

**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.

Deputy Mayor Rosenberg 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 7:30 PM on April 17, 2018.

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

Upon call of the roll, the following Committee members were recorded present: Jackie Benjamin Lieberberg, Samuel D. Levy, Jodi L. Rosenberg and Dianne Thall-Eglow. Cheryl H. Burstein was absent.

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

**Approval of Agenda**

Deputy Mayor Rosenberg asked for a motion to approve the agenda. The motion was offered by Mr. Levy and seconded by Ms. Thall-Eglow.

Roll Call Vote: All Ayes

**Minutes**

Deputy Mayor Rosenberg asked for a motion to approve the minutes of the regular meeting of February 6 2018, which was offered by Ms. Thall-Eglow and seconded by Ms. Lieberberg.

Roll Call Vote: All Ayes, except Burstein, who was absent

Deputy Mayor Rosenberg asked for a motion to approve the minutes of the special meeting of February 6 2018, which was offered by Ms. Thall-Eglow and seconded by Mr. Levy.

Roll Call Vote: All Ayes, except Burstein, who was absent

**Personnel**

Fire Chief Echavarria introduced Michael Pershyn as the candidate selected for promotion and provided background information.

Mr. Levy made a motion to approve the resolution, which was seconded by Ms. Lieberberg.

Roll Call Vote: All Ayes, except Burstein, who was absent

**RESOLUTION 18-100  
CONFIRM FIRE DEPARTMENT PROMOTION**

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

**WHEREAS**, Michael Pershyn 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 promotion of Michael Pershyn to the rank of Fire Captain, effective April 17, 2018.

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Ms. Gatti administered the Oath of Office to Michael Pershyn.

Fire Chief Echavarria introduced Bernard Cunningham as the candidate selected for promotion and provided background information.

Mr. Levy made a motion to approve the resolution, which was seconded by Ms. Thall-Eglow.

Roll Call Vote: All Ayes, except Burstein, who was absent

**RESOLUTION 18-101  
CONFIRM FIRE DEPARTMENT PROMOTION**

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

**WHEREAS**, Bernard Cunningham 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 promotion of Bernard Cunningham to the rank of Battalion Fire Chief, effective April 17, 2018.

Ms. Gatti administered the Oath of Office to Bernard Cunningham.

**Proclamation**

A Proclamation was presented recognizing the heroism of firefighters.

**Reports**

George Serio, Essex County Representative, reported on activities being sponsored by the County.

Mr. Levy reported on the most recent Recreation Commission meeting, noting that there are new batting cages and the Commission plans on recommending a firework ordinance to the Township Committee. He also discussed the number of recreation teams and announced upcoming programs and events.

Ms. Thall-Eglow reported on the most recent Environmental Commission meeting. She said they have signed a report against the proposed 7-11 that is seeking 22 variances from the Board of Adjustment. She encouraged people to attend the Board of Adjustment meeting on May 7<sup>th</sup>. She spoke about the speaker they had who talked about the Pilgrim Pipeline. She provided a brief history and advised that Millburn is being asked to sign on as a member of the Municipal Pipeline Group. She reported that she attended the Rahway River Mayors' Council meeting and said that the dam project in the South Mountain Reservation is being transferred to the New England Corps from the Army Corps of Engineers because they have more dam experience. Currently, the data and history is being transferred. She said Senator Kean was in attendance and suggested looking into flood mitigation. Ms. Thall-Eglow also suggested trying to set up a meeting with Senator Jean.

Ms. Lieberberg stated she attended the Arboretum meeting, which was rescheduled due to the weather. She said that due to the storm, the Arboretum lost power for five days and 15 trees were lost. She also gave updates regarding upcoming events and activities.

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Mr. Falcon advised that the Silverman group filed and the township is in receipt of a builders remedy lawsuit against the township regarding the Chatham Road proposal.

Public Discussion

Deputy Mayor Rosenberg asked if there were any comments or questions regarding items on the Consent Agenda. Seeing none, she proceeded to the Consent Agenda items.

Consent Agenda

Deputy Mayor Rosenberg asked for a motion to approve the items on the consent agenda. Mr. Levy made a motion to approve the consent agenda which was seconded by Ms. Thall-Eglow.

Roll Call Vote: All Ayes, except Burstein, who was absent

RESOLUTION 18-102
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 17, 2018, in the following accounts:

Table with 2 columns: Fund Name and Amount. Rows include General (\$477,957.04), Capital Fund (29,499.83), Parking Utility - Operating Fund (913.56), Dog Fund Trust (419.32), Donation Trust Fund (4,289.27), Escrow Trust Fund (750.00), Police Off Duty Trust Fund (87,623.62), Waste Recycling Trust (4,267.58), and PATFA II (560.00).

RESOLUTION 18-103
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;

Table with 3 columns: Make check payable to, Type, and Amount. It lists two entries for Wells Fargo Home Mortgage with amounts of \$4,361.60 and \$7,439.32.

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Corelogic Tax Collection Services LLC P.O. Box 9205 Coppell, TX 75019-9214 Block 4501 Lot 39 1020 South Orange Ave	Tax Refund 2018 taxes Duplicate pymt	\$5,225.10
CitiMortgage Inc P.O. Box 23689 Rochester, NY 14692 Block 3006 Lot 19 30 Lake Rd	Tax Refund 2018 taxes Duplicate pymt	\$22,921.61
Corelogic Tax Collection Services P.O. Box 9205 Coppell, TX 75019 Block 307 Lot 21 440 Wyoming Ave	Tax Refund 2018 taxes Duplicate pymt	\$5,285.43
TD Bank Operations Center P.O. Box 1377 Lewiston, ME 04243-1377 Block 4303 Lot 6 29 Winthrop Rd	Tax Refund 2018 taxes Duplicate pymt	\$7,275.07
Investors Bank c/o Yvette Torres 101 Wood Ave South Iselin, NJ 08830 Block 2204 Lot 8 45 Forest Drive North	Tax Refund 2018 taxes Duplicate pymt	\$6,656.09

**RESOLUTION 18-104  
APPROVAL OF SELF-EXAMINATION OF 2018 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.

**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.

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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.

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 18-105  
GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S  
"Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment  
Decisions Under Title VII of the Civil Rights Act of 1964"**

**WHEREAS**, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

**WHEREAS**, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

**NOW, THEREFORE BE IT RESOLVED**, That the Township Committee of the Township of Millburn, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

**RESOLUTION 18-106  
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:

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Millburn Deli  
Goldberg's Famous Deli

**RESOLUTION 18-107  
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:

The Connection for Women and Children  
The Millburn-Short Hills Education Foundation  
Parents' Guild Oratory Prep  
American Legion Post #140  
B'Nai Israel

**Resolution**

**Resolution 18-108**

**Authorize Advertisement of Bids – Removal of Downtown Flexible Parking**

Deputy Mayor Rosenberg brought forth resolution 18-108 for discussion. Mr. Levy stated this resolution authorizes Mr. McDonald to ask for bids only. He said the Township Committee would have to authorize the work at a later date. Deputy Mayor Rosenberg said this is a starting point to get the ball rolling, should the committee choose to move forward. She reiterated it is for bids only. Mr. Falcon noted that the bid documents have not been prepared yet, but once they are it will be put out to bid. He said if the committee chooses to reject the bids, they must do so according to statute. He also said this resolution is only to implement the bid process.

Ms. Eglow made the following statement:

*I am very pleased that this resolution is being presented tonight. I am confident that Alex and our engineering department will do everything necessary to get the specs ready to go out for bids in the timeliest manner. I have sat with Alex and we discussed a very strict yet achievable time line.*

*There are many issues/problems that have come with the CS project, but the raised concrete parking stands on its own for so many reasons. It is confusing, people have damaged their vehicles, it is dirty, it is the single most reason residents and non-residents say they do not want to come into town. It is the most mocked and ridiculed of this entire project. I say it was a bad experiment by the designers and never should have been allowed, and we must remove it.*

*While I feel entire CS project needs to be re-evaluated.*

*I believe this is the start of getting Millburn's downtown back. Yes, there is more we need to address like the "no" left turns onto Essex Street at Charlie Browns and the "no" left (except for large buses) at Fiamma onto Essex that can alleviate some of the frustration and hopefully stop some of the never before seen cutting thru of traffic in Washington and South Mt. sections. When I sat in the ad hoc committee all of last year, the engineers said both these left turns can indeed be brought back.*

*I vote yes to resolution 18-108.*

Ms. Lieberberg made the following statement:

*As a candidate for TC last year, one of the cornerstones of my campaign was a pledge to address and correct the negative components of Complete Streets – the 3 main issues: Flex Parking, the bump outs, and the narrowing of Millburn Avenue to one lane. I successfully ran on this issue.*

*We have just completed a survey of over 1,200 residents, merchants, and surrounding community members that overwhelmingly voted to return to curb parking and remove the flex. We now have support from a variety of stakeholders to move forward. In my conversations with our Township Administrator, this construction will take place during the summer in an expeditious fashion with our own engineers managing the project and rigorous oversight by the TC. We anticipate 4-6 weeks for both sides of the street and a completion date on or before August 30<sup>th</sup>.*

*I believe this is the right thing to do...demonstrate commitment to our residents, merchants and visitors and it is the NUMBER ONE COMPLAINT that we can rectify in a relatively expeditious manner as the governing body. I believe this is money well spent and has my complete support.*

Deputy Mayor Rosenberg asked if there were any other comments from the committee. Seeing none, she asked for a motion, which was made by Ms. Thall-Eglow and seconded by Ms. Lieberberg.

Roll Call: All Ayes, except Burstein, who was absent

**RESOLUTION 18-108**  
**AUTHORIZING THE ADVERTISING OF BIDS –**  
**REMOVAL OF DOWNTOWN FLEXIBLE PARKING**

**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:

**Removal of Downtown Flexible Parking**

**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;

**BE IT FURTHER RESOLVED** that the authorization to go out to bid is contingent upon obtaining proper authorization and permits from the County of Essex.

**2018 Budget Public Hearing/Consideration of Adoption**

Resolution 18-109 – Resolution to Read 2018 Municipal Budget by Title

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Deputy Mayor Rosenberg brought forth resolution 18-109. Ms. Thall-Eglow made a motion which was seconded by Mr. Levy.

Roll Call: All Ayes, except Burstein, who was absent

RESOLUTION 18-109
READ 2018 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 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.

Jason Gabloff, the township’s Chief Financial Officer came forward and explained there was a 0% municipal increase and briefly reviewed the budget.

Deputy Mayor Rosenberg opened the public hearing. Not seeing any comments or questions, she closed the public hearing.

Deputy Mayor Rosenberg brought for the resolution 18-110. Ms. Thall-Eglow made a motion, which was seconded by Ms. Lieberberg

Roll Call: All Ayes, except Burstein, who was absent

RESOLUTION 18-110
ADOPT 2018 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) \$39,523,493.59 (Item 2 below) for municipal purposes, and

SUMMARY OF REVENUES

Table with 2 columns: Description and Amount. Rows include: 1. General Revenues: Surplus Anticipated (\$ 4,843,721.00), Miscellaneous Revenues Anticipated (\$ 7,010,031.00), Receipts from Delinquent Taxes (\$ 640,000.00); 2. Amount To Be Raised By Taxation For Municipal Purposes (Item 6, Sheet 11) (\$42,200,413.94); 3. Total Revenues (\$58,148,332.94)

SUMMARY OF APPROPRIATIONS

Table with 2 columns: Description and Amount. Row: 5. General Appropriations: Salaries & Wages (\$21,795,909.00)



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Other Expense	\$29,606,271.00
(a) Capital Improvements	\$ 2,135,000.00
(b) Municipal Debt Service	\$ 2,058,000.00
(c) Deferred Charges – Municipal	\$ 200,000.00
(d) Reserve for Uncollected Taxes (Include Other Reserves if Any)	\$ <u>2,353,152.94</u>
6. Total Appropriations	\$58,148,332.94

PARKING UTILITY  
SUMMARY OF REVENUES

1. Surplus	\$ 390,987.00
2. Total Miscellaneous Revenues	\$ <u>1,370,000.00</u>
Total Revenues	\$ 1,678,570.00

GENERAL BUDGET  
SUMMARY OF APPROPRIATIONS

1. General Appropriations:	
Salaries & Wages	\$ 258,177.00
Other Expenses	\$ 214,410.00
Capital Improvements	\$ 95,000.00
Debt Service	\$ <u>1,123,000.00</u>
Total Appropriations	\$1,690,587.00

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

**Ordinance 2498-18**

Deputy Mayor Rosenberg brought forth and reviewed Ordinance 2498-18 for consideration of adoption. Deputy Mayor Rosenberg declared the public hearing open. Seeing there weren't any public comments, Deputy Mayor Rosenberg declared the public hearing closed. Deputy Mayor Rosenberg made a motion to approve Ordinance 2498-18 on final reading and the motion was seconded by Mr. Levy.

Roll Call: All Ayes , except Burstein, who was absent

**ORDINANCE NO. 2498-18**

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE "LOADING ZONE ORDINANCE" OF THE TOWNSHIP OF MILLBURN**

**STATEMENT OF PURPOSE:** *The purpose of this amendment to the Loading Zone ordinance is to designate specific areas for commercial vehicles to park and be able to actively load or unload goods for area businesses, and assist commercial vehicles with finding easy access to parking and prevent parking that will impede the flow of traffic on roadways.*

**WHEREAS,** the Township of Millburn desires to assist local businesses in obtaining goods through the use of commercial vehicles by offering easy access to loading zones without impeding the flow of traffic on roadways.

**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.** Ordinance 7-24 Loading Zone of Chapter VII on Traffic of the Revised General Ordinances of the Township of Millburn is hereby amended in its entirety to read as follows:

**7-24 LOADING ZONE.**

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The locations described are hereby designated as Loading Zones. No person shall park a vehicle in these locations, during the times indicated, other than a commercially registered vehicle that is actively loading or unloading goods related to area businesses.

<i>Name of Street/Parking Lot</i>	<i>Time</i>	<i>Side</i>	<i>Location</i>
Lot 5	All	South	Along the southerly curb line, perpendicular to the Essex St entrance/exit, as indicated by signage designating the zone.

**Section 2.** This ordinance shall take effect after final passage and publication as provided by law.

**Ordinance 2499-18**

Ms. Thall-Eglow brought forth and reviewed Ordinance 2499-18 for consideration of adoption. Deputy Mayor Rosenberg declared the public hearing open. Seeing there weren't any public comments, Deputy Mayor Rosenberg declared the public hearing closed. Ms. Thall-Eglow made a motion to approve Ordinance 2499-18 on final reading and the motion was seconded by Mr. Levy.

Roll Call: All Ayes , except Burstein, who was absent

**ORDINANCE NO. 2499-18**

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE "TIME LIMIT PARKING," "PARKING PROHIBITED AT ALL TIMES ON CERTAIN STREETS," AND "PARKING PROHIBITED DURING CERTAIN HOURS ON CERTAIN STREETS" ORDINANCES OF THE TOWNSHIP OF MILLBURN**

**STATEMENT OF PURPOSE:** *This ordinance is being proposed to address multiple parking issues within the Washington Section of the Township. These changes were decided among the Washington/South Mountain Ad-Hoc Committee. Factors that were taken into consideration were: width of the roadways, traffic volumes, traffic patterns, locations of driveways, the Washington School, the Millburn High School, and sight lines. There was also a conflict of times regarding parking prohibited on certain street, without taking into consideration peak traffic times. The proposal addressed the times to be uniform throughout the Washington Section. Changes were also made to correct conflicts that currently are listed within the ordinances.*

**WHEREAS,** the Township of Millburn desires to promote the safe and orderly flow of traffic and resolve parking issues in the Washington Section of the Township.

**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.** Ordinance 7-11.1 Time Limit Parking of Chapter VII on Traffic of the Revised General Ordinances of the Township of Millburn is hereby amended and supplemented to read as follows:

- a. The following provisions concerning Blaine Street, and Church Street of Ordinance 7-11.1 are hereby revised to read as follows:

<i>Street</i>	<i>Side</i>	<i>Time Limit</i>	<i>Hours</i>	<i>Location</i>

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Blaine Street	Westerly	2 Hours	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	Entire length
Church Street	Southerly	2 Hours	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	Entire length

b. The following provisions concerning Rector Street and Spring Street of Ordinance 7-11.1 are hereby removed in their entirety as follows:

<i>Street</i>	<i>Side</i>	<i>Time Limit</i>	<i>Hours</i>	<i>Location</i>
Rector Street	South	2 Hours	7:00 a.m. - 5:00 p.m.	From Spring Street to Main Street
Spring Street	Both	2 Hours	7:00 a.m. - 5:00 p.m.	From Taylor Street to Millburn Avenue to Willow Street to Main Street

c. The following provisions concerning Spring Street of Ordinance 7-11.1 are hereby added as follows:

<i>Street</i>	<i>Side</i>	<i>Time Limit</i>	<i>Hours</i>	<i>Location</i>
Spring Street	Southerly	2 Hours	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From Willow Street to Main Street

**Section 2.** Ordinance 7-13 Parking Prohibited at All Times on Certain Streets of Chapter VII on Traffic of the Revised General Ordinances of the Township of Millburn is hereby amended and supplemented to read as follows:

a. The following provisions concerning Spring Street and Willow Street of Ordinance 7-13 are hereby revised to read as follows:

<i>Name of Street</i>	<i>Side</i>	<i>Location</i>
Spring Street	c. Easterly	From Millburn Avenue to Willow Street
Willow Street	Westerly	From its intersection with Spring Street southerly to the point where Willow Street runs in an easterly direction

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	Northerly	For a distance of 100 feet westerly from Main Street
	Southerly	For a distance of 100 feet westerly from Main Street

**Section 3.** Ordinance 7-14 Parking Prohibited During Certain Hours on Certain Streets of Chapter VII on Traffic of the Revised General Ordinances of the Township of Millburn is hereby amended and supplemented to read as follows:

- a. The following provisions concerning Spring Street and Willow Street of Ordinance 7-14 are hereby revised to read as follows:

<i>Name of Street</i>	<i>Side</i>	<i>Hours</i>	<i>Location</i>
Spring Street	Westerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From Millburn Avenue to Willow Street
	Northerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From Willow Street to Main Street
Willow Street	Easterly	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From Spring Street, southerly to the point where Willow Street runs in an easterly direction
	Southerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From where Willow Street runs in a northerly direction to Main Street

- b. The following provisions concerning Church Street, Rector Street, and Meeker Street of Ordinance 7-14 are hereby added as follows:

<i>Name of Street</i>	<i>Side</i>	<i>Hours</i>	<i>Location</i>
Church Street	Northerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, except holidays	Entire length
Meeker Place	Northerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, Except Holidays	From Willow Street to Main Street
Rector Street	Southerly	7:00 a.m. - 5:00 p.m.; Monday to Friday, except holidays	Entire length

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

**Old Business**

**Sustainable Essex Alliance Energy Aggregation Program**

Mr. McDonald explained that before the committee this evening is an ordinance that will allow Millburn to enter into an energy aggregation program with several other communities. He said

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this ordinance also provides for Millburn to do the program on its own if it does not work out with the group. Ms. Eglow noted this is a way to potentially save money and get green energy. She said this is currently done for the municipal building and it has shown savings. She said this opens up opportunity.

Ordinance/Introduction

Ordinance 2500-18

Mr. Levy brought forth Ordinance 2500-18 for introduction. He reviewed the ordinance and moved that the ordinance be taken up and passed on first reading, which was seconded by Ms. Thall-Eglow. The public hearing for the ordinance is scheduled for May 15, 2018.

Roll Call: All Ayes, except Burstein, who was absent

**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

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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 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

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(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 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)

SECTION 2: This Ordinance shall take effect upon adoption.

**Ordinance 2501-18**

Ms. Thall-Eglow brought forth Ordinance 2501-18 for introduction. She reviewed the ordinance and moved that the ordinance be taken up and passed on first reading, which was seconded by Ms. Lieberberg. The public hearing for the ordinance is scheduled for May 15, 2018.

Roll Call: All Ayes, except Burstein, who was absent

**ORDINANCE NO. 2501-18  
AN ORDINANCE OF THE TOWNSHIP OF MILLBURN, COUNTY OF ESSEX,  
STATE OF NEW JERSEY, AUTHORIZING THE ESTABLISHMENT OF A GOVERNMENT ENERGY  
AGGREGATION PROGRAM**

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**Statement of Purpose:** *The purpose of this ordinance is to establish a Government Energy Aggregation Program in the Township of Millburn as required by N.J.S.A. 48:93.1 et seq. in order to benefit from price reduction advantages associated with aggregating residential and business electric service for consumers and increasing the Township’s use of renewable energy sources. As required by statute, Millburn must pass a Government Energy Aggregation (GEA) ordinance. This ordinance fulfills the statutory requirement and allows the Millburn Township Committee to act as Lead Agency for the Government Energy Aggregation Program in Millburn. Once passed, this ordinance allows Millburn to move forward, along with neighboring municipalities forming the Sustainable Essex Alliance, in implementing the proposed Community Choice Aggregation recommend by accepted consultants, Gabel Associates.*

**WHEREAS,** the Township of Millburn wishes to take advantage of the Government Energy Aggregation Program established by statute for the purposes of increasing the Township’s use of renewable energy sources and reducing the cost of electricity for the benefit of participating residential consumers and businesses within the Township; and

**WHEREAS,** the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 et seq. governs the establishment of a Government Energy Aggregation Program, which is a government-operated purchasing cooperative through which multiple energy consumers purchase energy together under the auspices of a government aggregator; and

**WHEREAS,** the New Jersey Board of Public Utilities (“BPU”) has promulgated rules (N.J.A.C. 14:4-6) for the implementation of government energy aggregation programs; and

**WHEREAS,** pursuant to the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 et seq., the Township seeks to establish a Government Energy Aggregation Program (“Program”) for the provision of electricity within the Township, for the purpose of obtaining power supply cost savings for residential and business participants in the Township; and

**WHEREAS,** the Millburn Township Committee intends to serve as the Lead Agency conducting a Government Energy Aggregation Program in the Township of Millburn and, in that capacity and consistent with applicable rules, to solicit proposals and enter into a contract for the provision of electric generation services on behalf of residential and business customers within the boundaries of the Township, to the extent that such a contract will produce power supply cost savings to residents and businesses; and

**WHEREAS,** the Millburn Township Committee will from time to time during the Effective Period as defined below solicit proposals from electric power suppliers for electric generation services through the Program in which the Millburn Township Committee will act as Lead Agency of the Millburn Sustainable Energy Aggregation (“MSEA”); and

**WHEREAS,** the Millburn Township Committee will from time to time during the Effective Period as defined below issue one or more Request for Proposals for electric generation services and energy aggregation services on behalf of the MSEA pursuant to the Local Public Contract Law Regulations, the Government Energy Aggregation Act and the Electric Discount and Energy Competition Act; and

**WHEREAS,** the Millburn Township Committee is interested in mandating that a fraction of the energy provided by MSEA come from renewable energy sources, and will therefore include provisions for the inclusion of renewable energy in the Request for Proposals for electric generation services and energy aggregation services on behalf of the MSEA; and

**WHEREAS,** the Millburn Township Committee will only award contracts for said electric generation service and energy aggregation services to electric power suppliers that are deemed qualified and that submit price bids lower than the prevailing price for utility-provided basic generation service; and

**WHEREAS,** pursuant to applicable BPU rules, the Township needs to enter into an Electric Distribution Company Aggregation Agreement with Jersey Central Power and Light (“JCP&L”) Company; and

**WHEREAS,** N.J.S.A. 48:3-93.1 et seq. requires the Program to be established by ordinance.



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

**SECTION 1.** The Township hereby establishes a Government Energy Aggregation Program, in accordance with the provisions of the Government Energy Aggregation Act, N.J.S.A. 48:3-93.1 et seq.

**SECTION 2.** The Mayor is authorized to execute and the Clerk to attest to the execution of and Electric Distribution Aggregation Agreement, in a form acceptable to the Township, with JCP&L.

**SECTION 3.** The Millburn Township Committee will act as Lead Agency of the MSEA and, in that capacity, and consistent with applicable rules, will solicit proposals for electric generation service and energy aggregation services on behalf of Township residents and businesses, and enter into a contract for such services provided that the lowest qualified bid price is below the prevailing price for utility-provided basic generation service.

**SECTION 4.** As Lead Agency the Millburn Township Committee will execute a master performance agreement that obligated the participants in the MSEA to purchase electricity at terms and conditions stated therein with a third party supplier who has been awarded the contract by the Lead Agency on behalf of participating members of the MSEA, and provided that such contract shall be at prices reasonably forecast and estimated by the Millburn Township Committee to provide savings to participants relative to the price charged for basic generation service by JCP&L.

**SECTION 5.** The authorization provided to the lead agent shall be valid until December 31, 2021 (the "Effective Period"), at which time the MSEA will be subject to renewal at the discretion of the Millburn Township Committee.

**SECTION 6.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 7.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 8.** This ordinance shall take effect after final passage and publication as provided by law.

**New Business**

No one presented new business.

**Old Business (continued)**

**Millburn Impervious Lot and Building Height Verification Policy for New Home Construction Projects**

Elizabeth Volvannah, Chairperson of the Environmental Commission came forward and explained slight modifications from the version done by Engineering. She reviewed the policy outlined in the resolution. Ms. Thall-Eglow thanked everyone involved for the effort they put forth. Ms. Volvannah addressed brief questions. Deputy Mayor Rosenberg said since there seems to be consensus from the committee, the township attorney should have a draft presented at a future meeting.

In other matters of old business, Mr. McDonald and Ms. Thall-Eglow discussed live streaming of township meetings and an electronic bulletin board outside of town hall.

**Public Discussion**

Deputy Mayor Rosenberg opened the floor to public comment.

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Eric Siegel, owner of The Sports Academy on East Willow Street inquired about his concerns regarding the DPW being moved to East Willow Street. He said having DPW there could be positive, but moving the dump would not be beneficial to the area.

Ed Mazer, of Greenwood Drive, stated there wasn't any public input regarding 18-108, which addresses the flexible parking. He noted that Mr. Falcon indicated there could be ramifications if we got bids. He also asked if County approval is needed. Mr. Falcon said the bids have not been done yet and he is not sure if we would need County approval.

Roopa Datla, of 74 Old Short Hills Road, said she is a builder and it is great policy on the coverage. She said there should be a certain percentage of deviance considered and excused so it won't delay the project by making them come back to the board. She said the height restrictions fall on the engineer and architect, so the developers shouldn't have to bear the burden. Mr. Levy said the ordinance does not assign blame. It just outlines requirements. She said there should be other places to enact the checks and balances. A brief discussion took place between Mr. Levy and Ms. Datal.

Phil Kirsch, of 93 Cedar Street, said it is a safe assumption that if someone is getting advice on a tract of land, such as Willow Street, it is likely that they are interested in purchasing that land and probably have some idea of how they would want to use it. He requested that they be as forthcoming as they can be legally and that it is offered not requested. Mr. Levy said he has a fair point and deferred to the attorney. He said it is his understanding that the Sunshine law gives the governing body authorization not to disclose information discussed in closed session, but it also allows for them to do so if they wish. Mr. Falcon concurred, but pointed out that the rationale is that you probably don't want people with whom you are about to enter negotiations to know your strategy, including pricing or formulation of a transaction. Mr. Levy said he agrees with the speakers that if the town is considering buying two parcels of land that it should be disclosed and the potential use of it.

Alex Moba, of 17 Reeve Circle, said he wished to comment regarding the environmental, traffic and safety concerns related to the proposed 7-11 development proposal before the Board of Adjustment. Mr. Moba noted that they are applying for 22 variances. He said any consideration of this project is irresponsible and it is a toxic site. He said they should be strictly held to all environmental standards. He also expressed concerns about the 24 hour convenience store. He called on the Township Committee to close the loophole that would allow this by enacting an ordinance. He also commented on the excessive lighting and potential traffic issues. Deputy Mayor Rosenberg said that this issue is before the Board of Adjustment, not the Township Committee. Mr. Falcon noted that there is a new law that does not allow the town to introduce a new ordinance preventing something once an application has been filed.

Sara Sherman, of 42 Greenwood Drive and President of the South Mountain Civic Association, echoed the concerns of Mr. Moba regarding the proposed 7/11. She said that public discussion is handled differently at the Board of Adjustment meetings and she felt shut down. She asked for Mr. Falcon to clarify regarding introduction of an ordinance to eliminate 24 hour businesses in town. Mr. Falcon said he would investigate, but wanted to make clear that it is not the open door it once was to quickly introduce an ordinance in response to something the community doesn't want when an application has already been submitted.

Cary Heller, of 343 Millburn Avenue and 58 Byron Road, detailed a walk he took in the downtown with the DMDA President and Mr. McDonald to address some issues and concerns. He listed a number of issues he feels should be addressed. He also discussed the a light pole that came down on the corner of Main Street. He asked why the police does not ask him for the video footage of the area. He suggested that the town prohibit large vehicles from turning

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at certain intersections in the downtown or putting time restriction on large vehicles. Deputy Mayor Rosenberg asked if this is a change that can be made. Mr. Falcon said he would look into it. She also asked if we can have Maser look into it and Mr. McDonald said yes.

Kelly Losko, of 9 Reeve Circle, asked for clarification regarding the loophole and introducing an ordinance prohibiting 24 hour businesses. He said it used to be the case that zoning requirements and uses could be changed quickly and could impact an application that had already been submitted. He said the Legislature basically eliminated that option, but there are exceptions that he is going to take a look at. She said there are a number of reasons why people don't want a 24 hour business in town. She asked what is the best way to approach it at this point and she was advised to go and speak at the Planning Board meeting. Ms. Thall-Eglow announced that the Planning Board meeting is being held tomorrow night.

Gennaro Raimo, owner of 41 Main Street and 266 Essex Street, thanked the Township Committee for considering removal of the flexible parking. He said there have been lots of complaints and encouraged moving forward and to please do so this summer.

Alyssa Sutton, of 75 Mountainview Road, came and commented on the light pole that is on the ground in the downtown. She suggested suing Arterial to pay for the removal of the parking and the bump outs. She asked that the drivers of town vehicles adhere to the traffic regulations in the downtown.

Not seeing additional comments, the public discussion was closed.

**Adjournment**

Deputy Mayor Rosenberg asked if anyone has any remaining comments or questions. Receiving none, she called for a motion to adjourn the meeting which was offered by Mr. Levy and seconded by Ms. Thall-Eglow.

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Christine A. Gatti, RMC  
Township Clerk

Approved: