

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 May 3, 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, Jodi L. Rosenberg and Robert J. Tillotson.

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 Ms. Rosenberg and seconded by Mr. Mount

Vote: All Ayes

Fire Department Promotions

Chief Roberts presented Russell Lynn for promotion.

Mayor Bourke asked for a motion to approve the resolution for promotion. Ms. Rosenberg made a motion to approve, which was seconded by Ms. Burstein.

Roll Call Vote: All ayes

**RESOLUTION 16-112
CONFIRM FIRE DEPARTMENT PROMOTION**

WHEREAS, the Township of Millburn is in need of additional Fire Captain; and

WHEREAS, Russell Lynn has met the criteria set-down for Fire Captain and he has gone through the appropriate selection process;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, that confirmation is given to the promotions of Russell Lynn to the rank of Fire Captain, effective May 4, 2016.

Township Clerk Gatti administered the Oath of Office.

Chief Roberts presented Stephen Jason for promotion.

Mayor Bourke asked for a motion to approve the resolution for promotion. Ms. Burstein made a motion to approve, which was seconded by Ms. Rosenberg.

Roll Call Vote: All ayes

**RESOLUTION 16-113
CONFIRM FIRE DEPARTMENT PROMOTION**

WHEREAS, the Township of Millburn is in need of additional Fire Captain; and

WHEREAS, Stephen Jason has met the criteria set-down for Fire Captain and he has gone through the appropriate selection process;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, that confirmation is given to the promotions of Stephen Jason to the rank of Fire Captain, effective May 4, 2016.

Township Clerk Gatti administered the Oath of Office.

Chief Roberts presented Thomas Pizzano II for promotion.

Mayor Bourke asked for a motion to approve the resolution for promotion. Ms. Rosenberg made a motion to approve, which was seconded by Mr. Mount.

Roll Call Vote: All ayes

**RESOLUTION 16-114
CONFIRM FIRE DEPARTMENT PROMOTION**

WHEREAS, the Township of Millburn is in need of additional Battalion Fire Chief; and

WHEREAS, Thomas Pizzano, II has met the criteria set-down for Battalion Fire Chief and he has gone through the appropriate selection process;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, that confirmation is given to the promotions of Thomas Pizzano to the rank of Battalion Fire Chief, effective May 4, 2016.

Township Clerk Gatti administered the Oath of Office.

Chief Roberts presented Shawn Daly for promotion.

Mayor Bourke asked for a motion to approve the resolution for promotion. Ms. Burstein made a motion to approve, which was seconded by Ms. Rosenberg.

Roll call vote: All ayes

**RESOLUTION 16-115
CONFIRM FIRE DEPARTMENT PROMOTION**

WHEREAS, the Township of Millburn is in need of additional Battalion Fire Chief; and

WHEREAS, Shawn Daly has met the criteria set-down for Battalion Fire Chief and he has gone through the appropriate selection process;

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NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, that confirmation is given to the promotions of Shawn Daly to the rank of Battalion Fire Chief, effective May 4, 2016.

Township Clerk Gatti administered the Oath of Office.

Mayor Bourke took a five minute recess.

Presentation

Essex County Surrogate Theodore N. Stephens II made a brief presentation regarding the activities, programs and services his office provides.

Minutes

Mayor Bourke brought forth the minutes of February 2, 2016. Ms. Burstein made a motion to approve the minutes, which was seconded by Ms. Rosenberg.

Vote: All Ayes

Reports

Ms. Rosenberg reported on a Chamber of Commerce event at Greenwood Gardens and announced that the Paper Mill Playhouse received a Tony Award for Regional Theatre. She added that she met with the Board of Education's property committee to discuss the use of Millburn's school for a Chinese school.

Mr. Mount provided a progress report on the Complete Streets initiative. He announced that bid specifications would be available Friday May 6th at 12PM. He reviewed the schedule of the bid process.

Mayor Bourke addressed questions from the Committee regarding the professional services contract with Arterial for the Complete Streets project.

Mr. Tillotson commented that moving quickly on a project makes it easier to miss things. He asked that the Committee continue to be updated on this process. He pointed out that we need to make sure we serve our constituents.

Mayor Bourke announced that he attended the Essex County Freeholder meeting when the Stop and Shop matter was raised. He stated that they are planning to bring action on the issue on May 11th. He pointed out that this is a straightforward issue and legal matter. He added that he will report as we learn more.

Ms. Rosenberg stated that she received correspondence from concerned residents regarding the use of the middle school as a Chinese school. She added that the primary concerns are traffic and quality of life. The applicant for the middle school is in negotiations to use the high school instead. She said she expressed concerns regarding traffic issues and overflow parking at the high school.

Mayor Bourke stated that a subcommittee was set up to discuss the interaction with the Board of Education and township concerns. He added that Ms. Rosenberg is also involved. He pointed out that he met with representatives from the school and continued to discuss concerns. He added that there is no plan to use the middle school. He said they are trying to ensure no overflow to the neighborhoods and we are not interested in incurring soft costs.

George Serio, representative from Essex County, gave updates on county activities.

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Public Discussion

Mayor Bourke asked if there were any comments or questions regarding items on the Consent Agenda. Phil Kirsch, Millburn resident, inquired about Resolution 16-124. Mr. Falcon reviewed the history with the current attorney and pointed out that he is moving to a new law firm.

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. Rosenberg.

Roll Call Vote: All ayes

**RESOLUTION 16-116
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 May 3, 2016, in the following accounts:

General	\$ 1,036,062.09
Capital Fund	37,668.53
Parking Utility Operating Fund	1,668.00
Dog Fund Trust	219.05
Donation Trust Fund	564.22
Escrow Trust Fund	2,070.00
Police Off Duty Trust Fund	62,910.00
Waste Recycling Trust Fund	1,638.96

**RESOLUTION 16-117
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>
John & Susan Neely c/o Budd Lerner PC 150 John F. Kennedy Pkwy Short Hills, NJ 07078 Block 1502 Lot 39	Tax Appeal 2014 Taxes (\$3,761.86) 2015 Taxes (\$5,997.15)	\$9,759.01

**RESOLUTION 16-118
AUTHORIZE 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.

<u>Block</u>	<u>Lot</u>	<u>No. of Units</u>	<u>Reason</u>	<u>Amount</u>
3606	5	1	House not completed (181 Long Hill Dr)	\$160.00
2804	10	1	Vacant lot (8 South Beechcroft)	\$160.00

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RESOLUTION 16-119
AUTHORIZING ONE YEAR OPTION #1 ON CONTRACT
FOR SUMMER CAMP BUS SERVICE [JORDAN BUS SERVICE d/b/a Kevah Konner Inc.]

WHEREAS, the Township of Millburn entered into a contract in 2015 with Jordan Bus Service d/b/a Kevah Konner Inc., 65 Route 46 East, Pine Brook, NJ 07058, to provide Bus Service for Summer Camps; and

WHEREAS, the Millburn Township Recreation Program Supervisor has recommended exercising the Township’s option by renewal of this contract with the same terms and conditions for one additional year which is the first option year for the contract for 2016; and

WHEREAS, the Township reserves the right to terminate this contract at any time, providing the contractor is given thirty (30) days written notice;

NOW, THEREFORE, BE IT RESOLVED that the Township Committee hereby authorizes the extension of this contract.

RESOLUTION 16-120
AWARDING CONTRACT FOR MOWING OF LARGE TURF AREAS TO DONOFRIO & SON, INC.
(One Year Contract with two (2) one (1) year renewal options)

WHEREAS, the Township of Millburn (the “Township”) advertised for the receipt of public bids for “Mowing of Large Turf Areas” comprising of approximately 39 acres of turf in five Township parks for the period of May 19, 2016 through November 15, 2016, totaling approximately 26 cuttings, with a Township option to extend the contract for up to two one year options (which if exercised would result in approximately 32 cuttings in 2017 and 32 cuttings in 2018); and

WHEREAS, the Township received four (4) bids at 10:00 A.M. on April 20, 2016 from the companies listed below at the bid price shown:

Table with 2 columns: Company Name and Address, and Bid Price. Rows include Donofrio & Son Inc., Total Lawn Care & Landscape Services, Custom Care Service, Inc., and Pat Scanlon Landscaping, Inc.

WHEREAS, the Township desires to award the Mowing of Large Turf Areas contract to Donofrio & Son, Inc. as the lowest responsible bidder; and

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WHEREAS, if the Township, by separate Resolution, exercises its option to extend the contract, the approximate grass cutting season in an extension year will be from approximately April 1 through November 15 which would include approximately thirty-two (32) cuttings and any price change included as part of the extension shall be based on the bid price provided for the cost per cutting, but not adjusted to exceed the change in the index rate for the twelve months preceding the most recent quarterly calculation in accordance with N.J.S.A. 40A:11-15.

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

1. The Township Committee exercises its discretion to waive all immaterial defects, if any, with respect to the bid of Donofrio & Son, Inc., received on April 20, 2016.
2. The Township Committee awards the “Mowing of Large Turf Areas” Contract to Donofrio & Son, Inc., having a business addresses of 47 Van Ness Terrace, Maplewood, New Jersey, 07040 as the lowest responsible and responsive bidder, in the amount not to exceed the bid price of \$715.00 per cutting and the Mayor or such other authorized Township Official is authorized to execute said Contract.
3. The Contract awarded herein to Donofrio & Son, Inc. shall commence after the execution of the Contract, the submission of all required insurance certificates, together with all other documents required to be submitted by the Contract.
4. The Township’s staff is hereby authorized and directed to execute any other necessary documentation and to take all other actions necessary or desirable to effectuate the terms and conditions of this Resolution.
5. After the award and full execution of the contract, the bid security of the remaining unsuccessful bidders shall be returned to them.
6. Funds are available for this Contract and a copy of this Resolution shall be submitted to the Township’s CFO and kept on file in the offices of the Township.
7. This Resolution shall take effect immediately.

**RESOLUTION 16-121
AUTHORIZE AGREEMENT BETWEEN THE TOWNSHIP OF MILLBURN AND ESSEX COUNTY
DEPARTMENT OF PUBLIC WORKS**

BE IT RESOLVED, that the Township Committee of the Township of Millburn hereby authorizes the Mayor to execute an agreement with the Essex County Department of Public Works, Division of Environmental Affairs in order to perform mosquito control over certain areas of Millburn Township.

**RESOLUTION 16-122
AUTHORIZING THE ADVERTISING OF BIDS –
POLICE DEPARTMENT CHILLER (HVAC) UNIT**

BE IT RESOLVED by the Township Committee of the Township 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:

Police Department Chiller (HVAC) Unit

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.

**RESOLUTION 16-123
AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT WITH ARTERIAL, LLC FOR THE PERFORMANCE OF
DESIGN, ENGINEERING AND CONSTRUCTION OBSERVATION SERVICES FOR THE DOWNTOWN
MILLBURN COMPLETE STREETS PROJECT**

WHEREAS, the Township of Millburn requires the performance of professional services in connection with the implementation of the Downtown Millburn Complete Streets Project (“Project”); and

WHEREAS, the Township is in receipt of a proposal from Arterial, LLC dated May 3, 2016 consisting of the following elements:

1. Project Management
2. Subsurface Utility Location
3. Electrical Services
4. Traffic Signal and Roundabout Design
5. Construction Documents and Specifications
6. Bid Assistance

Printing

7. Construction Liaison Services

WHEREAS, the services to be rendered require the performance of architectural, engineering and planning professional services which are authorized to be awarded by Contract pursuant to N.J.S.A. 40A:11-5(1)(a); and

WHEREAS, the Township Committee is satisfied that the services proposed to be performed by Arterial, LLC meet the needs and requirements of the Township in connection with this Project.

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NOW, THEREFORE, BE IT RESOLVED by the Township Committee for the Township of Millburn, County of Essex, State of New Jersey, as follows:

1. The Township Committee hereby awards a Professional Services Contract to Arterial, LLC in the lump sum amount of \$892,600.00, including direct expenses, as set forth with respect to the first six tasks in the Proposal of May 3 and as set forth above. In addition, a not-to-exceed amount of \$220,000.00 shall be charged, as needed, for Construction Liaison Services which will be billed hourly. All of the above, including all terms related to the provision of services shall be as set forth in an Agreement in a form approved by the Township Attorney.
2. The Mayor is authorized and directed to execute an Agreement with Arterial, LLC as above set forth.
3. The Township Clerk is authorized and directed to publish notice of this action in the official newspaper, and following execution, to keep a copy of the Agreement on file in her office and available for public inspection.
4. This Resolution shall take effect as provided by law.

**RESOLUTION 16-124
AUTHORIZING THE AWARD OF A CONTRACT FOR LEGAL SERVICES
– SPECIAL COUNSEL [HEROLD LAW, P.A.]**

WHEREAS, there exists a need for retention of Special Counsel in connection with Morris County JIF and MEL Coverage; and

WHEREAS, Herold Law, P.A. have 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:11-1 et seq.) requires that a resolution authorizing the payment of such professional fees, without competitive bidding must be publicly advertised;

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

1. The Mayor and the 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 Herold Law, P.A., 25 Independence Boulevard, Warren, NJ 07059-6747 and the Township of Millburn, in connection with legal services as are necessary. Hourly compensation: \$195.00 per hour for attorneys and \$75.00 per hour for paralegals, plus reasonable out-of-pocket costs.
2. This contract is made without competitive bidding as a “professional service” under the provisions of the Local Public Contracts Law because of the qualitative nature of services provided.

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- 3. A copy of this resolution shall be published in The Item of Millburn Short Hills as required by law, within ten (10) days of its passage.

RESOLUTION 16-125
APPROVE SIDEWALK CAFÉ LICENSES

WHEREAS, the following have submitted applications to the Township Clerk to obtain a sidewalk café license, providing all required documentation and the appropriate fees; and

WHEREAS, the Police Department, Fire Department, Health Department and Engineering Department have conducted investigations of those establishments and have found nothing to prevent their issuance.

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

Starbucks*

RESOLUTION 16-126
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:

Glenwood PTO
 South Mountain PTO

PUBLIC DISCUSSION

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

Lisa Perlman, resident of Southern Slope Drive, came forward and asked when the final draft of the Complete Streets plan would be on the website. He stated that the final draft has not been posted seeing that the bid process needs to be addressed first. He stated that Sgt. Fattal and John McCormick are discussing the impact on the South Mountain area and how to address the issues. She asked for information regarding the change of zoning for East Willow Street. He pointed out that it will not be before summer but will be before the end of the calendar year. She asked for a promise that we would not get another radioactive business in the meantime and the Mayor commented that he could not make that promise. She asked what happened to the contingency plan, stating it is not on the website. Mr. Gordon indicated that we are waiting on a report from the Fire Department. She asked where the closest hazmat is now that Nutley closed. Mr. Gordon said Nutley is still operating under the County because they are the hazmat service for the region.

Eric Anderson, resident of 15 Hawthorne Road, said he lives in the neighborhood behind the middle school. He thanked the Governing Body for hearing their concerns. He expressed his concerns about the additional traffic it would bring to town on a Sunday. He stated that once a precedent is set, expansion could be overwhelming. Ms. Rosenberg reminded Mr. Anderson that the Township Committee has no say in what the Board of Education decides to do; they can just express the concerns of the residents. Mr. Rosenberg stated they are trying to be proactive.

Scott Barishaw, resident of 17 Byron Road, asked if this Committee is in favor of bringing the Chinese school to town. Mayor Bourke stated that the concerns of the Township Committee regarding this issue

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focus on traffic and quality of life in residential areas. He added that ultimately it is a decision of the Board of Education. Mr. Barishaw provided some background regarding the soccer school. He expressed concerns about the impact on the soccer school due to parking issues. Ms. Rosenberg stated that she feels the questions posed by Mr. Barishaw about the Committee being in favor of the school were unfair. She said they are in favor of what would positively serve a large population of residents.

Barney La Greco came forward and commented regarding the potential Stop and Shop development and the impact of traffic to the area. He expressed concerns about building structures from wood and wanted to know when the last time the fire code was looked at. Ms. Burstein advised that the fire codes are updated regularly and building codes provide for safety controls. He asked if we are happy with our codes and he was informed that municipalities do not have a choice; we must follow the state code.

Steve Cohen, resident of 32 Hobart, stated that he went to Livingston to see the parking situation with their Chinese school. He said he was surprised at how many cars it brings in and did see overflow to the residential areas. He added that they are not just dropping off, they are staying. He stated that he still has concerns, even though it will not be happening at the middle school. He reviewed various points regarding traffic and stated he disagrees with renting out our public schools.

Eric Modell, resident of 81 Whitney Road, read a statement regarding his concerns about renting township schools to the Chinese school for an extended period of time. He requested the Township Committee work closely with the Board of Education to oppose this.

Ms. Shah, resident of 862 Morris Turnpike, stated she is a representative of public relations for the Millburn Institute of Talent, which represents the Chinese school that applied to rent the middle school. She clarified information regarding the school and its intent. She hopes they can find a mutually acceptable solution.

Stephanie Malios, resident of Millburn Township, thanked the Committee for their service. She said the Chinese school is not the issue; it is the out of control traffic throughout town, especially at the Middle School, where they choose not to enforce any order on the situation. She recommended that something be done. She reviewed various complaints about the traffic related to the middle school.

An unidentified resident came forward and stated he is excited about Complete Streets. He said he hates to see something started that will cause a problem if it is rushed. If it needs to be put off for a year, that's fine.

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 Mr. Tillotson and seconded by Mr. Mount. The meeting was adjourned at 9:30 PM.

Christine A. Gatti, RMC
Township Clerk

Approved: August 16, 2016