

Millburn Township Committee Meeting Minutes

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

Mayor Miggins opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, are advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:00 PM on April 19, 2022.

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

Upon call of the roll, the following Committee members were recorded present: Richard J. Wasserman, Maggee Miggins, Sanjeev Vinayak, and Dianne Thall Eglow.

Also present were Business Administrator Alexander McDonald, Township Clerk Christine Gatti (remotely via Zoom), Township Counsel Brad Carney, and Assistant Business Administrator Jesse Moehlman.

Absent: Tara B. Prupis

Approval of Agenda

Mayor Miggins asked for a motion to approve the amended agenda with public comment moved to the beginning of the agenda before consideration of consent agenda resolutions. The motion was offered by Mr. Wasserman and seconded by Mr. Vinayak

Vote: All Ayes

Minutes

Mayor Miggins asked for a motion to approve the February 2, 2022 Regular Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Wasserman. Vote: All Ayes.

Mayor Miggins asked for a motion to approve the February 2, 2022 Special Township Committee meeting minutes. The motion was made by Ms. Thall Eglow and seconded by Mr. Wasserman. Vote: All Ayes.

Proclamation

A Community Service Award Proclamation was presented by Committeewoman Thall Eglow and Elaine Becker, Chair of the Community Service Award Committee to the American Legion Post No. 140.

Reports

Ms. Thall Eglow welcomed Eagle Scouts from St. Rose. She hoped residents saw the 9 Main Street survey concerning affordable housing and asked everyone to participate.

Mr. Vinayak reported on the new Recreation Director, Chris Myers. He also reported on the Flood Mitigation Advisory Board with another public session scheduled for April 20th. He advised the Flood Mitigation Advisory Committee was a very active board and working on a drainage project, as well as home elevations.

Mr. Wasserman reviewed the flood modeling done by engineers at Mott MacDonald. He reviewed the idea from the Flood Mitigation Advisory Committee in obtaining the Futter building; however, it was decided that the building would not provide benefit to the flooding issues in town. He reviewed the activities planned for Founding Day which is scheduled for April 30th.

Mr. McDonald advised the public about Memorial Day Parade, which would take place on May 30th. He reported on the Short Hills Avenue Bridge project, which would be complete during mid-May. He also advised of the closure of Marion Avenue for a bridgework with anticipated closure of two months.

Millburn Township Committee Meeting Minutes

Mayor Miggins asked for the information to be added to the township website.

Mr. McDonald announced the Library's soft opening on May 1th4. Mayor Miggins and Mr. McDonald reviewed how notifications of closures were received.

Mayor Miggins reviewed how to report potholes. She advised tree seedlings would be given out through DPW and they would go fast.

Public Comment

Mayor Miggins made the following statement: "When invited to speak, please come to the microphone, clearly state your name and address, and speak loudly so that your comments may be understood by all and properly recorded. There was a properly noticed remote option for those who could not attend the meeting in person. If you called in and would like to comment please press *6 now. If you are attending by computer or electronic device please click the raise hand button. All members of the public wishing to speak would be put into the queue to address the Committee. Whenever an audience or Committee member reads from a prepared statement, please email a copy to the Township Clerk's Office at townclerk@millburntwp.org. To help facilitate an orderly meeting and to permit all to be heard, speakers are asked to limit their comments to one 3 minute session. You would be prompted when there was 30 seconds remaining. This was a business meeting and please do not address professionals or staff directly and please direct all comments to me. Each individual would be given one opportunity to make their public comment. Please be patient and we would address each member of the public that wishes to speak."

Mayor Miggins opened the public comment period.

Bill Brazell, resident, spoke on the Essex County Earth Day event. He reviewed gas powered leaf blower pollution and asked where the Environmental Commission stood on the issue, and voiced his opposition to gas powered leaf blowers.

Tammy Wong, resident, voiced her opposition to gas powered leaf blowers and reviewed alternatives.

Jay Morreale, resident, reviewed news on gun violence and protection for children against guns.

Jeffrey Feld, resident, asked for the township budget to be posted on the website. He voiced various requests and questions in regards to the ordinance on the agenda. He reviewed OPRA and other municipality's policies.

Jean Pasternak, resident, spoke in regard to the Taylor Park Gateway Project and good will during public session and asked for similar rules and procedures during affordable housing. She voiced OPRA concerns.

Perri Urso, resident/business owner, reviewed comments in regard to the budget. She voiced concerns in regard to OPRA.

Diane Nelson, resident, spoke on gun violence prevention and safe keeping of firearms. She highlighted some statistics.

David Cosgrove, resident, spoke on the Cora Hartshorn Arboretum lease and brought up issue with an entrance that is usually locked. He suggest the arboretum be more accessible.

Fran Feld, resident, commented on the Affordable Housing Main Street survey, and voiced opposition to how the town would look. She voiced her concerns with the transparency with regard to affordable housing.

Regina Truitt, resident, voiced her support for gun safety. She questions the process to obtain a gun and questioned if there was any training from the police. She voiced suggestion to improve gun safety.

Millburn Township Committee Meeting Minutes

Mayor Miggins closed the public comment period and asked if any Committee members had any comments.

Ms. Thall Eglow spoke in regard to gas leaf blowers and noted that she supported the ban and suggested the town start with their blowers.

Mr. McDonald advised the township had electric leaf blowers for smaller jobs.

Ms. Thall Eglow asked if the township could replace with new ones. She believe the Environmental Commission would talk about it. She thanked the public for speaking up. She spoke in regards to advocating for a Main Street public session. She noted that she did not support 100% affordable housing.

Mr. Vinayak spoke in regard to the leaf blowers and the cost for new ones. He would be up to continued discussion on this matter. Mr. McDonald reviewed the use of leaf blowers by DPW.

Mr. Vinayak suggested to phase out the gas leaf blowers and replace with electric and to start the conversations about residential blowers. He commended the comments on gun safety and while the sale of guns could not be stopped he supported being proactive.

Ms. Thall Eglow agreed, and Mr. Vinayak suggested offering training.

Mr. McDonald reviewed options. Ms. Thall Eglow agreed and suggested adding it to the August police event.

Mr. McDonald confirmed the budget was online.

Mr. Vinayak reviewed various documents available on the website especially affordable housing information which is commonly misinformed.

Mr. Wasserman provided some clarification on the fair share housing and how the affordable housing numbers were mandated by the court. He also spoke in regard to the SID meetings and noted that the vacancy rate was down to 5%. He stated that he was proud of the SID.

Mr. McDonald provided further clarity about vacant land adjustment and reviewed the settlement and the numbers for affordable housing. He addressed Lot 14 concerns and noted that the township was looking to make improvements. Mr. McDonald also addressed OPRA and reviewed the process.

Mr. Carney reviewed the different government types and how certain powers were different.

Consent Agenda

Mayor Miggins asked if any of the Committee members had any questions or concerns regarding agenda items. Receiving none, Mayor Miggins asked for a motion to approve the items on the consent agenda Resolutions 22-109 – 22-112. Mr. Wasserman made a motion to approve the consent agenda which was seconded by Mr. Vinayak.

Roll Call Vote: Ayes: Wasserman, Vinayak, Miggins, Thall Eglow
Absent: Prupis

**RESOLUTION 22-109
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 19, 2022, in the following accounts:

General Fund	\$	350,727.02
Capital Fund		183,095.11
Parking Utility - Operating Fund		10,534.49
Dog Fund Trust		2,722.80
Waste Recycling Trust		5,194.65

Millburn Township Committee Meeting Minutes

RESOLUTION 22-110
PERMIT SIDEWALK SALES DURING THE MONTHS OF
MAY – OCTOBER 2022

WHEREAS, the Millburn Township Code Section 15-8.1 prohibits obstruction of sidewalks with merchandise, etc.; and

WHEREAS, the Township of Millburn supports local businesses in their request to hold sidewalk sales for an extended period of time as we continue to encourage pedestrian activity and business visibility in our business districts; and

WHEREAS, the Township of Millburn recognizes that holding sidewalk sales further increases visibility; and

WHEREAS, the Township expects that that businesses participating in extended sales will keep sidewalks clear for safe and proper pedestrian mobility inclusive of clearing any tables or racks at the end of each day; and

WHEREAS, this resolution will only be in effect from May 1, 2022 through October 2, 2022;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn in the County of Essex, that Millburn Township businesses are permitted to hold sidewalk sales, limited to the frontage of their business, in the Township of Millburn on Fridays, Saturdays and Sundays during their regular business hours from May 1, 2022 through October 2, 2022 with the understanding that all other local, state and federal regulations shall be adhered to;

NOW, THEREFORE, BE IT FURTHER RESOLVED that any sidewalk sales that take place outside of the prescribed dates and times in this resolution will be considered in violation of Township ordinance and the relief set forth by this resolution.

RESOLUTION 22-111
AUTHORIZING PUBLIC SALE OF SURPLUS PROPERTY

WHEREAS, the Township of Millburn has items of personal property which are no longer used or needed; and

WHEREAS, N.J.S.A. 40A:11-36 states that these items may be disposed of in order to provide space for existing utilized personal property; and

WHEREAS, the Township Committee is desirous of selling said surplus property in an "as is" condition without express or implied warranties;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Millburn, in the County of Essex, State of New Jersey that the following personal property items are hereby declared surplus and authorized, as follows:

- 1. The sale of the surplus property shall be conducted through GovDeals at www.govdeals.com pursuant to State Contract A-70967/T2581 in accordance with the terms and conditions of the State contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and also available in the Office of the Chief Financial Officer.
2. The sale is being conducted pursuant to Local Finance Notice 2008-9.
3. The surplus property as identified shall be sold in an "as is" condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
4. The Township Committee reserves the right to accept or reject any bid submitted.
5. List of the surplus property to be sold is as follows:

Table with 3 columns: EQUIPMENT ID or License Plate, VIN / Serial / Model #, and Vehicle, Machine or Item Description. Row 1: FIRE DEPT., 4P1CT02D3PA000509, 1993 Pierce Lance 1500 GPM Pumper

Millburn Township Committee Meeting Minutes

	4P1CT02DXTA000517	1996 Pierce Dash 1500 GPM Pumper
	FAP-0174 ISG	Truck mount Thermal Imaging camera charger
	FAP-0164 ISG	Truck Mount Thermal Imaging camera charger
	Fap-0159 ISG	Truck Mount Thermal Imaging camera charger
	FAP-4375 ISG	Truck Mount Thermal Imaging camera charger
	SN-3536XR	Thermal Imaging camera
	SN-3529XR	Thermal Imaging camera
	K1K-2721HR- ISG	Elite XR Thermal Imaging camera
	AB3ST-NX	Task Force Tip Ball Intake Valve
		QTY= 6, Task Force Tip Nozzles 50-350 GPM
		1 – 5 way Manifold with relief valve
<i>PUBLIC WORKS</i>		
1		40 YARD ROLLOFF CONTAINER
AC-1	1GT22ZCG7C7108860	2012 GMC 2500 WITH ANIMAL CONTROL BODY
177-1990	PRSSBAOO-1288	CAT SKID STEER SNOW PLOW
1		250 GALLON FUEL TANK
1		250 GALLON FUEL TANK
1		500 GALLON FUEL TANK
1		250 OIL TANK
30788	200000159	GROUNDMASTER 325-D WITH BLOWER
RD-8	1HTSDAAR9SH225833	1995 INTERNATIONAL 4900 WITH PLOW AND SPEADER
RD-7	1HTSDAAR5TH387878	1996 INTERNATIONAL 4900 WITH PLOW AND SPEADER
TLP-16	60409-5	WARSAW PLOW
TLP-6	60409-1	WARSAW PLOW
PLOW #3	65819	WARSAW PLOW
TR-14	NP02525	PELICAN SWEEPER 2008 NP
1 LOT		17 LEATHER COMMITTEE ROOM CHAIRS
S-05	1HTGLAHT93H559825	2003 INTERNATIONAL 25 CY GARBAGE TRUCK
<i>POLICE</i>		
10314MG	1FM5K8AR1EB59230	2014 Ford Explorer

BE IT FURTHER RESOLVED that the Township Clerk is hereby authorized to advertise in the Item of Millburn and Short Hills and on the Township web-site, that a public sale of surplus personal property will be held at the date and time specified in the legal notice.

BE IT FURTHER RESOLVED that a copy of this resolution shall be forwarded to the Division of Local Government Services.

**RESOLUTION 22-112
APPROVE RAFFLE LICENSES**

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

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

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

- Deerfield PTO
- Parent Guild Oratory Prep
- Birth Haven (On Premise)
- Birth Haven (Off Premise)

Millburn Township Committee Meeting Minutes

RESOLUTION

Resolution 22-113

Resolution 22-113 was brought forth. Mayor Miggins asked for a motion to approve Resolution 22-113. Ms. Thall Eglow made a motion to approve Resolution 22-113 which was seconded by Mr. Wasserman.

Roll Call Vote: Ayes: Wasserman, Vinayak, Miggins, Thall Eglow
Absent: Prupis

**RESOLUTION 22-113
RESOLUTION OF THE COUNCIL OF THE TOWNSHIP OF MILLBURN
APPOINTING A MUNICIPAL HOUSING LIAISON**

WHEREAS, pursuant to N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et. seq., the Township of Millburn is required to appoint a Municipal Housing Liaison for the administration of Township of Millburn affordable housing program to enforce the requirements of N.J.A.C. 5:93 and N.J.A.C. 5:80-26.1 et. seq.; and

WHEREAS, Section 501.4 of the Township of Millburn Code provides for the appointment of a Municipal Housing Liaison to administer Millburn’s affordable housing program.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Township of Millburn, in the County of Essex and the State of New Jersey that Community Grants, Planning & Housing (CGP&H), 1249 South River Road, Suite 301, Cranbury, NJ 08512, is hereby appointed by the Governing Body of Township of Millburn as the Municipal Housing Liaison for the Administration of the Affordable Housing Program, pursuant to and in accordance with § 501.4 of the Township of Millburn Code.

Resolution 22-114

Resolution 22-114 was brought forth. Mayor Miggins asked for a motion to approve Resolution 22-114. Ms. Thall Eglow made a motion to approve Resolution 22-114 which was seconded by Mr. Wasserman.

Roll Call Vote: Ayes: Wasserman, Vinayak, Miggins, Thall Eglow
Absent: Prupis

**RESOLUTION 22-114
AUTHORIZING LIQUOR LICENSE TRANSFER
(PLACE TO PLACE TRANSFER – FOUR STAR GROUP, INC. dba The Wine Shop)**

WHEREAS, an application has been filed for a place-to-place transfer of Plenary Retail Distribution License [current License No. 0712-44-008-005], issued to Four Star Group, Inc. dba The Wine Shop heretofore a pocket license; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current licensed term; and

WHEREAS, the applicant, Four Star Group, Inc. dba The Wine Shop is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33;

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Millburn, in the County of Essex, State of New Jersey does hereby approve, effective April 20, 2022 the place-to-place transfer of the aforesaid Plenary Retail Consumption licensed premises, former pocket license which will become active upon transfer, to its new location at 340 Millburn Avenue, Millburn, NJ 07041, and does hereby direct the Municipal Clerk/A.B.C. Board Secretary to endorse the license certificate to, License Number 0712-44-008-006, as follows: "This license, subject to all its terms and conditions, is hereby transferred to premises located at 340 Millburn Avenue, Millburn, NJ 07041 effective April 20, 2022".

Millburn Township Committee Meeting Minutes

Ordinance / Introduction

Ordinance 2600-22

Mr. Wasserman brought forth Ordinance 2600-22 for introduction. A brief explanatory statement about the ordinance was made by Mr. Wasserman and Mr. McDonald. Ms. Thall Eglow asked questions regarding fees and Mr. McDonald reviewed the proposed fees. Mr. Wasserman moved the ordinance to be taken up and passed on first reading noting that the public hearing would take place on May 17, 2022. Ms. Thall Eglow seconded the motion. Mr. Wasserman requested a roll call vote.

Roll Call Vote: Ayes: Wasserman, Vinayak, Miggins, Thall Eglow
Absent: Prupis

ORDINANCE NO. 2600-22

ORDINANCE SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF MILLBURN WITH CHAPTER XXII "DEVELOPMENT FEE"

STATEMENT OF PURPOSE: *The purpose of this Ordinance is to establish standards for the collection, maintenance, and expenditure of development fees that are consistent with state law.*

22-1 MANDATORY DEVELOPMENT FEE

22-1 Purpose

This article establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (N.J.S.A. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7). Fees collected pursuant to this article shall be used for the purpose of providing very-low, low- and moderate-income housing in accordance with a Court-approved spending plan.

22-2 Basic Requirements

- a. This chapter shall not be effective until approved by the Court.
- b. The Township of Millburn shall not spend development fees until the Court has approved a plan for spending such fees (spending plan).

22-3 Definitions

The following terms when used in this Ordinance shall have the meaning given in this Section.

"Affordable Housing Development" shall mean a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipally-sponsored construction project or a 100% affordable housing development.

"COAH or the Council" shall mean the New Jersey Council on Affordable Housing established under the Fair Housing Act, or any successor agency charged with the administration of the Act.

"Court" shall mean the Superior Court of New Jersey, Law Division, Essex County.

"Developer" shall mean the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development Fee" shall mean money paid by a developer for the improvement of property as authorized by Holmdel Builder's Association v. Holmdel Borough, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, et seq., and regulated by applicable COAH Rules.

Millburn Township Committee Meeting Minutes

“Equalized Assessed Value” shall mean the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c. 123 (N.J.S.A. 54:1-35a through c).

“Green Building Strategies” shall mean strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

22-4 Residential Development Fees

a. Imposed Fees.

i. Within all districts, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of 1.5% of the equalized assessed value for residential development, provided no increased density is permitted.

ii. When an increase in residential density is permitted pursuant to a "d" variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a "bonus" development fee of 6% of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal 1.5% of the equalized assessed value on the first two units; and 6% of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

b. Eligible extractions, including extractions for residential developments.

i. Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by ordinance or by agreement with the Township of Millburn, shall be exempt from the payment of development fees.

ii. Developments that have received preliminary or final site plan approval prior to the adoption of the Township’s initial development fee ordinance shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iii. Owner-occupied residential structures demolished and replaced as a result of a fire, flood, or natural disaster shall be exempt from paying a development fee.

iv. Development fees shall be imposed and collected when there is an addition to an existing structure (except as provided in subsection v) or when an existing structure undergoes a change to a more intense use or is demolished and replaced. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

v. No fee shall be charged pursuant to this section for any addition or improvement to an existing residential structure, so long as such addition or improvement does not increase the equalized assessed value of the existing structure, as of the date thereof, by more than fifty percent (50%).

Millburn Township Committee Meeting Minutes

vi. Not-for-profit developers shall be exempt.

22-5 Non-Residential Development Fees

a. Imposed Fees.

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

b. Eligible exactions, ineligible exactions and exemptions for non-residential development.

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii. Nonresidential developments shall be exempt from the payment of nonresidential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption." Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a nonresidential development exempted from the nonresidential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the nonresidential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy for the nonresidential development, whichever is later.

v. If a property which was exempted from the collection of a nonresidential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid nonresidential development fees under these circumstances may be enforceable by the Township of Millburn as a lien against the real property of the owner.

22-6 Collection procedures

a. Upon the granting of a preliminary, final or other applicable approval for a development, the applicable approving authority or entity shall notify or direct its staff to notify the construction official responsible for the issuance of a building permit.

b. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to

Millburn Township Committee Meeting Minutes

be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c. The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d. Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e. The construction official responsible for the issuance of a final certificate of occupancy shall notify the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f. Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g. Should the Township of Millburn fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c. 46 (N.J.S.A. 40:55D-8.6).

h. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the time of issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at the issuance of the certificate of occupancy. No certificate of occupancy shall be issued to the developer until all remaining developer fees have been paid in full.

i. Appeal of development fees

i. A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by Millburn Township. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

ii. A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by Millburn Township. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

22-7 Affordable Housing Trust Fund

a. There is hereby created a separate, interest-bearing Housing Trust Fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and nonresidential developers and proceeds from the sale of units with extinguished controls.

b. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

i. Payments in lieu of on-site construction of affordable units;

Millburn Township Committee Meeting Minutes

- ii. Developer-contributed funds to make 10% of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;
- iii. Rental income from municipally operated units;
- iv. Repayments from affordable housing program loans;
- v. recapture funds;
- vi. proceeds from the sale of affordable units; and
- vii. Any other funds collected in connection with the Township of Millburn's affordable housing program.

c. In the event of a failure by the Township of Millburn to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved spending plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe, 442 N.J. Super. 565 (Law Div. 2015) (aff'd 442 N.J. Super. 563); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services ("LGS"), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Township of Millburn, or, if not practicable, then within the County.

- i. Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the noncompliant condition(s), and upon a finding of continuing and deliberate noncompliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund. The Court may also impose such other remedies as may be reasonable and appropriate to the circumstances.

d. All interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

22-8 Use of Funds

a. The expenditure of all funds shall conform to a spending plan approved by the Superior Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address Millburn Township's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; regional housing partnership programs; conversion of existing nonresidential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or state standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved spending plan.

b. Funds shall not be expended to reimburse Millburn Township for past housing activities.

c. At least 30% of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability

Millburn Township Committee Meeting Minutes

assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30% or less of the median income for Housing Region, in which Millburn is located.

i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners' association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the spending plan.

ii. Affordability assistance to households earning 30% or less of median income may include buying down the cost of low- or moderate-income units in the municipal Fair Share Plan to make them affordable to households earning 30% or less of median income. The specific programs to be used for very-low-income affordability assistance shall be identified and described within the spending plan.

iii. Payments in lieu of constructing affordable housing units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

d. Millburn Township may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

e. No more than 20% of all revenues collected from development fees may be expended on administration, including but not limited to salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

i. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses.

ii. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

22-9 Monitoring

a. The Township of Millburn shall provide annual reporting of Affordable Housing Trust Fund activity to the New Jersey Department of Community Affairs, COAH and Local Government Services or other entity designated by the State of New Jersey, using forms developed for this purpose by the New Jersey Department of Community Affairs, COAH or Local Government Services.

22-10 Ongoing collection of fees

a. The ability of Millburn Township to impose, collect and expend development fees shall be permitted through the expiration of the repose period covered by its judgment of compliance and shall continue thereafter so long as Millburn Township has filed an adopted Housing Element and Fair Share Plan with the Court or with a designated state administrative agency, has petitioned for a judgment of compliance from the Court or for substantive certification or its equivalent from a state administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its development fee ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

b. If the Township of Millburn fails to renew its ability to impose and collect development fees after the expiration of its judgment of compliance and repose, it may be subject to

April 19, 2022

Millburn Township Committee Meeting Minutes

forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (N.J.S.A. 52:27D-320).

c. After the expiration of the judgment of compliance and repose, if the Township does not pursue or obtain continued authorization, Millburn Township shall not impose a residential development fee on a development that receives preliminary or final site plan approval, retroactively impose a development fee on such a development, or expend any of its collected development fees.

Ordinance 2601-22

Mayor Miggins brought forth Ordinance 2601-22 for introduction. A brief explanatory statement about the ordinance was made by Mr. McDonald.

Mr. Petto, Planner, reviewed reports from the Zoning Board of Adjustment and the recommendations.

Mr. Vinayak asked if he should recuse himself since he was on a corner lot and Mr. Carney advised him there was no conflict.

Mayor Miggins moved the ordinance to be taken up and passed on first reading noting that the public hearing would take place on May 17, 2022. Ms. Thall Eglow seconded the motion. Mayor Miggins requested a roll call vote.

Roll Call Vote: Ayes: Wasserman, Vinayak, Miggins, Thall Eglow
Absent: Prupis

**ORDINANCE 2601-22
ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF MILLBURN
DEVELOPMENT REGULATIONS AND ZONING ORDINANCE**

WHEREAS, the Township of Millburn Zoning Board of Adjustment in their 2019 Annual Report to the Township Committee and Planning Board recommended that accessory structure provisions relating to corner lots be revisited; and

WHEREAS, the Zoning Board of Adjustment noted in the Annual Report that the current special required setback provisions relating to accessory structures has necessitated a number of applications to the Board seeking variance relief; and

WHEREAS, the Zoning Board of Adjustment identified that some applicants have demonstrated that the provision would result in accessory structures, which could never be permitted without need for a variance.

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 (additions are underlined and deletions appear as strikethroughs):

609.5. Corner Lots. Any principal building located on a corner lot shall meet the minimum front setback from both street lines. The building setback from the remaining property lines shall be considered the side setback.

a. Accessory Uses on Corner Lots. See Section 609.1 Accessory Uses in Residential Districts

1. For the purpose of locating accessory uses on residential properties, they shall be no closer to any street line than ~~two times~~ the required front setback and shall not be located in the front yard or the front building line, whichever is greater.

Old Business

Cora Hartshorn Arboretum and Bird Sanctuary Lease Renewal

Mr. McDonald reviewed the lease with the Cora Hartshorn Arboretum and advised it was done by ordinance. Mr. Wasserman voiced opposition to requiring Township Committee members to sign non-disclosure agreements. Mayor Miggins agreed and wanted public access. Mr. McDonald noted that he would address the concerns with their board and bring it back to the Township Committee.

April 19, 2022

Millburn Township Committee Meeting Minutes

Update on Hobart Traffic Light

Mr. Vinayak asked for an update on the traffic light on Hobart Avenue. Mr. McDonald, Ms. Thall Eglow and Mr. Vinayak reviewed traffic concerns and accidents in the area. It was noted that the County also recognized the area as a problem. Mr. McDonald advised the information was sent to the county and the township should be good to go with a dedicated left hand turn proposal.

No old business was brought forward.

New Business

Township Committee Rules of Procedure

Mr. Carney reviewed the proposed language and revision to the Township Committee Rules of Procedure. Ms. Thall Eglow suggested “*pass*” should be an option during a vote and should not be removed. The Committee reviewed the matter and the other Committee Members did not agree and thought it should not be. Mr. Vinayak asked for the procedures to be posted on the website once approved. Mr. Wasserman agreed to have public comment before action was taken. Mayor Miggins, agreed.

Proposed Overlay Zone Ordinance

Ms. Thall Eglow stated that she was not in favor of rooftop decks bans and questioned why ban the amenities. Mr. Vinayak would like to defer to the Planning Board on their decision.

Mr. Petto, Planner, reviewed the proposed overlay ordinances. Mr. Wasserman and Mr. Vinayak agreed the ordinances should be a public process. Mr. McDonald agreed the ordinances would be brought first for Committee members and then to the public for an interactive process.

No new business was brought forward.

Adjournment

Mayor Miggins asked for a motion to adjourn the meeting. Mr. Wasserman made a motion to adjourn; the motion was seconded by Ms. Thall Eglow to adjourn the meeting at 9:02 PM. Vote: All Ayes.

Christine A. Gatti, RMC
Municipal Clerk

Approved: July 19, 2022