committee, past and present, for being a good teammate to put the township in a better position than most to deal with these challenges.

Public Hearing

Mayor Lieberberg declared the public hearing of the 2020 budget open. No comments were received from the virtual attendees, so she declared the public hearing closed.

**20-106 Resolution to Adopt 2020 Municipal Budget**

Mayor Lieberberg brought forth Resolution 20-106 for consideration. Mr. Wasserman made a motion to approve Resolution 20-106, which was seconded by Ms. Thall Eglow.

Roll Call Vote: All Ayes

**RESOLUTION 20-106  
ADOPT 2020 MUNICIPAL BUDGET**

**BE IT RESOLVED** by the Township Committee of the Township of Millburn, County of Essex, that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of:

(a) \$43,443,958.04 (Item 2 below) for municipal purposes, and

SUMMARY OF REVENUES

1. General Revenues:	
Surplus Anticipated	\$ 5,100,000.00
Miscellaneous Revenues Anticipated	\$ 7,405,205.05
Receipts from Delinquent Taxes	\$ 640,000.00
2. Amount To Be Raised By Taxation	
For Municipal Purposes (Item 6, Sheet 11)	<u>\$46,768,305.04</u>
3. Total Revenues	\$59,913,510.09

SUMMARY OF APPROPRIATIONS

5. General Appropriations:	
Salaries & Wages	\$22,955,340.00
Other Expense	\$30,154,752.88
(a) Capital Improvements	\$ 1,985,000.00
(b) Municipal Debt Service	\$ 1,895,000.00
(c) Deferred Charges – Municipal	\$ 484,477.05
(d) Reserve for Uncollected Taxes (Include Other Reserves if Any)	<u>\$ 2,438,940.16</u>
6. Total Appropriations	\$59,913,510.09

PARKING UTILITY  
SUMMARY OF REVENUES

1. Surplus	\$ 359,570.00
2. Total Miscellaneous Revenues	<u>\$ 1,357,000.00</u>
Total Revenues	\$ 1,716,570.00

GENERAL BUDGET  
SUMMARY OF APPROPRIATIONS

1. General Appropriations:	
Salaries & Wages	\$ 269,770.00
Other Expenses	\$ 291,800.00
Capital Improvements	\$ 50,000.00
Debt Service	<u>\$ 1085,000.00</u>



Total Appropriations

\$1,716,570.00

**Ordinance/Second Reading and Consideration of Adoption**

**Ordinance 2550-20**

Ms. Prupis brought forth and reviewed Ordinance 2550-20, which was scheduled for consideration of adoption. Mayor Lieberberg opened the public hearing. As no comments or questions were received, Ms. Prupis closed the public hearing and made a motion to adopt Ordinance 2550-20. Mr. Wasserman seconded the motion.

Roll Call Vote: All Ayes

**ORDINANCE NO. 2500-18**

**ORDINANCE OF THE TOWNSHIP OF MILLBURN AMENDING SECTION 411 OF THE TOWNSHIP OF MILLBURN DEVELOPMENT REGULATIONS AND ZONING ORDINANCE CODE ENTITLED "GUARANTEES AND INSPECTIONS" TO CLARIFY AND PROVIDE NECESSARY AMENDMENTS TO CONFORM TO THE MUNICIPAL LAND USE LAW**

***STATEMENT OF PURPOSE:** The purpose of this Ordinance is to amend the Township of Millburn Development Regulations to bring the requirements of Section 411 into compliance with a recently adopted statute concerning the posting of performance guarantees in connection with land development projects.*

**WHEREAS**, the Township Committee desires to amend Section 411 of the Township of Millburn Development Regulations and Zoning Ordinance currently entitled "Guarantees and Inspections" to clarify, update, and amend same to more accurately conform to current statutory requirements and recent amendments to the Municipal Land Use Law regarding the installation and maintenance of certain improvements and the guarantees required for same; and

**WHEREAS**, the Township Engineer has reviewed the proposed amendment of Section 411 and has recommended to the Township Committee that such further amendments be considered as now proposed herein; and

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Millburn, in the County of Essex and State of New Jersey, as follows:

**SECTION 1:** Section 411 of the Township of Millburn Development Regulations and Zoning Ordinance currently entitled "Guarantees and Inspections" is hereby amended as follows:

**§ 411 Installation of Improvements; Required Guarantees**

The following payments, contributions, and requirements shall be applicable to all site plans and subdivisions in addition to other applicable ordinances for any such development as follows:

a. Before filing of final subdivision plats or recording of minor subdivision deeds or as a condition of final site plan approval or as a condition to the issuance of a zoning permit pursuant to subsection d. of section 52 of P.L.1975. c.291 (C.40:55D-65) the Township will require and shall accept in accordance with the standards adopted by ordinance and regulations adopted pursuant to section 1 of P.L.1999, c.68 (C.40:55D-53a) for the purpose of assuring the installation and maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee in accordance with paragraphs (1) and (2) of this subsection. In accordance with the Township Ordinance requiring a successor developer to furnish a replacement performance guarantee, as a condition to the approval of a permit update under the State Uniform Construction Code, for the purpose of updating the name and address of the owner of property on a construction permit, the Governing Body may require and shall accept in accordance with the standards adopted by ordinance and regulations adopted pursuant to section 1 of P.L.1999, c.68 (C.40:55D-53a) for the purpose of assuring the installation and

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maintenance of certain on-tract improvements, the furnishing of a performance guarantee, and provision for a maintenance guarantee, in accordance with paragraphs (1) and (2) of this subsection.

(1) (a) The developer shall furnish a performance guarantee in favor of the Township in an amount not to exceed 120% of the cost of installation of only those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, and that have not yet been installed, which cost shall be determined by the Township Engineer, according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4), for the following improvements as shown on the approved plans or plat: streets, pavement, gutters, curbs, sidewalks, street lighting, street trees, surveyor's monuments, water mains, sanitary sewers, drainage structures, public improvements of open space, any grading necessitated by the preceding improvements.

The Township Engineer shall prepare an itemized cost estimate of the improvements covered by the performance guarantee, which itemized cost estimate shall be appended to each performance guarantee posted by the obligor.

(b) The developer shall furnish a performance guarantee to include, within an approved phase or section of a development privately-owned perimeter buffer landscaping, as required by ordinance or imposed as a condition of approval.

At the developer's option, a separate performance guarantee may be posted for the privately-owned perimeter buffer landscaping.

(c) In the event that the developer shall seek a temporary certificate of occupancy for a development, unit, lot, building, or phase of development, as a condition of the issuance thereof, the developer shall furnish a separate guarantee, referred to herein as a "temporary certificate of occupancy guarantee" in favor of the Township in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the permanent certificate of occupancy for the development, unit, lot, building, or phase of development and which are not covered by an existing performance guarantee. Upon posting of a "temporary certificate of occupancy guarantee", all sums remaining under a performance guarantee, required pursuant to subparagraph (a) of this paragraph, which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. The scope and amount of the "temporary certificate of occupancy guarantee" shall be determined by the Township Engineer. At no time will the Township hold more than one guarantee or bond of any type with respect to the same line item. The temporary certificate of occupancy guarantee shall be released by the Township Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building, or phase as to which the temporary certificate of occupancy relates.

(d) In addition to a performance guarantee required by the Township ordinance, a developer shall furnish to the municipality a separate guarantee, referred to herein as a "safety and stabilization guarantee", in favor of the municipality, to be available to the municipality solely for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition, only in the circumstance that:

(i) site disturbance has commenced and, thereafter, all work on the development has ceased for a period of at least 60 consecutive days following such commencement for reasons other than force majeure, and

(ii) work has not recommenced within 30 days following the provision of written notice by the Township to the developer of the Township's intent to claim payment under the guarantee. The Township shall not provide notice of its intent to claim payment under a "safety and stabilization guarantee" until a period of at least 60 days has elapsed during

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which all work on the development has ceased for reasons other than force majeure. The Township shall provide written notice to a developer by certified mail or other form of delivery providing evidence of receipt.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements in an amount not exceeding \$100,000 shall be \$5,000.

The amount of a "safety and stabilization guarantee" for a development with bonded improvements exceeding \$100,000 shall be calculated as a percentage of the bonded improvement costs of the development or phase of development as follows:

- \$5,000 for the first \$100,000 of bonded improvement costs, plus
- two and a half percent of bonded improvement costs in excess of \$100,000 up to \$1,000,000, plus
- One percent of bonded improvement costs in excess of \$1,000,000

(2) (a) The developer shall post with the Township, prior to the release of a performance guarantee required pursuant to subparagraph (a), subparagraph (b), or both subparagraph (a) and subparagraph (b) of paragraph (1) of this subsection, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the improvements which are being released.

(b) The developer shall post with the Township, upon the inspection and issuance of final approval of the following private site improvements by the Township Engineer, a maintenance guarantee in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the outflow pipes and structures of the stormwater management system, if any, which cost shall be determined according to the method of calculation set forth in section 15 of P.L.1991, c.256 (C.40:55D-53.4).

(c) The term of the maintenance guarantee shall be for a period not to exceed two years and shall automatically expire at the end of the established term.

(d) The Township shall not require that a maintenance guarantee required pursuant to this ordinance be in cash or that more than 10 percent of a performance guarantee pursuant to the ordinance be in cash. A developer may, however, provide at his option some or all of the maintenance guarantee in cash, or more than 10 percent of a performance guarantee in cash. (C.40:55D-53.3)

**Ordinance 2554-20**

Ms. Thall Eglow brought forth and reviewed Ordinance 2552-20, which was scheduled for consideration of adoption. Mayor Lieberberg opened the public hearing. As no comments or questions were received, Ms. Thall Eglow closed the public hearing and made a motion to adopt Ordinance 2554-20. Mr. Wasserman seconded the motion.

Roll Call Vote: All Ayes

**ORDINANCE NO. 2554-20  
CALENDAR YEAR 2020  
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS  
AND TO ESTABLISH A CAP BANK  
(N.J.S.A. 40A:4 45.14)**

**WHEREAS**, the Local Government Cap Law, N.J.S. 40A:4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

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WHEREAS, N.J.S.A. 40A:4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Governing Body of the Township of Millburn, in the County of Essex, finds it advisable and necessary to increase its CY 2020 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Governing Body for said year, amounting final appropriations otherwise advisable and necessary; and, hereby determines that a 1% increase in the to \$452,656.94 in excess of the in the Government Cap Law, is advisable and necessary; and,

WHEREAS, the Governing Body hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Township of Millburn, in the County of Essex, a majority of the full authorized of this governing body affirmatively concurring, that, in the CY 2020 budget year, the final appropriations of the Township of Millburn shall, in accordance with this ordinance and N.J.S.A. 40: 45.14, be increased by 3.5%, amounting to \$1,584,299.29 and that the CY 2020 municipal budget for the Township of Millburn be approved and adopt accordance with ordinance; and,

BE IF FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, with the that a Director certified copy of this ordinance as of the Division of Local Government Services within 5 days of introduction; and,

BE IF FURTHER ORDAINED that a certified copy adoption, with the recorded vote included thereon be within 5 days after such adoption of this ordinance upon field with said Director.

**Ordinance 2555-20**

Ms. Burstein brought forth and reviewed Ordinance 2555-20, which was scheduled for consideration of adoption. Mayor Lieberberg opened the public hearing. As no comments or questions were received, Ms. Burstein closed the public hearing and made a motion to adopt Ordinance 2555-20. Ms. Thall Eglow seconded the motion.

Roll Call Vote: All Ayes

**ORDINANCE NO. 2555-20  
AN ORDINANCE AUTHORIZING THE ACQUISITION BY PURCHASE OR  
CONDEMNATION OF AN EASEMENT INTEREST IN A PORTION OF THE REAL PROPERTY  
LOCATED AT 388 HOBART AVENUE, KNOWN AS BLOCK 3402, LOT 1**

**STATEMENT OF PURPOSE:** *This ordinance is being proposed to authorize the acquisition of permanent easement on the corner of Hobart Avenue and Hobart Gap Road in order to enable certain signal and related infrastructure improvements to be made to the intersection, and to permit access for maintenance of certain existing roadway improvement.*

WHEREAS, in accordance with N.J.S.A. 40A:12-5(a)(1) "any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property: (1) by purchase, gift, devise, lease, exchange, or condemnation;" and

WHEREAS, there is a need to improve the intersection of Hobart Avenue and White Oak Ridge Road with the addition of a signal and related infrastructure; and

WHEREAS, through consultation with the Township's engineering consultants, Simco Engineering, PC the Township has determined that certain signal improvements at the intersection of Hobart Avenue

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and White Oak Ridge Road would improve roadway safety the intersection; and

**WHEREAS**, Simco Engineering, PC has designed proposed signal and infrastructure improvements which improvements will require the Township to acquire a permanent easement over a portion of property located at 388 Hobart Avenue, also known as Block 3402, Lot 1, as identified in the attached parcel description by metes and bounds, in the Township of Millburn; and

**WHEREAS**, during the process of designing the infrastructure improvements, it was determined that there exist certain roadway improvements adjacent to the existing roadway, but not within an easement area which permits access to maintain such improvements; and

**WHEREAS**, based upon the goal of improving traffic safety at the intersection and maintaining existing roadway improvements, and in consultation with the Township’s consulting engineers, the Township has identified the property located at 388 Hobart Avenue as a necessary location on which to locate certain improvements related to the proposed signal and infrastructure improvements and to maintain existing roadway improvements; and

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Township Committee:

1. The appraisal of the permanent easement located at 388 Hobart Avenue, (Block 3402, Lot 1) prepared by Integra Realty Resources on behalf of the Township is hereby accepted and approved in its entirety, including but not limited to the appraised value of \$3,000.00.
2. The Business Administrator and/or the firm of Maraziti, Falcon, LLP is authorized to submit a written offer for the purchase of the aforementioned easement and to negotiate its acquisition with the property owner on the basis of the aforementioned appraisal.
3. In the event that the Business Administrator and/or the firm of Maraziti, Falcon, LLP is unable to acquire the property interest through good faith negotiation, the firm of Maraziti Falcon, LLP is authorized to file an action in Superior Court to acquire the same through condemnation in accordance with the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq. and pursuant to N.J.S.A. 40A:12-5(a)(1).
4. This ordinance shall take effect after final passage and publication as provided by law.

**Old Business**

**2020 Downtown Area Vision Plan**

Ms. Prupis announced that she wanted to discuss and open up for questions the downtown visioning plan as it progresses. Ms. Thall Eglow asked when someone is hired what will they be tasked to do. Ms. Prupis said the scope of work is in the Request for Proposals (RFP) and would get it to Ms. Thall Eglow so she could review it. She advised that the intent is to engage the community to see what should happen in the downtown. She said the time line is to hire someone in June and start in September a six month visioning process with a final report. Ms. Thall Eglow inquired about including Taylor Park. Mr. McDonald said the information Mr. Moehlman compiled could be incorporated into future discussions and advised that a grant was applied for to address repairs and improvements in the park. Ms. Burstein asked about the credentials being sought. Ms. Prupis stated they are looking for planners who will bring on people with sub-specialties. She advised that the process will include merchants, property owners and have a big piece that will involve the public. Ms. Thall Eglow inquired about the cost for the proposals and Mr. Wasserman said they ranged from \$50,000 to \$300,000. Ms. Prupis stated the members of the subcommittee are Paul Philips, Joe Maraziti, Alex McDonald, Tara Prupis and Richard Wasserman. Nancy Stone, local business owner, posed a question on regarding the PACTS committee recommendations being applied to the vision plan. Ms. Prupis advised that this has nothing to do with the PACTS recommendations. Mr. McDonald explained that the RFP will be dealing with broad based issues, such as, traffic mobility and aesthetics. Mr. Wasserman noted that Maser, the traffic engineer, will be working with whomever is selected to work on the plan.

**Special Improvement District Discussion**

Ms. Prupis opened the discussion regarding the special improvement district (SID) by speaking about the way in which a special improvement district could be helpful to businesses in the current climate. She stated that the township currently does not have this mechanism. Mr. McDonald reviewed options that could work with the current ordinance on the books. He said that the previous model was a district management that was autonomous. He spoke about Westfield's model and said their ordinance is simpler. He referenced Cranford's model and suggested that if the township wished to pursue a special improvement district, that we model ours after Westfield's or Cranford's. Mayor Lieberberg stated that the vision includes different business districts throughout the town, not just the downtown. Mr. McDonald said board members could represent the different business areas in town. Ms. Thall Eglow wondered how the areas that had not been included previously would be assessed. Mr. Wasserman asked if the SID tax would be reinstated and he was advised it would. A discussion ensued among the Committee and Mr. McDonald regarding the township contributing, which would allow for township oversight and choosing of the board members. Mr. Wasserman added that he would like to see one or two Township Committee members sit on the board and he would want to make sure there is oversight and value for any money the town would contribute. Mr. McDonald explained the ordinance would need to be revised if they wished to move forward. Mr. Falcon stated that he had been reviewing the ordinance and the changes would be an improvement over what the town currently has. He noted that it would also allow for municipal control. The Committee discussed and decided the topic would be brought back for the May 19<sup>th</sup> meeting. Mr. Wasserman suggested that space be found at Town Hall or the Bauer Center in order to avoid expenses for office space and phones.

Mayor Lieberberg asked if anyone had any other old business. Ms. Thall Eglow brought forth the issue of the plastic bag ban again, stating she discussed it earlier with the mayor. She mentioned that Trader Joe's will no longer allow reusable bags in the store. She said it is not fair if the supermarkets do not allow people to use their reusable bags to charge them the per bag fee when the ban goes into effect on June 12<sup>th</sup>. She said she hopes it is something to keep in mind as the pandemic continues. Mr. Wasserman said Kings will allow it if you pack your own bag. He said where there is a will there is a way. Ms. Thall Eglow said it serves no point if there will not be enforcement and hope this will continue to be under consideration.

Ms. Thall Eglow spoke about a suggestion from a resident that if there are unused plots in the garden and suggested that volunteers could plant and donate the produce to the food bank and seniors.

She also spoke about wrapping the utility boxes around town, using artwork from the school's AP art departments. Mr. McDonald commented that there are different locations and types and noted that there are six or seven in the downtown. Mayor Lieberberg said she would like to see that as well and asked Mr. McDonald to execute any necessary paperwork.

Ms. Prupis asked for an update on the adaptive lighting. Mr. McDonald advised that he had a conversation with Maser Engineering and we are waiting on an official update. He said the report is on pause because they cannot get an accurate traffic count at this time due to the lack of traffic from the pandemic.

Ms. Thall Eglow said she wished to review the 5 recommendations presented by the (PACTS) Pedestrian and Circulation Safety Ad Hoc Committee. She reviewed the points and asked what we could do if we wanted this since the town is able to go out for bid again. Mr. McDonald advised that he received guidance on bidding from DCA. He said it is possible to go out to bid, if the Township Committee agrees they would like to do something. A discussion ensued and the consensus was that this is not the appropriate time to do any project regarding the PACTS recommendations.

**New Business**

No one presented new business.

**Adjournment**

Mayor Lieberberg asked if anyone had any remaining comments or questions. Receiving none, she called for a motion to close the public session of the meeting, which was offered by Mr. Wasserman and seconded by Ms. Prupis. The meeting was adjourned at 8:25 PM. Vote: All Ayes

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Christine A. Gatti, RMC  
Township Clerk

Approved: May 19, 2020