

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 7:30 PM on the above date.

Mayor Bourke opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, be 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 7:30 PM on April 5, 2016.

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

Upon roll call, the following Committee members were recorded present: W. Theodore Bourke, Cheryl H. Burstein, Ian Mount, and Robert J. Tillotson. Jodi L. Rosenberg was absent.

Also present were Business Administrator Timothy Gordon, Township Attorney Christopher Falcon, Assistant Administrator Alexander McDonald and Township Clerk Christine Gatti.

Approval of Agenda

Mayor Bourke asked for a motion to approve the agenda, which was offered by Mr. Tillotson and seconded by Ms. Burstein

Vote: All Ayes (Ms. Rosenberg was absent)

Minutes

Mayor Bourke brought forth the minutes of January 15, 2016. Mr. Tillotson made a motion to approve the minutes, which was seconded by Ms. Burstein.

Vote: All Ayes (Ms. Rosenberg was absent)

Mayor Bourke brought forth the minutes of January 19, 2016. Mr. Mount made a motion to approve the minutes, which was seconded by Ms. Burstein.

Vote: All Ayes (Ms. Rosenberg was absent)

Proclamation

A Proclamation was presented to Celebrate Family Meal Week During Alcohol Awareness Month. Mr. Tillotson stated that he supports and appreciates their efforts.

Reports

Mr. McDonald announced that two car charging stations have been installed on the second floor of the parking garage.

Mr. Tillotson provided updates regarding the Rahway River Council.

Mr. Falcon announced that the township filed for a capital project review of the Complete Streets plan and it will be heard before the Millburn Township Planning Board tomorrow evening.

Mr. Serio provided updates regarding Essex County events.

Mayor Bourke attended an Essex County Chamber of Commerce “Meet the Mayor” panel. He announced that Girls Night Out is being held on May 19th. He also read a statement regarding the Stop and Shop matter:

“The decades long effort by Stop & Shop to use the vacant Saks building on Millburn Avenue on the Millburn/Springfield border will take its latest turn on April 27, 2016 when the Essex County Board of Freeholders considers Stop & Shop’s request to convey the portion of the property located in Millburn to the County.

The subject property is mostly located in Springfield on Millburn Avenue along the border between Millburn and Springfield. In the 1950’s, Essex County was considering widening Millburn Avenue, and the border between the two counties, and municipalities, was shifted by twenty feet or so that if and when the road widening occurred, Essex County would be able to acquire the property. The shift resulted in the majority of the Saks property being located in Springfield, while the 20 foot strip adjacent to Millburn Avenue is located in Millburn. In the early 1990’s, Stop and Shop brought the property and began the process of obtaining land use approval. It submitted an application to the Springfield Planning Board, but rather than do the same in Millburn, it filed a Complaint in Superior Court challenging the validity of the land use ordinance governing the 20 foot strip of land. The Springfield application went through years of litigation, with Stop & Shop ultimately obtaining approval in 2006. The Courts upheld the validity of the Millburn ordinance, but Stop & Shop chose not to proceed with a land use application for the Millburn portion.

In 2009, Stop & Shop first sought to convey the 20 foot strip of land to the County of Essex with the stated belief that if the County owned the property, Millburn’s ordinance would not apply. In 2010 the County declined to act on the proposed dedication of the property and Stop & Shop sued to compel the acceptance of the property. Millburn successfully intervened in that litigation. The judge convinced Stop & Shop to apply to the Millburn Zoning Board for the necessary land use approval and put the 2010 case on hold while that application proceeded. In the interim, the Township of Millburn amended the applicable land use ordinance, which amendments were challenged by two new cases filed by Stop & Shop against the Township and its Planning Board. In 2014, the Millburn Board of Adjustment denied Stop & Shop’s application and noted the safety and traffic problems that would be caused by the faulty design of the Stop & Shop plan. In 2014 Stop and Shop filed its fourth action in Superior Court challenging the denial. All of the cases have been consolidated in one matter before a single judge, with a scheduled trial date in December 2016. Several competitors of Stop & Shop successfully intervened as defendants in the various actions.

The recent effort by Stop & Shop to have the County of Essex accept the dedication of the 20 foot strip of property (thereby becoming the owner) is due to the stated intention and belief by Stop & Shop that ownership of the property by the County would divest Millburn of jurisdiction to regulate use of the property. Millburn, as well as the other parties in the various cases, disagrees with the theory put forth by Stop and Shop and has provided both the Court and Stop & Shop with case law establishing that Stop & Shop’s position should be rejected. As to the pending request to dedicate the property, the Freeholders will consider it at the meeting scheduled for April 27, 2016. Stop & Shop has informed the Court that its intention in dedicating the property is to strip Millburn of the power to regulate the property and result in the approval of the entire project despite the denial by the Millburn Board of Adjustment. It is Millburn’s position, that the Freeholders should defer acting on the dedication until the various litigation is resolved, The Board’s denial cited significant safety and traffic impacts on the residents of Millburn due to the faulty design of the project which concerns should not be cast aside solely to advance the commercial interests of a corporation which has filed four separate lawsuits seeking to avoid the duly enacted Millburn Land Use Ordinance and which has stated its intention in seeking the dedication is to avoid the need to obtain land use approval from the Township.”

Mr. Tillotson suggested that the public attend the Freeholder meeting. Mayor Bourke said he will be putting out a press release so the public is aware of what is going on. He wants to continue dialogue with the County. He said his goal tonight is to make the public aware and continue dialogue. He said he will be attending the Freeholder meeting on April 27th.

Public Discussion

Mayor Bourke asked if there were any comments or questions regarding items on the Consent Agenda. Ed Mazer, resident of Greenwood Drive, came forward and asked about Resolution 16-096. Mr. Gordon advised that there is a parcel of land that the town may be interested in for the purpose of additional recreation space. He stated that before decisions are made regarding the purchase the town wants to make sure it is environmentally feasible for the intended purpose.

Consent Agenda

Mayor Bourke asked for a motion to approve the items on the consent agenda. Mr. Tillotson made a motion to approve the consent agenda, which was seconded by Ms. Burstein.

Roll call vote: All ayes (Ms. Rosenberg was absent)

**RESOLUTION 16-083
 RESOLUTION TO 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 5, 2016, in the following accounts:

General	\$	920,708.36
Capital Fund		61,915.71
Parking Utility Operating Fund		480.00
Dog Fund Trust		4,156.94
Donation Trust Fund		7,075.63
Escrow Trust Fund		6,517.78
Forfeiture Funds Trust		1,031.00
Police Off Duty Trust Fund		48,663.00
Waste Recycling Trust Fund		995.00
PATFA II		1,969.00

**RESOLUTION 16-084
 RESOLUTION TO 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 draw warrants to pay the payees listed below in the specified amounts;

<u>Make check payable to:</u>	<u>Type</u>	<u>Amount</u>
Stark & Stark, PC	Tax Appeal	\$3,142.77
Attn: Marshall T. Kizner	2015 Taxes	
993 Lenox Drive Bldg 2 Box 5315		
Princeton, NJ 08543-5315		
Block 2403 Lot 5		
38 Kenilworth Dr		

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**RESOLUTION 16-085
RESOLUTION AUTHORIZING THE CANCELLATION OF SEWER CHARGE**

NOW, THEREFORE BE IT RESOLVED that the Millburn Township Committee authorize the Tax Collector to cancel the sewer charges listed below.

Block	Lot	Location	No. of Units	Reason	Amount
2202	2	39 Stewart Rd	2	Parcel has septic system (Confirmed by Health Dpt)	\$320.00
704	5	271 Millburn Ave	3	Formerly restaurant- vacant (Fire damage, restaurant gone)	\$480.00

**RESOLUTION 16-086
AUTHORIZING AMENDMENT AND RESTATEMENT OF RETIREMENT PLAN VIA ADOPTION OF VALIC
RETIREMENT SERVICES COMPANY GOVERNMENTAL VOLUME SUBMITTER PLAN**

WHEREAS, the Township of Millburn (hereinafter referred to as the “Employer”) previously established the Millburn 401(a) w/414h(h) Pick-up Plan (hereinafter, the “Plan”) for the exclusive benefit of its employees and their beneficiaries, which was originally effective as of January 1, 2009; and

WHEREAS, the Employer retained the power to amend and/or terminate the Plan; and

WHEREAS, the Employer now desires to amend and restate the Plan by adopting the VALIC Retirement Services Company Governmental Volume Submitter Plan document; and

NOW, THEREFORE, BE IT RESOLVED that the Employer hereby amends and restates that Plan, effective January 1, 2010, by adopting the document titled “VALIC Retirement Services Company Governmental Volume Submitter Plan”, in the form and substance as the document heretofore presented to the governing body of the Employer; and

BE IT FURTHER RESOLVED, that the appropriate representative of the Employer be, and the same hereby are, authorized and directed to: (i) execute the adoption agreement to the VALIC Retirement Services Company Governmental Volume Submitter Plan document as approved; (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the execution of any amendments required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan; and (iii) execute any other documents required to obtain reliance on advisory letters issued to the VALIC Retirement Services Company Governmental Volume Submitter Plan by the Internal Revenue Service.

**RESOLUTION 16-087
AUTHORIZING ADOPTION OF AIG RETIREMENT GOVERNMENTAL VOLUME SUBMITTER PLAN**

WHEREAS, the Township of Millburn (hereinafter referred to as the “Employer”) desires establish a retirement plan for the exclusive benefit of its employees and their beneficiaries to; and

WHEREAS, the Employer desires to adopt the AIG Retirement Governmental Volume Submitter Plan; and

NOW, THEREFORE, BE IT RESOLVED that the Employer hereby adopts the document titled “AIG Retirement Governmental Volume Submitter Plan”, effective January 1, 2009.

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BE IT FURTHER RESOLVED that the Employer hereby restates the Plan effective January 1, 2002, in order to comply with legislation known as the EGTRRA, the provisions of which are required to be effective the first day of the Plan Year beginning in 2002 or the original effective date of the Plan, if later, and

BE IT FURTHER RESOLVED, that the appropriate representatives of the Employer be, and the same hereby are, authorized and directed to: (i) execute the adoption agreement to the AIG Retirement Governmental Volume Submitter Plan document as approved; (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the AIG Retirement Governmental Volume Submitter Plan effective January 1, 2009, including the execution of any amendments required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan; and (iii) execute any other documents required to obtain reliance on advisory letters issued to the AIG Retirement Governmental Volume Submitter Plan by the Internal Revenue Service.

RESOLUTION 16-088

AUTHORIZING AWARD OF CONTRACT FOR THE REVALUATION OF ALL REAL PROPERTY LOCATED IN THE TOWNSHIP OF MILLBURN TO APPRAISAL SYSTEMS, LLC

WHEREAS, the Township of Millburn solicited and received proposals (the "RFP") for the revaluation of all real property located in the Township of Millburn on March 23, 2016; and

WHEREAS, the Township of Millburn received three proposals in response to the advertised RFP; and

WHEREAS, the Township Administrator and Township Tax Assessor are recommending to the Township Committee at a meeting held on April 5, 2016, that the Township of Millburn enter into a contract with Appraisal Systems, Inc., 264 South Street, Building 2, Suite 1B Morristown, NJ 07960; and

WHEREAS, Appraisal Systems, Inc. offered to provide the requested services for fee of \$499,160.00;

NOW THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Millburn, New Jersey does hereby authorize award of contract upon the terms as solicited in the RFP by the Township of Millburn and as responded Appraisal Systems, Inc., 264 South Street, Building 2, Suite 1B Morristown, NJ 07960 subject to the execution of a contract on a form approved by the Township Attorney.

RESOLUTION 16-089

AUTHORIZING THE APPOINTMENT AND AWARD OF A CONTRACT FOR LAND SURVEYOR [GEOD CORPORATION]

WHEREAS, the Township of Millburn has a need for a Land Surveyor to be responsible for the Tax Maps of the Township; and

WHEREAS, GEOD Corporation, is hereby appointed to this position; and

WHEREAS, Paul J. Emilius, Jr. of GEOD Corporation, has provided the Business Entity Disclosure Certification in accordance with N.J.S.A. 19:44A-20.8; and

WHEREAS, the Business Entity Disclosure Certification and Determination of Value shall be placed on file with this resolution; and

WHEREAS, the Local Public Contracts Law (NJSA 40A:11 et seq.) requires that a resolution authorizing the payment of such professional fees, without competitive bidding must be publicly advertised;

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NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, in the County of Essex as follows:

1. That the Mayor and Township Clerk are hereby authorized and directed to execute a Professional Services agreement in a form subject to the approval of the Township Attorney between GEOD Corporation, 24 Kanouse Road, Newfoundland, NJ 07435 and the Township of Millburn, in connection with Tax Map updates. Hourly compensation: \$135.00 per hour including rates as per the submitted 2016 rate schedule.
2. That this contract is made without competitive bidding as “professional services” under the provisions of the Local Public Contracts Law of the qualitative nature of the services to be performed.
3. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law.

RESOLUTION 16-090

AWARD CONTRACT FOR SHORT HILLS TRAIN STATION ROOF REPAIRS

WHEREAS, on March 22, 2016, the Township Clerk received six (6) bid proposals for the Short Hills Westbound Train Station Roof Repairs Project, the low three bidders were as follows:

Frank Cyrwus Inc. Construction
 44 Old Beaver Run Rd.
 Lafayette, NJ 07848-2004
 Bid: \$114,711.00

Northeast Roof Maintenance, Inc.
 649 Catherine Street
 Perth Amboy, NJ 08861
 Bid: \$148,000.00

Integrity Roofing, Inc.
 1385 Witherspoon Street
 Rahway, NJ 07065
 Bid: \$184,340.00

WHEREAS, the lowest bidder Frank Cyrwus Inc. Construction complied with the specifications and the Architect, Barton Ross, has recommended that the contract be awarded;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn that the proper Township Officials are authorized and directed to execute a contract with Frank Cyrwus Inc. Construction on a form approved by the Township Attorney and pursuant to the proposal, the amount of the fees set forth in the contract in total bid amount of \$114,711.00.

RESOLUTION 16-091

AUTHORIZING CONTRACTS WITH CERTAIN APPROVED STATE CONTRACT VENDORS AND CERTAIN MORRIS COUNTY COOPERATIVE PRICING COUNCIL VENDORS FOR CONTRACTING UNITS PURSUANT TO N.J.S.A. 40A:11-12a

WHEREAS, the Township of Millburn, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29(c), may by resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program and other approved Cooperative Purchasing Programs for any State or Cooperative Purchasing contracts entered into on behalf of the State by the Division of

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Purchase and Property in the Department of the Treasury and/or by the approve the Cooperative Purchasing Program; and

WHEREAS, the Township of Millburn is a member of the Morris County Cooperative Pricing Council; and

WHEREAS, The Township of Millburn is a member of the Middlesex Regional Educational Services Commission (MRESC); and

WHEREAS, The Township of Millburn is a member of the Educational Services County Co-op:

WHEREAS, The Township of Millburn is a member of the Cranford Police Cooperative Pricing Council:

WHEREAS, the Township of Millburn, has the need on a timely basis to purchase goods or services utilizing State contracts, Morris County Cooperative Pricing Council Contract, MRESC, Cranford Police Pricing Council, and the Educational Services County Co-op; and

WHEREAS, the Township of Millburn intends to enter into contracts with the attached Referenced State Contract and Morris County Cooperative Pricing Council Contract Vendors, MRESC, Cranford Cooperative Police Pricing Council, and Educational Services County Co-OP through this resolution and properly executed contracts, which shall be subject to all the conditions applicable to the current State and Cooperative Purchasing Program contracts;

NOW, THEREFORE, BE IT RESOLVED, that the Township of Millburn authorizes the Purchasing Agent to purchase certain goods or services from those approved New Jersey State Contract, Morris County Cooperative Pricing Council Vendors, MRESC, Cranford Police Cooperative Pricing Council, and Educational Services County Co-op on the below list, pursuant to all conditions of the individual State and Cooperative Purchasing contracts; and

BE IT FURTHER RESOLVED, that the governing body of the Township of Millburn pursuant to N.J.A.C. 5:30-5.5(b), the certification of available funds, shall either certify the full maximum amount against the budget at the time the contract is awarded, or no contract amount shall be chargeable or certified until such time as the goods or services are ordered or otherwise called for prior to placing the order, and a certification of availability of funds is made by the Chief Finance Officer; and

BE IT FURTHER RESOLVED, that the duration of the contracts between the Township of Millburn and the Referenced State Contract, Morris County Cooperative Pricing Council Vendors, MRESC vendors, Cranford Police Cooperative Pricing Council, and The Educational Services County Commission of Morris County shall be from January 1, 2016 to December 31, 2016.

Referenced State Contract Vendors

<u>Commodity/Service</u>	<u>Vendor</u>	<u>State/Co-Op Contract #</u>
General Office Supplies	W.B. Mason	State Contract # 88839
		MRESC Contract # 15/16-13
	W.B. Mason	MCCPC Contract # 30 (paper)
		MRESC Contract # 14/15-51
	The Office Concepts Group	MCCPC Contract # 16 & 30
Road Salt	Morton Salt	MCCPC Contract # 3

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Road Paving & Resurfacing	Tilcon New York, Inc Micro-Pave Systems	MCCPC Contract # 5,6 MCCPC Contract # 6
Line Painting	Denville Line Painting	MCCPC Contract # 36
Tree Removal & Trimming	Tree King	MCCPC Contract # 18
Records Management Services	File Bank	Educational Services County Co- Commission of Morris County Bid # 5210
Electrician Services	MTB Electric	MRESC Contract # 15/16-24
Technology Supplies & Services	CDWG Johnston Communications Dell	MRESC Contract # 15/16-11 State Contract #88766 State Contract #88796
Police Uniforms	Atlantic Tactical	State Contract # 86389 MCCPC # 23
Police Vehicles	Beyer Ford	Contract 15-01
Sporting Goods-Clothing	RnR Trophy & Sporting Goods	Co-op Contract # 20-A
<i>Parking Paystations</i>	<i>Integrated Technical Systems</i>	<i>CPCPS Contract# 13-02</i>

BE IT FURTHER RESOLVED that this resolution replaces Resolution 16-035 adopted by the Millburn Township Committee on January 19, 2016.

**RESOLUTION 16-092
AUTHORIZE ACCEPTANCE OF THE
NEW JERSEY HAZARD MITIGATION GRANT**

BE IT RESOLVED by the Township Committee of the Township of Millburn in the County of Essex, hereby authorizes the township to accept the State of New Jersey Hazard Mitigation Grant from the Federal Emergency Management Agency (FEMA) in the amount of \$100,000.00 for Pump Station Emergency Generators, under HMGP-DR-4086-NJ-522-R, as per the award letter dated March 23, 2016.

**RESOLUTION 16-093
RESOLUTION REQUESTING APPROVAL OF
ITEMS OF REVENUE AND APPROPRIATION**

WHEREAS, NJS 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for equal amount; and

NOW, THEREFORE, BE IT RESOLVED, that the Township Committee of the Township of Millburn in the County of Essex, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2016 in the sum of \$100,000.00, which is available from the Federal Emergency Management Agency (FEMA);

BE IT FURTHER RESOLVED, that the like sum of \$100,000.00 is hereby appropriated under the caption HMGP-DR-4086-NJ-522-R; and

BE IT FURTHER RESOLVED that the above is the result of funds from the Federal Emergency Management Agency, Department of Law and Public Safety for a Hazard Mitigation Grant in the amount of \$100,000.00.

**RESOLUTION 16-094
AUTHORIZATION FOR THE TOWNSHIP OF MILBURN STAFF
TO PROCESS AN INVOLUNTARY DISABILITY RETIREMENT APPLICATION**

WHEREAS, the Township of Millburn has employed a Truck Driver at its Department of Public Works; and

WHEREAS, the employee is an active member of the PERS; and

WHEREAS, the employee has fourteen years and six months of PERS Service Credit, meeting the minimum service credit requirement of at least five years for PERS and SPRS members; and

WHEREAS, the Township staff is of the opinion that the Public Works Employee is totally and permanently disabled and no longer can perform his or her assigned duties based on the documentation supplied by professionals retained by the Township; and

WHEREAS, the Township of Millburn is unable to provide an alter native to the PERS covered position with duties capable of being performed by said Truck Driver; and

WHEREAS, the Millburn Township Administrator and Public Works Superintendent have consented to the processing of the Involuntary Disability Retirement application;

NOW, THEREFORE, BE IT RESOLVED BY the Township Committee of the Township of Millburn that the Township Business Administrator process an Involuntary Disability Retirement application for the Truck Driver in the Department of Public Works; and

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to all parties involved in the administration of this action.

**RESOLUTION 16-095
RESOLUTION TO APPROVE RAFFLE LICENSES**

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

WHEREAS, the Police Department has conducted an investigation of those conducting such raffles and has found nothing to prevent their issuance.

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

- Connection for Women
- Millburn High School PTO

**RESOLUTION 16-096
AUTHORIZING THE RETENTION OF PROFESSIONAL ENVIRONMENTAL CONSULTING
SERVICES TO CONDUCT FINAL DUE DILIGENCE**

ACTIVITIES UPON CERTAIN REAL PROPERTY

WHEREAS, by Resolution No. 15-255, the Township of Millburn (the “Township”) awarded a contract to Langan Engineering and Environmental Services, Inc. (“Langan”) to provide professional environmental consulting services to the Township and to conduct initial due diligence activities (“Preliminary Assessment”) upon certain real property for purposes of the Township’s potential acquisition of same (the “Property”); and

WHEREAS, following the performance of the Preliminary Assessment, it was determined that additional investigation was necessary and appropriate; and

WHEREAS, by Resolution No. 15-255, the Township awarded a contract to Langan to provide further professional environmental consulting services to the Township and to conduct limited site investigation activities as well as a flood hazard area assessment (collectively, “Limited Site Investigation”) upon the Property for purposes of additional due diligence; and

WHEREAS, following the performance of the Limited Site Investigation, it has been determined that additional investigation activities as well as surveys (collectively, “Site Characterization Studies”) are necessary and appropriate for purposes of final due diligence; and

WHEREAS, the services to be rendered are to be conducted in accordance with an extension of the original Access Agreement dated August 31, 2015 granted by the current owner of the Property, providing the Township with access for an additional period of time for purposes of conducting the requisite Site Characterization Studies (the “Extended Access Agreement”); and

WHEREAS, the Site Characterization Studies are to be completed pursuant to a Letter Agreement/Proposal for Phase II Site Characterization Studies dated March 8, 2016, a copy of which is attached hereto as **Exhibit A** (the “Langan Agreement”); and

WHEREAS, the Extended Access Agreement and the Langan Agreement shall be in forms subject to approval by the Township Attorney.

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

1. The Township Committee does hereby award a contract to Langan in an amount up to \$51,800.00 to conduct the Site Characterization Studies upon the Property as set forth in the Proposal for Phase II Site Characterization Studies.
2. The Mayor or the Township Business Administrator as the Mayor’s designee is authorized to execute the referenced Extended Access Agreement, as applicable, as well as the Langan Agreement for the Phase II Site Characterization Studies, both in forms deemed acceptable by the Township Attorney.
3. The Clerk is authorized and directed to cause a copy of this Resolution to be published in the official newspaper of the Township concerning the Langan Agreement within ten (10) days of the date hereof, as may be required by law. Langan shall be paid from funds appropriated for these purposes in accordance with the duly adopted budget of the Township. The Langan Agreement shall be on file and available for public inspection in the Office of the Township Clerk.
4. This Resolution shall take effect immediately.

2016 BUDGET INTRODUCTION

Mayor Bourke presented the budget for 2016.

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Mayor Bourke asked if anyone had any questions regarding the budget. Receiving none, he asked for a motion to move Resolution 16-097, which would approve and set the public hearing for the 2016 Budget on May 17, 2016 at 7:30 PM, which was seconded by Mr. Tillotson.

Roll Call Vote: All ayes (Ms. Rosenberg was absent)

RESOLUTION 16-097
RESOLUTION TO APPROVE BUDGET AND
SET PUBLIC HEARING DATE (MAY 17, 2016)

MUNICIPAL BUDGET NOTICE
Municipal Budget of the Township of Millburn, County of Essex
for the Fiscal Year 2016

BE IT RESOLVED, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2016; and

BE IT FURTHER RESOLVED, that said Budget be published in The Item of Millburn and Short Hills in the issue of April 14, 2016.

The Governing Body of the Township of Millburn does hereby approve the following as the Budget for the year 2016:

RECORDED VOTE: Ayes: Burstein, Mount, Tillotson, Bourke; Nays: None; Absent: Rosenberg; Abstain: None

Notice is hereby given that the Budget and Tax Resolution was approved by the Township Committee of the Township of Millburn, County of Essex, on April 5, 2016.

A Hearing on the Budget and Tax Resolution will be held at Town Hall on May 17, 2016 at 7:30 p.m. at which time and place objections to said Budget and Tax Resolution for the year 2016 may be presented by taxpayers or other interested parties.

ORDINANCE/INTRODUCTION

Ordinance 2456-15

Mayor Bourke brought forth Ordinance 2456-15 for introduction and provided a brief explanation.

Mayor Bourke moved that the ordinance be taken up and passed on first reading, which was seconded by Mr. Mount. He announced that the public hearing for the ordinance is scheduled for May 17, 2016.

Roll Call Vote: All Ayes (Ms. Rosenberg was absent)

ORDINANCE NO. 2456-16
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 0% 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 Township Committee of the Township of Millburn in the County of Essex finds it advisable and necessary to increase its CY 2016 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 Township Committee hereby determines that a 3.5% increase in the budget for said year, is estimated to be \$799,968.62 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Committee 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 appropriations in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Millburn, in the County of Essex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2016 budget year, the final appropriations of the Township of Millburn shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased up to 3.5%, amounting to \$1,431,046.86 and that the CY 2016 municipal budget for the Township of Millburn be approved and adopted in accordance with this ordinance; and,

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

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

Ordinance 2457-15

Mr. Tillotson brought forth Ordinance 2457-15 for introduction and gave provided an overview.

Mr. Tillotson moved that the ordinance be taken up and passed on first reading, which was seconded by Ms. Burstein. It was announced that the public hearing for the ordinance is scheduled for May 17, 2016.

Roll Call Vote: All Ayes (Ms. Rosenberg was absent)

**ORDINANCE NO. 2457-16
ORDINANCE AUTHORIZING
LEASE AGREEMENT BETWEEN THE TOWNSHIP AND CB MILLBURN, LLC**

STATEMENT OF PURPOSE: Ordinance to authorize lease for Open-Air Cafe on premises owned by Millburn Township located as part of Lot 28 in Block 1212 on the tax map which is specifically described in Section 15-1-6.1 of the Millburn Township Ordinance Code.

WHEREAS, the public place known as The Courtyard, designated as part of Lot 28 in Block 1212 on the Millburn Township Tax Map, is specifically described in Section 15-1-6.1 of the Millburn Township Ordinance Code; and

WHEREAS, the Township desires to lease for the operation of an Open-Air Cafe and appurtenant facilities on premises owned by the Township of Millburn, situated at the northeasterly corner of the Courtyard, in the Township of Millburn, Essex County, New Jersey, as more particularly described on Schedule A (the "Open Air Café Property"); and

WHEREAS, the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., authorizes the Township of Millburn to lease any real property owned by the Township not needed for public use to a private entity pursuant to the statutory procedures set forth at N.J.S.A. 40A:12-14 which require, among other things, that the lease be made to the highest bidder by open public bidding at auction or by submission of sealed bids; and

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WHEREAS, the Open-Air Café Property is not needed for a public use between May and October of each year and the Township advertised to receive sealed bids in order to lease the Open-Air Café Property to a private entity; and

WHEREAS, the Township desires that the term of the lease shall initially be for two six month terms, May 1, 2016 to October 31, 2016 and May 1, 2017 to October 31, 2017, unless sooner terminated as provided by the terms of the Open-Air Café Lease and the Township of Millburn shall have the option, exercisable in its sole discretion, to renew the lease on the same terms for two (2) additional six month terms the first beginning May 1, 2018 to October 31, 2018 (option 1) and the second from May 1, 2019 to October 31, 2019 (option 2) upon giving not less than ninety (90) days' written notice to the Lessee of the Township's exercise of the renewal option; and

WHEREAS, the Township desires that the minimum bid that will be accepted by Millburn Township is \$500.00 a month for 2016, 2017, 2018 and 2019; and

WHEREAS, the Township received one bid from CB Millburn, LLC, having an address of 1101 Waterloo Road, Edmund, Oklahoma, having a restaurant located at 35 Main Street, Millburn, New Jersey.

NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, as follows:

Section 1. The Township Committee hereby authorizes the lease of the Open Air Café Property to CB Millburn, LLC, having an address of 1101 Waterloo Road, Edmund, Oklahoma, and having a restaurant located at 35 Main Street, Millburn, New Jersey in accordance with the terms and conditions set forth in the Lease Agreement attached to the bid and the Mayor is hereby authorized and directed to execute said Lease Agreement.

Section 2. This Ordinance shall take effect after final passage and publication in accordance with law.

Ordinance 2458-15

Mr. Mount brought forth Ordinance 2458-15 for introduction and provided an overview.

Mr. Mount moved that the ordinance be taken up and passed on first reading, which was seconded by Mr. Tillotson. It was announced that the public hearing for the ordinance is scheduled for May 17, 2016.

Roll Call Vote: All Ayes (Ms. Rosenberg was absent)

**ORDINANCE NO. 2458-16
ORDINANCE AMENDING CHAPTER V "ANIMAL CONTROL" OF
THE MILLBURN TOWNSHIP ORDINANCE CODE**

STATEMENT OF PURPOSE: Ordinance to revise cat and dog license fees, delinquent fees, and dog inoculation requirements.

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. Article V "Animal Control," Section 5-5 "Licensing and Vaccination of Cats," Subsection 5-5.2 "Licensing Requirements," and more particularly Paragraph g "Evidence of Inoculation with Rabies Vaccine or Certification of Exemption; Requirement for License" and Paragraph h "License Fee Schedule" of the Revised General Ordinances of the Township of Millburn are hereby revised as follows:

- g. *Evidence of Inoculation with Rabies Vaccine or Certification of Exemption; Requirement for License.* The Health Officer shall not grant any such license tag for any cat unless the owner thereof provides evidence that the cat to be licensed has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the

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recommendations of the United States Department of Agriculture and the United States Department of Human Services, or has been certified exempt as provided by subsection 5-5.1d. The rabies inoculation shall be administered by a duly licensed veterinarian, or by such other veterinarian permitted by law to do the same, and the vaccine shall be valid until October 31st of that licensing year.

- h. *License Fee Schedule.* A license shall be issued after payment of a fee of twenty-one dollars (\$21.00) for each unneutered cat and eighteen dollars (\$18.00) for each neutered cat. Persons who fail to obtain a license as required within the time period specified in subsection 5-5.1 shall be subject to a one-time delinquent fee of ten (\$10.00) dollars after March 1st.

Section 2. Article V “Animal Control,” Section 5-6 “Dogs,” Subsection 5-6.1 “License and Tag Fees” is hereby revised as follows:

- a. *Evidence of Inoculation with Rabies Vaccine or Certification of Exemption; Requirement for License.* The Health Officer shall not grant any such license tag for any dog unless the owner thereof provides evidence that the dog to be licensed has been inoculated with a rabies vaccine of a type approved by and administered in accordance with the recommendations of the United States Department of Agriculture and the United States Department of Human Services, or has been certified except as provided by subsection 5-6.1e. The rabies inoculation shall be administered by a duly licensed veterinarian, or by such other veterinarian permitted by law to do the same, and the vaccine shall be valid until October 31st of that licensing year.
- b. *License Required.* Any person who shall own, keep or harbor a dog of licensing age, which means a dog of seven (7) months or which possesses a set of permanent teeth, shall in the month of January, annually apply for and procure from the Health Officer a license and license tag for each such dog, so owned, kept or harbored, and shall place upon each such dog a collar with the license tag securely fastened thereto.
- c. *When to Apply.* The owner of any newly acquired dog of licensing age, as hereinbefore described, shall make application for license and tag for such dog within ten (10) days after such acquirement or age attainment.
- d. *Fees.* The Health Officer is hereby designated to license dogs and the sum to be paid annually for a dog license is fixed at twenty-one dollars (\$21.00) for each unneutered dog and eighteen dollars (\$18.00) for each neutered dog. Persons who fail to obtain a license as required within the time period specified in subsections 5-6.1a. and b. shall be subject to a one-time delinquent fee of ten (\$10.00) dollars after March 1st.
- e. *Exemption for Seeing Eye Dogs or Therapy Dogs.* Dogs used as guides for blind persons and commonly known as “seeing-eye” dogs or “therapy dogs” shall be licensed as other dogs except that the owner shall not be required to pay any fees therefore.
- f. *Inoculation Exemptions.* A dog may be exempted from the requirements of such vaccination for a specified period of time by the Animal Control Authority, upon presentation of a veterinarian’s certificate stating that because of infirmity or other physical condition, or regimen of therapy, the inoculation of such dog shall be deemed inadvisable.

Section 3. The provisions of this ordinance are severable and the invalidity of any phase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 4. This ordinance shall take effect after final passage and publication as required by law.

Ordinance 2459-15

Ms. Burstein brought forth Ordinance 2459-15 for introduction and provided an overview.

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Ms. Burstein moved that the ordinance be taken up and passed on first reading, which was seconded by Mr. Tillotson. It was announced that the public hearing for the ordinance is scheduled for May 17, 2016.

Roll Call Vote: All Ayes (Ms. Rosenberg was absent)

ORDINANCE NO. 2459-16

ORDINANCE AMENDING CHAPTER IV "ADMINISTRATION" AND "RETAIL FOOD ESTABLISHMENTS" OF THE REVISED GENERAL ORDINANCE OF THE BOARD OF HEALTH OF THE TOWNSHIP OF MILLBURN

STATEMENT OF PURPOSE: Ordinance to revise fees for plan review and fees for transcripts of death, birth, marriage or domestic partnership.

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. Chapter II "Administration," Section 3 "Board of Health Fees," of the Revised General Ordinance of the Board of Health of the Township of Millburn is hereby revised as follows:

- a. *Transcripts of Death, Birth, Marriage or Domestic Partnerships.* The fee for a transcript of a death, birth, marriage or domestic partnership certificate, which the Registrar shall furnish to any applicant therefore, shall be twenty (\$20.00) dollars, other than to such officer or board as may be entitled by law to receive the same without payment of fee, or upon payment of a lower fee. The fee shall be five (\$5.00) dollars for each correction of a transcript of a birth, marriage or domestic partnership certificate or death transcript.
- b. *Burial Permits.* The fee for a burial permit shall be five (\$5.00) dollars.
- c. *Accounting for Fees.* All fees shall be accounted for and paid over as required by law.

Section 2. Chapter IV "Retail Food Establishments," Section 3 "Plan Review" of the Revised General Ordinance of the Board of Health of the Township of Millburn is hereby revised as follows:

- a. When a retail food establishment is constructed, altered or renovated, plans and specifications pertaining to the health and sanitary aspects of the operation, such as proposed equipment layout and construction materials of food related work areas, shall be submitted to the Division of Health for review and approval before construction, renovations or conversion is begun.
- b. There shall be a seventy-five (\$75.00) dollar plan review fee payable to the Township of Millburn for any construction, alteration, renovation of a retail food establishment.
- c. This fee shall be in addition to any other fee required by the Township of Millburn or the State of New Jersey.

Section 3. The provisions of this ordinance are severable and the invalidity of any phase, clause or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 4. This ordinance shall take effect after final passage and publication as required by law.

PUBLIC DISCUSSION

Mayor Bourke asked if anyone had questions or comments for the Township Committee.

A resident requested clarification regarding the animal control ordinance and Mr. Mount provided details on the matter.

ADJOURNMENT

Mayor Bourke asked if anyone has any remaining comments or questions. Receiving none, he called for a motion to adjourn the meeting which was offered by M. Tillotson and seconded by Ms. Burstein. The meeting was adjourned at 8:15 PM.

Christine A. Gatti, RMC
Township Clerk

Approved: July 19, 2016