

**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 and remotely starting at 7:00 PM on the above date.

Mayor Prupis 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 and remotely at 7:00 PM on February 9, 2021.

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

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

Also present were Business Administrator Alexander McDonald, Township Clerk Christine Gatti (remotely, via Zoom), Township Attorney Christopher Falcon and Administrative Analyst Jesse Moehlman.

**Approval of Agenda**

Mayor Prupis advised changes were made to the agenda, Resolutions 21-053 and 21-058 were removed from the consent agenda. Mayor Prupis asked for a motion to approve the revised agenda. The motion was offered by Mr. Wasserman and seconded by Mr. Vinayak.

Vote: All Ayes

**Minutes**

Mayor Prupis asked for a motion to approve the December 1, 2020 regular Township Committee meeting minutes. The motion was made by Mr. Wasserman and seconded by Ms. Thall Eglow.

Roll Call Vote: All Ayes, except Miggins, and Vinayak who abstained

**Reports**

Mayor Prupis addressed the public and expressed sadness with the report of the loss of Millburn Police Officer Lieutenant Adam Norris on February 3<sup>rd</sup>. She provided some details about Lieutenant Norris and asked for a moment of silence. She announced that two vacancies were fulfilled on the Environmental Commission and the Cora Hartshorn Arboretum Board and shared her appreciation for the many volunteers of the Township. She reminded the public that the Township Committee Meetings were a business meeting and provided an explanation of procedure and rules in order to keep order. She noted that we are all neighbors and asked everyone to treat each other as such. She pointed out to the public were meeting materials could be found. She informed the public about the monthly township electronic newsletter and how to obtain it. She thanked everyone for their cooperation.

Mayor Prupis provided updates on the Art Advisory Committee and announced some upcoming events and meetings. She noted that along with CEDA toured the Bauer Center and then met with Art Advisory to review plans and go over the "All Together Now" art installation. She stated that on January 29<sup>th</sup> the Township Committee County Executive, Joseph DiVincenzo, and County Health Officer, Maya Lordo, toured the Essex County vaccination site at Livingston Mall. She spoke highly about the site and its volunteers. She advised that the vaccination site was by appointment only and to visit the county website to sign up when appointments are made available. She reported an updated on the arts roundtable discussion wherein they reviewed their collaboration goals for 2021. She reviewed updates from the Mayor's Council which discussed flood mitigation. She reported that on February 4<sup>th</sup> the Downtown Visioning Steering Committee met with Perkins Eastman and Maser Consulting. She recalled from the last Committee meeting Perkins Eastman was tasked to develop a two way traffic plan on Millburn Avenue and Essex Street with designated bike lanes. She reviewed possible next steps and

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announced that all of the information in regards to the Downtown Vision Plan could be found on the Township website. She noted that the next Steering Committee meeting would take place on March 3<sup>rd</sup>.

Mayor Prupis advised that she, Mr. McDonald and Ms. Miggins met to discuss the zoning code examination and the first meeting with the subcommittee would take place on February 11<sup>th</sup>. She advised that the committee would vote on a resolution to appoint various members to the Zoning Examination Subcommittee. She reviewed Bike Walk Millburn action plan for Millburn Bike Week and reviewed the event details. She announced upcoming meetings. She advised that the Township Committee went in to closed session prior to the regular meeting to discuss tax appeals. She concluded her reports by stating that February was Black History Month and recalled what it meant to not only celebrate its triumphs but also its history of slavery. The Millburn Short Hills town wide reading project had resumed and "Uncomfortable Conversations with a Black Man" by Emmanuel Acho was February's pick. The book's discussion would take place virtually on February 28<sup>th</sup> to participate. Mayor Prupis instructed everyone to email Jordana Horn Gordon [jordhorn@gmail.com](mailto:jordhorn@gmail.com) for additional details, she encouraged everyone to obtain the book from the local book store, The Book House.

Ms. Thall Eglow spoke with the Executive Director from the Joint 911 Dispatch and advised that in the coming months a presentation would be offered to the Township Committee to provide insight on the 911 dispatch and what services were included.

Ms. Miggins reported that she attended the Library Board of Trustees meeting and a new member was sworn in. She advised that the Library wanted to push their membership drive and noted that it was not likely that a book sale would take place in 2021 due to Covid-19. She provided details on the various programs the library was offering its patrons and noted that the Library's membership drive would assist in funding since they would not hold the book sale.

Mr. Wasserman welcomed Ryan Gleason, the new Executive Director of the SID. Mr. Wasserman wished Mr. Gleason the best of luck. He offered his condolences for Lieutenant Norris' family.

Mr. Vinayak welcomed Mr. Gleason. He advised that the Planning Board approved the Wells Fargo site project. He noted that both he and Mr. Wasserman were members of the Finance Subcommittee and they were working on the 2021 budget. He spoke on management reports and having town hall department heads report on their monthly budget to better manage their functions. He noted that each department would measure performances with KPI's (Key Performance Indicators), where select KPI's would be shared with the township residents. Mr. Vinayak spoke on shared services between towns. He stated that Troy Drive had fixed their drainage system and their icing should also be resolved and they would continue to monitor.

### **Presentation**

#### Community Service Award Committee Website

Riya Tyagi, local Eagle Scout from Troop 19, presented her project called Millburn Township Young Heroes. She reviewed various Eagle Scouts projects during the pandemic. She pointed out that youth volunteers were not recognized by the Community Service Award and the need for a portal was realized. She provided the young heroes project mission statement and noted that the portal would be a way to nominate youth for a community service award. She pointed that since its launch on January 11<sup>th</sup> there have been some nominations. Ms. Tyagi asked residents to spread the word in order to nominate deserving candidates. She provided details on the process.

Mayor Prupis thanked Ms. Tyagi and encouraged residents to nominate their friends and neighbors.

#### Historic Preservation Commission 2020 Annual Report

Alison Canfield, Chair to the Historic Preservation Commission (HPC), presented their annual report. She provided information on her background and her historical home. She reviewed the challenges of historic preservation and the code and responsibility of the HPC. The HPC would be awarded the Historic Preservation Commission Award from the Board of Directors of Preservation New Jersey (PNJ). Ms. Canfield reviewed the economic benefits and other benefits for home owners within the historic

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districts. She requested financial support from the Township Committee for various historic preservation consultant services including analyzing the Historic Preservation Element of the Master Plan and surveying of the downtown historic resources in the township.

Ms. Thall Eglow asked if the Short Hills Village was designated as historic and questioned whether it would impede any future developments the town would want to add, such as lighting. Ms. Canfield advised there would not be any difficulties and would rather pose opportunities. Ms. Thall Eglow and Ms. Canfield review her requests.

Ms. Miggins asked if the HPC should be involved in the Master Plan and Ms. Canfield recalled a Master Plan from 1991 in which the HPC was involved. Ms. Canfield advised they were soliciting grants, which took time to obtain, and requested the financial support from the township. Ms. Miggins and Ms. Canfield reviewed the requests.

Ms. Miggins asked what Ms. Canfield thought if the downtown were to be designated historic and whether it that would attract business or investors. Ms. Canfield stated historic districts enhanced downtown districts; however, poor planning of a town does not attract businesses or investments. She noted that towns similar to Millburn where their HPC was at the forefront were more cohesive. She advised that the HPC could support and assist in redirecting the downtown. Ms. Canfield reiterated that the HPC had applied for numerous grants but those could take years to be awarded which was why she was reaching out for support from the Committee.

Mr. Wasserman asked if the HPC had funds that they had control over aside from the funds requested. Ms. Canfield advised that the HPC did not have a budget. She stated that with a budget they could plan three or five years in advance. She noted that they relied on the township for funding aside from grants. Mr. Wasserman and Ms. Canfield discussed the processes to HPC designation. Mr. Vinayak and Ms. Canfield discussed the differences between Historic Society and Historic Preservation Commission.

Mayor Prupis suggested the Township Committee consider the request, and asked that the Finance Subcommittee review the request as well, and then the Committee can consider at a future meeting.

### Introduction of Ryan Gleason, Executive Director of Millburn Short Hills Business Organization (also known as Explore Millburn Short Hills)

Mr. Wasserman introduced Ryan Gleason and provided his background of expertise and his goals for Explore Millburn Short Hills (Special Improvement District – SID). He spoke on the SID in surrounding towns and how well they had done, even during a pandemic. He believed with the board, economic development and various programs, the SID could bring positivity to Millburn. Mr. Gleason reviewed his background and accomplishments and provided his contact information. Mr. Vinayak provided words of encouragement and gave him his support. Mr. Gleason advised the next SID meeting would be on Thursday, February 11<sup>th</sup> at town hall.

Ms. Thall Eglow welcomed Mr. Gleason and wished him the best of luck as everyone had the same goal to succeed.

### **Reports**

Mr. Falcon provided a draft policy statement that concerned the convening of meetings between officials with the public. He noted that public business should not be conducted at public official's place of residence or places of business. He advised that the policy would be placed on the Township's website once approved by the Committee. Mr. Falcon reported on his observation of the marijuana bill (cannabis) and pointed out that the Governor had not yet signed it into effect and was waiting on legislation. He noted that the deadline would be February 18<sup>th</sup>. He pointed out that the Committee would have 180 days to either opt in or out from marijuana related activities. Mr. Falcon stated that the Committee should begin to consider their stance on the matter. Ms. Prupis asked if any Committee members had any questions or comments.

Mr. Vinayak asked if the medical marijuana opt out position could apply to recreational marijuana. Mr. Falcon advised that in fact it was separate and had to have its own position.

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Mayor Prupis asked the Committee members to share their opinion on how to handle the topic. Mr. Vinayak suggested holding a public meeting for the public to provide their opinions to the Committee whether they agreed or not. Mr. Wasserman agreed and asked Mr. Falcon if he would advise the Committee once the 180 day timeline started. Ms. Thall Eglow recalled during the election around 3,000 residents voted against and 7,000 voted for the legalization of marijuana. She agreed to put the topic on the agenda to allow the public to speak on the topic. Mr. Wasserman added businesses would also want to put in their opinions as how it would affect their businesses. Ms. Prupis advised the public that the discussion would be put on the next Township Committee meeting to allow the public to voice their opinions.

Mr. McDonald thanked the residents for adhering to snow parking regulations and advised residents not to shovel their snow onto the street. He reminded residents to clear their sidewalks within eight hours of the last snowflake. Ms. Thall Eglow reminded residents to be careful when walking on the street in the dark.

### **Public Comment – Consent Agenda**

Mayor Prupis asked if there were any comments or questions from the Committee regarding items on the Consent Agenda Resolutions.

Ms. Thall Eglow asked in regards to Resolution 21-059, Confirm Appointment to the Affordable Housing Litigation Management Steering Committee, why a new member was being added to the Litigation Committee. She stated that she was under the impression that the steering committee members could only be elected officials. Mr. Wasserman advised and recalled some of the issues had environmental impacts; therefore, the Environmental Commission Chair could provide some expertise and assistance.

Mr. Falcon advised the Planning Board Chair was also part of the Litigation Steering Committee and they were not an elected official. He reviewed the options in appointing members to the Litigation Steering Committee.

Mayor Prupis opened public comment.

Jeffery Feld, of 11 Alexander Lane, advised that he provided a letter with various questions to the Committee. From those questions he asked in regard to Resolution 21-050 and why funds were being transferred to the SID since they had not presented their calendar year budget. He asked to meet with Mr. Ryan Gleason but was advised until a policy was put in place he could not meet with him. In regards to Resolution 21-059, he recalled the affordable housing litigation was why an environmental member was needed for the Litigation Steering Committee. In regard to Resolution 21-062, Mr. Feld stated there needed to be a serious discussion. He questioned the procedures to approve and release closed session minutes.

Nancy Stone, of 10 Fielding Road, complemented the Historical Preservation Commission's (HPC) presentation. She expressed her frustration with the Committee. She expressed how the Committee didn't think twice about downtown visioning; but had to think about twenty five thousand dollars to preserve the history of Millburn when the volunteers on the commission were unpaid and gave their time to the town. Ms. Stone expressed his disapproval of how the township is spending money.

Jean Pasternak, of 342 Hobart Avenue, echoed Mr. Feld's questions in regard to Resolution 21-050 and the allocation of \$50,000 given the legalities and questions around the SID and why it was being approved. She echoed Mr. Feld's questions in regard to Resolution 21-062 and noted they should be made available in a timely manner. Ms. Pasternak asked in regard to Resolution 21-058 the \$6.5 million bond anticipation notes. She noted that there was no explanation as to what the funds were allocated for. Ms. Pasternak also asked in regard to Resolution 21-064, public meeting rules, she asked how they were thought of and if the whole Township Committee were involved. Ms. Pasternak suggested further transparency and more public participation. She recalled questions asked at past committee meetings that were never answered which she found disrespectful. Ms. Pasternak asked in regard to Resolution 21-065, Ms. Miggins' name was left out of the nominated subcommittee and reiterated she was a conflict of interest to the Township Committee and the Planning Board.

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Dominique Urso, of 514 Millburn Avenue, read and submitted the following statement:

“Consent agenda item 21-050 - Maggie & Sanjeev stated on a recent, The Patch, article this past fall the date was September 4, 2020 that quote states “Had our Republican opponents paid better attention, they would know that there would be no new levy on commercial landlords until 2022, and even then, economic conditions would dictate whether or not a levy would be feasible. They would also be aware that a SID has no tax impact on residents”. Is that in fact true? And if not how are you voting yes to approve the SID Budget in the amount of \$500,000 tonight?”

Ms. Urso further added to her comment and expressed the reasoning why she participated in the Township Committee meetings. She advised that she found it disrespectful to not answer those who raised concerns and wanted answers that would affect their business. She expressed displeasure with the Committee and their actions that lead to hurt businesses. She asked if Ms. Miggins and Mr. Vinayak could explain why they were against the SID and now were for it.

Ms. Prupis asked if any members of the Committee wanted to respond to any of the comments.

Mr. Vinayak responded that he was never against the SID and noted that the taxation would not be put on the commercial properties until 2022. He reviewed the finance. He noted that openly supported the SID. Mr. Vinayak asked Mr. Falcon if an attorney who was also a resident with litigation against the township could speak at Committee meetings.

Mr. Falcon advised that comments in respect to the litigation were not permitted. However, comments on their unhappiness with how the business of the township was being carried was allowed.

Mr. Wasserman asked Mr. McDonald to speak on the municipal budget. Mr. McDonald clarified that the temporary budget was 26.25% of the previous year’s budget. He advised that the township had the right to allocate monies to specific line items as they saw fit for operations that would take place during the first quarter; he provided examples. He stated that the allocation of monies toward the SID was with the understanding that their budget was forthcoming. He answered Ms. Pasternak’s question in regard to the bond anticipation note and advised that it was for the short terms debts the town had from complete streets, South Mountain flood projects, police HVAC system to name a few.

No other comments or questions were presented.

**Consent Agenda**

Mayor Prupis asked for a motion to approve the items on the consent agenda 21-050 – 21-063, with the removal of Resolutions 21-053 and 21-058 which were previously pulled from the consent agenda. Mr. Wasserman made a motion to approve the consent agenda which was seconded by Ms. Thall Eglow.

Roll Call Vote: All Ayes

**RESOLUTION 21-050  
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 February 9, 2021, in the following accounts:

General	\$	539,827.30
Capital Fund		256,420.12
Parking Utility - Operating Fund		3,443.67
Dog Trust Fund		67.59
Donation Trust Fund		2,492.94
Escrow Trust Fund		2,700.00
Waste Recycling Trust Fund		19,911.90

**RESOLUTION 21-051  
AUTHORIZE THE REFUND OF TAX OVERPAYMENTS**

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

<u>Make check payable to:</u>	<u>Type</u>	<u>Amount</u>
Irwin & Heinze P.A. Attorney Trust Account & Marilyn Markovitz 383 Main Street suite 101 Chatham, NJ 07928 Block 1505 Lot22	Tax Appeal 2018 taxes (\$2,341.36) 2019 taxes (\$3,340.83) 2020 taxes (\$1,926.00)	\$7,608.19
Jessica Glatt 50 Birch Lane Short Hills, NJ 07078 Block 2306 Lot 18 50 Birch Lane	Tax Appeal 2019 taxes	\$6,822.55
Richard & Debra Rieder 270 Dale Drive Short Hills, NJ 07078 Block 3704 Lot 12 270 Dale Drive	Tax Appeal 2020 taxes Added	\$199.82
Hao Wang & Qi Gao 35A Spring Street Millburn, NJ 07041 Block 901 Lot 21 COOA 35A Spring Street	Tax Appeal 2020 taxes Added	\$4,653.22
Dheeraj & Puja Sakhuja 20 Whitney Road Short Hills, NJ 07078 Block 901 Lot 21 COOB 35B Spring Street	Tax Appeal 2020 taxes Added	\$4,653.22
Maria Cozzini Esq. & Laz Michael & Monica Lazarou 1199 US Route 22 East Mountainside, NJ 07092 Block 4903 Lot 8 10 Westview Rd.	Tax Appeal 2020 taxes Added	\$2,400.76
Harsh & Nandita Joshi 51 Keats Rd Short Hills, NJ 07078 Block 5105 Lot 8 51 Keats Rd	Tax Appeal 2020 taxes Added	\$442.98

**RESOLUTION 21-052  
ESTABLISH THE 2021 SEWER USE CHARGE**

**BE IT RESOLVED**, by the Township Committee of the Township of Millburn in the County of Essex that the Sewer Use Charge per unit for the calendar year 2021 is hereby determined to be \$176.00 unchanged from 2020;

**BE IT FURTHER RESOLVED** that the 2021 Sewer Use Charge shall be payable April 1, 2021 with a seven day grace period and that interest shall be charged at the delinquent rate of 8% on the first \$1,500 and 18% on the balance over that;

**BE IT FINALLY RESOLVED**, that the sewer fees billed shall become a lien on each parcel and thus subject to tax sale for prior year delinquencies.

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**RESOLUTION 21-054  
AUTHORIZING ADVERTISEMENT OF BIDS -  
TAYLOR PARK IMPROVEMENTS**

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

**Taylor Park Improvements**

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

**RESOLUTION 21-055  
AUTHORIZE EXECUTION OF STORM SEWER INDEMNIFICATION AGREEMENTS**

**NOW, THEREFORE BE IS RESOLVED** that the Millburn Township Mayor and Township Clerk are hereby authorized to execute the Indemnification Agreement for Storm Sewer Connection for 46 Westview Drive, Block: 4803, Lot: 8, as per the recommendation of the Superintendent of Public Works.

**RESOLUTION 21-056  
AUTHORIZE ACCEPTANCE AND SIGNATURE OF ESSEX COUNTY  
COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT**

**NOW THEREFORE BE IT RESOLVED** that the Township Committee of the Township of Millburn hereby authorizes the acceptance of the Essex County Community Development Block Grant Agreement as recommended by the Township Engineer;

**BE IT FURTHER RESOLVED** that the Mayor and Township Clerk are hereby authorized to sign the grant agreement for Barrier Free Curb Cuts in the Wyoming Section for FFY 2020 in the amount of \$34,055.00 on behalf of the township.

**RESOLUTION 21-057  
AUTHORIZE NEW JERSEY HISTORIC PRESERVATION FUND CERTIFIED LOCAL GOVERNMENT (CGL)  
GRANT-IN-AID 2021**

**WHEREAS** the Millburn Township Committee in the County of Essex desires to further the public interest by obtaining a grant from the State of New Jersey Historic Preservation Office in the amount of approximately \$24,750 to fund the following project: **Historic Preservation Element of the Master Plan.**

**WHEREAS** the Governing Body resolves that Alex McDonald, or the Business Administrator, is authorized:

- (a) to make application for such a grant;
- (b) if awarded, to execute a grant agreement with the State for a grant in an amount not less than \$20,000 and not more than \$25,000; and
- (c) to execute any amendments thereto which do not increase the Grantee’s obligations.

**WHEREAS** the Grantee agrees to comply with all applicable federal, State, and municipal laws, rules, and regulations in its performance pursuant to the agreement.

**BE IT RESOLVED**, the Millburn Township Committee authorizes the Millburn Historic Preservation Commission to submit a CLG Grant Application to conduct a Historic Preservation Element of the Master Plan and hereby agrees to comply with all applicable Federal, State, and municipal laws, rules, and regulations in its performance pursuant to the agreement.

**RESOLUTION 21-059  
TO PROVIDE FOR THE CONFIRMATION OF AN APPOINTMENT TO THE AFFORDABLE HOUSING  
LITIGATION MANAGEMENT STEERING COMMITTEE**

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**WHEREAS**, the Affordable Housing Litigation Management Steering Committee was created by Resolution of June 5, 2018 and reconstituted by Resolution 21-033 on January 5, 2021 by the Millburn Township Committee in order for officials and consultants to act in an advisory capacity to the Township Committee in connection with the management of the following litigation and any other such litigation hereafter commenced:

- a) A lawsuit captioned 85 Woodland Road, LLC, et al. v Township of Millburn and the Township of Millburn Planning Board, Docket No. ESX-L-2672-18; and
- b) A Declaratory Judgment action captioned In the Matter of the Application of the Township of Millburn, Docket No. ESX-L-2778-18; and

**WHEREAS**, the Township Committee deems it appropriate to include the Environmental Commission Chair as member of the Affordable Housing Litigation Management Steering Committee;

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee in the Township of Millburn, in the County of Essex and State of New Jersey on the 9<sup>th</sup> of February, 2021 as follows:

- 1) Priya Patel, Environmental Commission Chair, shall be appointed to the Affordable Housing Litigation Management Steering Committee.
- 2) The Environmental Commission Chair shall serve until the later of the following: Conclusion of the referenced litigation, unless a vacancy shall occur by virtue of a person leaving office or being otherwise unavailable to serve, in which event, the Township Committee shall appoint a substitute for the applicable category.
- 3) This Resolution shall take effect immediately.

**RESOLUTION 21-060  
CONFIRM APPOINTMENT TO THE ENVIRONMENTAL COMMISSION**

**BE IT RESOLVED** that the Township Committee confirms the Mayor’s appointment of Wendy Minocha as Alternate #1 Member to the Environmental Commission to the unexpired term expiration of December 31, 2021.

**RESOLUTION 21-061  
CONFIRM APPOINTMENT TO THE  
CORA HARTSHORN ARBORETUM & BIRD SANCTUARY BOARD**

**BE IT RESOLVED** that the Township Committee confirms the Mayor’s appointment of Ellen Serruto as Mayors Trustee to the Cora Hartshorn Arboretum & Bird Sanctuary Board of Trustees with a term expiration of December 31, 2021.

**RESOLUTION 21-062  
APPROVE AND RELEASE CERTAIN CLOSED SESSION MINUTES**

**BE IT RESOLVED** that the following Closed Session Minutes of the Millburn Township Committee are hereby approved and may be released to the public or shall be held as detailed below.

Meeting Date	Hold, Release or Paragraph Number to Hold or Release	Closed Session – Matter Held
1/19/2016	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing
1/19/2016	Release Remaining	
3/1/2016	Release	
3/15/2016	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing
4/19/2016	Release	
5/3/2016	Release	
6/21/2016	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing



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8/16/2016	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing
10/19/2016	Release	
11/14/2016	Release	
12/6/2016	Release	
12/20/2016	Release	
1/17/2017	Release	
2/21/2017	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing
2/21/2017	Release Remaining	
4/4/2017	Release	
4/18/2017	Release	
5/16/2017	Hold	Attorney – Client Privilege – Chatham Road Development Proposal Legal Update
5/16/2017	Release Remaining	
7/18/2017	Hold	Attorney – Client Privilege – Chatham Road Development Proposal Legal Update
8/3/2017	Release	
10/17/2017 (Reso. 17-221)	Hold	Attorney – Client Privilege – Chatham Road Development Proposal Legal Update
10/17/2017 (Reso. 17-232)	Release	
11/13/2017	Release	
12/5/2017	Release	
12/19/2017	Hold	Attorney Client Privilege – Advice on Low and Moderate Income Housing
12/19/2017	Release Remaining	
1/16/2018	Release	
2/6/2018 (Reso. 18-043)	Release	
2/6/2018 (Reso. 18-057)	Release	
2/13/2018	Hold	Contract Negotiations – Stone Mountain Properties
2/13/2018	Hold	Contract Negotiations – Exxon Remediation
2/13/2018	Hold	Contract Negotiations – Schoolhouse Joint Venture
2/13/2018	Release Remaining	
2/20/2018	Release	
3/12/2018	Hold	Attorney – Client Privilege – Legal Update on Land Use Development Alternatives
4/3/2018	Release	
5/1/2018	Release	
5/15/2018 (Reso. 18-125)	Hold	Pending Litigation – 87 Woodland Road, LLC, 54 Chatham Road, LLC and SL58 Chatham Road, LLC V. Township of Millburn and the Declaratory Judgement Action filed by Millburn Township
7/17/2018	Hold	Pending Litigation – 85 Woodland Road, LLC, 87 Woodland Road, LLC, 54 Chatham Road, LLC and SL58 Chatham Road, LLC v. Township of Millburn and the Declaratory Judgement Action filed by Millburn Township
8/14/2018	Release	
9/20/2018	Hold	Pending Litigation – 85 Woodland Road LLC mediation
10/16/2018 (Reso. 18-235)	Release	
10/16/2018 (Reso. 18-236)	Release	
12/4/2018	Release	
12/18/2018	Release	

**RESOLUTION 21-063  
APPROVE RAFFLE LICENSES**

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

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

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

Millburn Education Foundation

**Resolution**

**Resolution 21-064**

Mayor Prupis brought forth Resolution 21-064- Resolution as to Interim Rules of Procedures and Order of Business. Mr. Falcon provided an explanatory statement and noted the revisions made from the approved 1988 version.

Ms. Thall Eglow spoke to Mr. McDonald and Mr. Falcon regarding the resolution. She asked in regard to Article 2, Section 2 as she did not agree with the language proposed. She expressed Millburn was a small town and did not believe the Mayor should cause the arrest of someone from the public. She recalled Mr. Falcon advised that portion was that way since 1988. Ms. Thall Eglow recalled years past when she was Mayor and no police presence was needed. The Township Committee was supposed to be welcoming. She asked for that section to be modified. She asked why there were two officers, Mr. McDonald advised one was a field training officer and the other was learning the ropes. Ms. Thall Eglow proceeded to asked further if it was legal for the Mayor to cause the arrest of someone. Mr. Falcon cited some examples where police intervened. Ms. Thall Eglow voiced her opposition to some language included in the resolution.

Mr. Wasserman agreed with Ms. Thall Eglow in respect to treating others with decorum and respect. He expressed the meetings could get heated at times and the rules would allow for a more orderly meeting.

Mr. Vinayak asked in regard to Resolution 21-062 and the legality of releasing closed session minutes. Mayor Prupis redirected and advised the Committee would revisit the questions after they reviewed Resolution 21-064.

Ms. Miggins asked if the rules had been in effect since 1988. Mr. Falcon advised on the history of the rules of procedure.

Mayor Prupis asked if there were any comments or questions regarding Resolution 21-064.

Jeffery Feld, of 11 Alexander Lane, asked for the Committee to table the resolution until the public had the time to review. He conveyed the resolution had history since 1988 and legal opinions should be reviewed in order to have ultimate transparency in order to have informed public participation. He recalled rules he provided to the Committee for virtual meetings back in September. Mr. Feld stated the public should have the opportunity to speak to consent agenda items before they were voted on. He advised the Committee was guided by the state constitution and the Committee should look at other municipalities in the state, not other states. Mr. Feld asked that the meeting agenda be published to the public at the same time the Committee received it as well.

Nancy Stone, of 10 Fielding Road, expressed the rules were brought on because of her. Ms. Stone voiced her displeasure with the Committee. She exclaimed that she was not going away and would call out Mayor Prupis on her nonsense as she was not equipped to run the town.

Jean Pasternak, of 342 Hobart Avenue, expressed inconsistency with regard to public comment between the Township Committee, the SID board and county board. She stated there should be consistency throughout all and couldn't understand why the Committee tried to reinvent the wheel. She expressed that police presence in the room and the unanswered questions was very discouraging and prevented people from coming forward to speak. Ms. Pasternak felt the resolution as a whole felt inconsistent.

Nicholas Volpicelli, of 18 Overlook Terrace, thanked the Committee for serving and for recognizing African American History Month. He recommended the public comment be allowed before consent agenda items were voted on. He thought it was very important to allow for more public comment. Mr. Volpicelli quoted President John F. Kennedy on transparency. He ended by thanking the Committee once more for serving.

Dominique Urso, of 514 Millburn Avenue, expressed that the Township Committee was not welcoming toward those who opposed the Committee's opinions. Ms. Urso expressed displeasure toward the Committee. She noted that the Committee did not treat the public like their fellow neighbors. Ms. Urso continued to voice her displeasure toward the committee. Ms. Urso stated that the Committee made decisions that affected their business owners and didn't listen to them when they spoke and pleaded with them.

Sara Sherman, of 42 Greenwood Drive, specified it was a very long meeting and those members of the public that had the chance to speak multiple times were the same people who complained about not being heard. She noted that she wrote to the Committee and believed public comment should be left at the end of the meeting as there was ample opportunity to be heard. Ms. Sherman spoke in regard to the police. She did not want to see people arrested; however, times were uncertain of who would possibly enter a meeting, the Committee had the right to be protected. Ms. Sherman did not think anyone would get arrested but the police should be present to protect the Township Committee. She thanked them for their service as they were tasked with a very difficult job.

Ms. Prupis asked if any members of the Committee wanted to respond to any of the comments.

Mr. Falcon recalled and responded to Mr. Feld's comment in regard to public hearing during resolutions. He asked Mr. Feld once more to provide the law he relied on during his public comment. Mr. Falcon would be certainly glad to hear it and advise accordingly. Mr. Falcon cited specific resolutions that required a public hearing and others that did not. He invited Mr. Feld to submit the contrary state law he cited as well as the various opinions from judges and he would be glad to take a look.

Perri Urso, of 506 Millburn Avenue, read and submitted the following statement: "The Mayor is allowing the Attorney to continue to spend tax payer's dollars for a litigation where she and others are part of. You are personally attacking my family by harassing us with notice of discovery, they are not the defendants in this litigation. It's shameful and outlandish treatment for anyone in opposition of your policies. What happen to the Tara Prupis on Dec 4, 2018."

Mayor Prupis advised the public comment portion of the meeting was at the end and presently Resolution 21-064 was the topic of conversation. She advised the Committee would come back to Ms. Urso during public comment.

Mayor Prupis asked once more if any members of the Committee wanted to respond to any of the comments or to Resolution 21-064.

Mayor Prupis reminded residents that they could meet with her during the regular scheduled office hours Thursdays from 9am-11am set up by appointment. She called for a five minute recess.

Mayor Prupis asked for a motion to approve Resolution 21-064. Mr. Wasserman made a motion to approve Resolution 20-064 which was seconded by Ms. Miggins.

Roll Call Vote: Ayes: Mayor Prupis, Ms. Miggins, Mr. Vinayak and Mr. Wasserman

Nays: Ms. Thall Eglow

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**RESOLUTION 21-064  
RESOLUTION AS TO INTERIM RULES OF PROCEDURES AND ORDER OF BUSINESS**

**BE IT RESOLVED**, by the Township Committee of the Township of Millburn, County of Essex, State of New Jersey, that the following Interim Rules of Procedure and Order of Business are hereby adopted:

**INTERIM RULES OF PROCEDURE AND ORDER OF BUSINESS**

**ARTICLE I**

The deliberations of the Township Committee shall be governed by these Interim Rules of Procedure and Order of Business of the Township Committee (“Rules”). Matters of procedure not covered by the Township Code or New Jersey Statute shall be governed by these Rules, as modified from time to time. The Township Committee may consult Roberts Rules of Order for guidance and use in its discretion but shall not be governed thereby.

This version of Rules of Procedures and Order of Business supersedes any prior such Rules and is intended to serve as an interim and temporary version pending further consideration of a more comprehensive version at a later date.

**ARTICLE II - MEETINGS**

- Section 1.** The Mayor shall decide all questions of order subject to appeal to the Township Committee.
- Section 2.** The Mayor shall on all occasions preserve order and dignified proceedings. The Mayor shall cause the removal or arrest of any persons who interrupt or prevent the proceedings of the Township Committee from continuing in an orderly fashion.
- Section 3.** Each member of the Township Committee (including the Mayor) shall have the right to make and second motions and nominations and to vote thereon.
- Section 4.** Regular meetings shall be held as scheduled at the annual organization meeting each year or as rescheduled by resolution adopted at a regular meeting.
- Section 5.** Special meetings shall be held as provided in the Township Code. Upon the receipt of a proper call for a special meeting, the Township Clerk shall give at least two business days’ notice by delivery of a notice thereof to their places of residence or by email to each member.
- Section 6.** All meetings of the Township Committee shall be held in accordance with the Open Public Meetings Act.

**ARTICLE III - ORDER OF BUSINESS**

- Section 1.** The following shall be the normal order of business of regular meetings of the Township Committee:
  - 1. Meeting called to Order;
  - 2. Open Public Meetings Act announcements;
  - 3. Salute to the flag;
  - 4. Roll Call;
  - 5. Approval of agenda;
  - 6. Action on minutes of previous meetings;
  - 7. Reports;
  - 8. Adoption of resolutions;

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9. Introduction of ordinances;
10. Ordinances on final reading;
11. Miscellaneous old and new business items;
12. Public comment period;
13. Adjournment.

**Section 2.** Tentative agendas of regular meetings shall include any item listed by the Mayor, the Business Administrator, or by request of any member of the Township Committee at any time prior to 4:00 p.m. on the date of the subject meeting. The final agenda shall be adopted at the beginning of the scheduled meeting by vote of the Township Committee, subject to further vote to amend the agenda during the meeting by unanimous consent, or if needed, a vote of a majority of the entire membership.

### ARTICLE IV - ETHICAL CONDUCT

All Members of the Township Committee shall observe the requirements of the Local Government Ethics Law in connection with their participation in and the conduct of public business.

### ARTILCE V - FAIR AND ORDERLY PROCEEDINGS

#### Section 1. Guidelines:

The citizens and businesses of Millburn Township are entitled to Meetings of the Township Committee held in an orderly and dignified fashion, guided by, but not limited to, the following principles: 1.) Compliance with the laws and policies affecting the operations of government and the conduct of public meetings; 2.) Conduct of meetings of the Township Committee where the members are independent, impartial and fair in their judgment and actions, and 3.) Conduct of public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility observed by both members of the Township Committee and by the members of the public attending such meetings.

#### Section 2. Elected and Appointed Officials Conduct with Each Other in Public Meetings:

Elected and appointed officials or individuals have a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and future of the Township. In all cases, this common goal should be acknowledged even though individuals many not agree on every issue.

A.) Respect the role of the Mayor in maintaining order. It is the responsibility of the Mayor to preside at the meetings and to keep the comments of members on track during public discussion. Township Committee Members should honor the efforts of the Mayor to focus discussion on current agenda items and to fairly manage comment and discussion thereon.

B.) Practice civility and decorum in discussions and debate over public matters. Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, elected officials to make belligerent, personal, impertinent, abusive or disparaging comments.

C.) Avoid personal comments that could offend other members due to their extreme nature. If a member is personally offended by extreme remarks by another member, the offended member would have the right to call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The Mayor will maintain control of this

discussion. If a resolution of the matter is unable to be conducted, the Mayor shall move to the next item of public business and the minutes shall reflect that an accommodation was not able to be achieved.

D.) Demonstrate effective problem-solving approaches. The members of the Township Committee have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a solution, sometimes involving compromise, that benefits the Township as a whole.

E.) During the course of a public meeting no members of the Township Committee shall communicate with each other, persons in the audience or persons outside of the municipal building on any matter of public business by electronic means, including but not limited to, emails, text messages or otherwise.

**Section 3. Elected and Appointed Officials conduct with the Public in Public Meetings:**

Making the public feel welcome is an important part of the democratic process. No signs of extreme partiality, prejudice or disrespect should be evident on the part of the individual members of the Township Committee toward any individual participating in a public forum. Every effort should be made to be fair and impartial when listening to public comment.

A.) Be welcoming to speakers coming forward to make public comments. While questions of clarification may be asked, the primary role of the official during public comment is to listen. While officials are under no legal obligation to respond to questions posed by members of the public, in exercising their discretion as to whether or not to do so they will need to balance the interest of transparency in relation to governmental matters with the requirements of confidentiality or other legitimate considerations and circumstances which cause them not to respond.

B.) Be fair and equitable in allocating public hearing time to individual speakers. The Mayor will determine and announce limits on speakers at the start of a hearing or public comment period. The Mayor will attempt to provide an opportunity for persons desiring to speak so as to allow for a fair hearing of contrasting view within the time available.

C.) Ask for clarification but avoid debate and argument with the public. Only the Mayor and not individual members, can interrupt a speaker during a presentation. However, a member can ask the Mayor for a point of order if a speaker is off topic or exhibiting behavior or inappropriate or coarse language that the member finds is having a negative impact on the decorum of the meeting.

D.) Certain direct and implied suggestions as to proper procedure and the maintenance of decorum set forth in Roberts Rules of Order, as follows, shall be observed:

1. Addressing all remarks through the Mayor. Members of the Township Committee should refrain from addressing one another directly, absent an obviously open discussion amongst the members sharing their views of a single topic. Ordinarily however, a member desiring to ask a question or make a statement shall seek recognition of the Mayor before proceeding with the same. The Mayor shall in all events make certain that all members seeking to ask a question or make a statement on the topic under consideration shall be recognized generally in the order in which recognition is sought.

2. Refraining from intemperate remarks concerning a member's motives. When a question is pending, a member can condemn the nature or likely consequences of the proposed

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measure in strong terms, but the member must avoid personalities, and under no circumstances should attack or question the motives of another members.

3. Confining remarks to the merits of a pending questions in discussion or debating a proposal or a pending question. Each member’s remarks must be germane to the question before the Township Committee meaning the statements must have a bearing on whether the proposal of the pending question should be pursued or adopted.

4. Use of a members names. As much as possible, the surnames of members should be used as a sign of decorum and respect.

5. Reading from reports, quotations, correspondence and other documents only without objection or with permission. If any member objects, a member has no right to read from, or to have the Clerk read from, any paper or book as part of his or her remarks, without permission of the Township Committee. Members are usually permitted to read short, pertinent printed matter, however, so long as they do not abuse the privilege. Any member anticipating that she or he intends to read written materials authored by others, during the course of an upcoming meeting, should review the matter with the Mayor beforehand or with the number of members who together with the proposing member would constitute a majority of the Township Committee, in order to gain their concurrence.

**ARTICLE VI - AMENDMENT**

**Section 1.** These Rules shall be subject to and governed by the laws of the State of New Jersey and the ordinances of the Township. These Rules shall not be amended except at a regular meeting of the Township Committee. All proposed amendments shall be submitted in writing at a regular meeting for consideration and potential action at a subsequent regular meeting.

**Resolution 21-065**

Mayor Prupis brought forth Resolution 21-065 - Resolution to Constitute and Provide for the Operation of a Zoning Code Examination Subcommittee.

Mayor Prupis asked if there were any comments or questions regarding Resolution 21-064.

Receiving none, Mayor Prupis asked for a motion to approve Resolution 21-065. Mr. Vinayak made a motion to approve Resolution 20-065 which was seconded by Ms. Wasserman.

Roll Call Vote: All Ayes

**RESOLUTION 21-065**

**RESOLUTION TO CONSTITUTE AND PROVIDE FOR THE OPERATION OF A ZONING CODE EXAMINATION SUBCOMMITTEE**

**WHEREAS**, the Mayor with approval of the Millburn Township Committee desires to constitute and provide for the operation of a Zoning Code Examination Subcommittee (“Subcommittee”); and

**WHEREAS**, the Subcommittee shall meet and evaluate the current Zoning Code of the Township of Millburn and reflect on the current zoning needs of the township while maintaining the objectives of the Millburn Township Master Plan; and

**WHEREAS**, the Subcommittee shall make periodic reports to the Township Committee as necessitated and formulate recommendations to the Committee outlining proposed action as it relates

to amending the Zoning Code;

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

- 4) The individuals to serve on the Subcommittee shall be:
  - a) Mayor Tara Prupis and Committeewoman Maggee Miggins;
  - b) Jessica Glatt, Zoning Board of Adjustment
  - c) Craig Ploetner, Zoning Board of Adjustment
  - d) Daniel Baer, Planning Board
  - e) Jorge Mastropietro, Planning Board
  - f) Alison Canfield, Historic Preservation Commission
  - g) Alex McDonald, Business Administrator
  - h) Eileen Davitt, Zoning Officer
  
- 5) These individuals shall serve until the later of the following: Conclusion of the project and delivery of a final product to the Township Committee, unless a vacancy shall occur by virtue of a person leaving office or being otherwise unavailable to serve, in which event, the Township Committee shall appoint a substitute.

### **Ordinance/Introduction**

#### **Ordinance 2569-21**

Ms. Thall Eglow brought forth Ordinance 2569-21 for introduction. A brief explanatory statement about the ordinance was made. Ms. Thall Eglow moved that the ordinance be taken up and passed on first reading noting that the public hearing would take place on March 9, 2021, Ms. Miggins seconded the motion. Mayor Prupis requested a roll call vote.

Roll Call Vote: All Ayes

#### **ORDINANCE 2569-21**

#### **ORDINANCE ADOPTING A STORMWATER CONTROL ORDINANCE FOR THE TOWNSHIP OF MILLBURN DEVELOPMENT REGULATIONS**

***Statement of Purpose:*** *The purpose of this ordinance is to amend the Stormwater Control Ordinance to be compliant with new standards adopted by the New Jersey Department of Environmental Protection, including: modifying the definition of "Major Development", changes to existing definitions and the addition of new definitions, updating the requirements for major developments, as well as minor amendments to the Freshwater Wetlands Protection Act Rules, the Flood Hazard Area Control Rules, and the New Jersey Pollutant Discharge Elimination System (NJPDES) rules.*

**BE IT ORDAINED** by the Township Committee of the Township of Millburn, in the County of Essex, that the Development Regulations and Zoning Ordinance be and is hereby amended and supplemented to rescind and replace existing Section 525.3 with the following:

#### **"Section 525.3 Stormwater Control.**

a. Scope and Purpose. Stormwater management measures for "major development," as defined in Section 525.3b, shall be established to meet the erosion control, groundwater recharge, stormwater runoff quantity and stormwater quality standards, in accordance with the Municipal Stormwater Regulation Program, established by the State of New Jersey and in this section.



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1. Policy Statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
2. Purpose. The purpose of this Section 525.3 is to establish minimum stormwater management requirements and controls for “major development,” as defined below in Section 525.3b.
3. Applicability
  - (a) This Section 525.3 shall be applicable to the following major developments:
    - (1) Non-residential major developments; and
    - (2) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
  - (b) This Section shall also be applicable to all major developments undertaken by Millburn Township, except those specifically exempted under Section 525.3d.
4. Compatibility with Other Permit and Ordinance Requirements. Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this Section shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

This Section is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

b. Definitions. For the purpose of this Section, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

“CAFRA CENTERS, CORES OR NODES” means those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

“CAFRA PLANNING MAP” means the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department’s Geographic Information System (GIS).

“COMMUNITY BASIN” means an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.

“COMPACTION” means the increase in soil bulk density.

“CONTRIBUTORY DRAINAGE AREA” means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

“CORE” means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

“COUNTY REVIEW AGENCY” means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency or
2. A county water resource association created under N.J.S.A 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

“DEPARTMENT” means the Department of Environmental Protection.

“DESIGNATED CENTER” means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

“DESIGN ENGINEER” means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

“DEVELOPMENT” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.*

In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 *et seq.*

“DISTURBANCE” means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

“DRAINAGE AREA” means a geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

“ENVIRONMENTALLY CONSTRAINED AREA” means the following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

“ENVIRONMENTALLY CRITICAL AREA” means an area or feature which is of significant environmental value, including but not limited to: stream corridors, natural heritage priority sites, habitats of endangered or threatened species, large areas of contiguous open space or upland forest, steep slopes, and well head protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

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“EMPOWERMENT NEIGHBORHOODS” means neighborhoods designated by the Urban Coordinating Council “in consultation and conjunction with” the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

“EROSION” means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“GREEN INFRASTRUCTURE” means a stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

“HUC 14” or “HYDROLOGIC UNIT CODE 14” means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

“IMPERVIOUS SURFACE” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

“INFILTRATION” is the process by which water seeps into the soil from precipitation.

“LEAD PLANNING AGENCY” means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

“MAJOR DEVELOPMENT” means an individual “development,” as well as multiple developments that individually or collectively result in:

1. The disturbance of one or more acres of land since February 2, 2004;
2. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
3. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021; or
4. A combination of 2 and 3 above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs 1, 2, 3, or 4 above. Projects undertaken by any government agency that otherwise meet the definition of “major development” but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered “major development.”

“MOTOR VEHICLE” means land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks. “Motor vehicle surface” means any pervious or impervious surface that is intended to be used by “motor vehicles” and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

“MUNICIPALITY” means any city, borough, town, township, or village.

“NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL” OR “BMP MANUAL” means the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department

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as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with Section IV.F. of this ordinance and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter.

"NODE" means an area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

"NUTRIENT" means a chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

"PERSON" means any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

"POLLUTANT" means any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

"RECHARGE" means the amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

"REGULATED IMPERVIOUS SURFACE" means any of the following, alone or in combination:

1. A net increase of impervious surface;
2. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
3. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
4. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

"REGULATED MOTOR VEHICLE SURFACE" means any of the following, alone or in combination:

1. The total area of motor vehicle surface that is currently receiving water;
2. A net increase in motor vehicle surface; and/or

quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

"SEDIMENT" means solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

"SITE" means the lot or lots upon which a major development is to occur or has occurred.

"SOIL" means all unconsolidated mineral and organic material of any origin.

"STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1)" means an area delineated on the State Plan Policy Map and adopted by the State Planning

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Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

"STATE PLAN POLICY MAP" is defined as the geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

"STORMWATER" means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

"STORMWATER MANAGEMENT BMP" means an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

"STORMWATER MANAGEMENT MEASURE" means any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"STORMWATER RUNOFF" means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

"STORMWATER MANAGEMENT PLANNING AGENCY" means a public body authorized by legislation to prepare stormwater management plans.

"STORMWATER MANAGEMENT PLANNING AREA" means the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

"TIDAL FLOOD HAZARD AREA" means a flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

"URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD" means a neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

"URBAN ENTERPRISE ZONES" means a zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

"URBAN REDEVELOPMENT AREA" is defined as previously developed portions of areas:

1. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
2. Designated as CAFRA Centers, Cores or Nodes;
3. Designated as Urban Enterprise Zones; and
4. Designated as Urban Coordinating Council Empowerment Neighborhoods.

"WATER CONTROL STRUCTURE" means a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

"WATERS OF THE STATE" means the ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or groundwater, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

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“WETLANDS” or “WETLAND” means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

c. Design and Performance Standards for Stormwater Management Measures.

1. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
  - (a) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
  - (b) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
2. The standards in this Section 525.3 apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

*Note: Alternative standards shall provide at least as much protection from stormwater-related loss of groundwater recharge, stormwater quantity and water quality impacts of major development projects as would be provided under the standards in N.J.A.C. 7:8-5.*

d. Stormwater Management Requirements for Major Development.

1. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with paragraph j., Maintenance and Repair.
2. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department’s Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
3. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of paragraph d. 16, 17, and 18.
  - (a) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  - (b) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  - (c) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
4. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of paragraph d. 15, 16, 17, and 18 may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
  - (a) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;

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- (b) The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of paragraph d. 15, 16, 17, and 18 to the maximum extent practicable;
- (c) The applicant demonstrates that, in order to meet the requirements of paragraph d. 15, 16, 17, and 18, existing structures currently in use, such as homes and buildings, would need to be condemned; and
- (d) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under paragraph d. 4.(c) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of paragraph d.15, 16, 17, and 18 that were not achievable onsite.

5. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management

Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in paragraph d. 15, 16, 17, and 18. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department’s website at:

[https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm).

6. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

<b>Table 1</b> <b>Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
<a href="#">Cistern</a>	<a href="#">0</a>	<a href="#">Yes</a>	<a href="#">No</a>	<a href="#">--</a>
<a href="#">Dry Well<sup>(a)</sup></a>	<a href="#">0</a>	<a href="#">No</a>	<a href="#">Yes</a>	<a href="#">2</a>
<a href="#">Grass Swale</a>	<a href="#">50 or less</a>	<a href="#">No</a>	<a href="#">No</a>	<a href="#">2<sup>(e)</sup></a> <a href="#">1<sup>(f)</sup></a>
<a href="#">Green Roof</a>	<a href="#">0</a>	<a href="#">Yes</a>	<a href="#">No</a>	<a href="#">--</a>
<a href="#">Manufactured Treatment Device<sup>(a),(g)</sup></a>	<a href="#">50 or 80</a>	<a href="#">No</a>	<a href="#">No</a>	<a href="#">Dependent upon the device</a>
<a href="#">Pervious Paving System<sup>(a)</sup></a>	<a href="#">80</a>	<a href="#">Yes</a>	<a href="#">Yes<sup>(b)</sup></a> <a href="#">No<sup>(c)</sup></a>	<a href="#">2<sup>(b)</sup></a> <a href="#">1<sup>(c)</sup></a>
<a href="#">Small-Scale Bioretention Basin<sup>(a)</sup></a>	<a href="#">80 or 90</a>	<a href="#">Yes</a>	<a href="#">Yes<sup>(b)</sup></a> <a href="#">No<sup>(c)</sup></a>	<a href="#">2<sup>(b)</sup></a> <a href="#">1<sup>(c)</sup></a>

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<a href="#">Small-Scale Infiltration Basin<sup>(a)</sup></a>	80	Yes	Yes	2
<a href="#">Small-Scale Sand Filter</a>	80	Yes	Yes	2
<a href="#">Vegetative Filter Strip</a>	60-80	No	No	--

<b>Table 2</b> <b><u>Green Infrastructure BMPs for Stormwater Runoff Quantity</u></b> <b><u>(or for Groundwater Recharge and/or Stormwater Runoff Quality</u></b> <b><u>with a Waiver or Variance from N.J.A.C. 7:8-5.3)</u></b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Bioretention System	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Infiltration Basin	80	Yes	Yes	2
Sand Filter <sup>(b)</sup>	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond <sup>(d)</sup>	50-90	Yes	No	N/A

(Notes corresponding to annotations <sup>(b)</sup> through <sup>(d)</sup> are found beneath Table 3)

<b>Table 3</b> <b><u>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or</u></b> <b><u>Stormwater Runoff Quantity</u></b> <b><u>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</u></b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand Filter <sup>(c)</sup>	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

(a) subject to the applicable contributory drainage area limitation specified at paragraph d. 15.(b);



- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) designed with a slope of less than two percent;
- (f) designed with a slope of equal to or greater than two percent;
- (g) manufactured treatment devices that meet the definition of green infrastructure at Paragraph b.;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at paragraph b.

7. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with paragraph f. 2. Alternative stormwater management measures may be used to satisfy the requirements at paragraph d. 15 only if the measures meet the definition of green infrastructure at paragraph b. Alternative stormwater management measures that function in a similar manner to a BMP listed at paragraph d. 15.(b) are subject to the contributory drainage area limitation specified at paragraph d. 15.(b) for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at paragraph d. 15.(b) shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with paragraph d. 4 is granted from paragraph d.15.

8. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.

9. Design standards for stormwater management measures are as follows:

- (a) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);

(b)

Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of paragraph h.3;

- (c) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;

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- (d) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at paragraph h.; and
  - (e) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
10. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at paragraph b. may be used only under the circumstances described at paragraph d.15.d
11. Any application for a new agricultural development that meets the definition of major development at paragraph b. shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at paragraph d. 15, 16, 17, and 18 and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
12. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at paragraph d. 16, 17, and 18 shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
13. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Office of the Essex County Clerk. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at paragraph d. 15, 16, 17, and 18 and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to Section j. 2(e). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
14. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to paragraph d. of this section and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Office of the Essex County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with 13. above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with 13. above.
15. Green Infrastructure Standards
- (a) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.

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- (b) To satisfy the groundwater recharge and stormwater runoff quality standards at paragraph d. 16 and 17, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at paragraph d. 6. and/or an alternative stormwater management measure approved in accordance with paragraph d. 7. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

<u>Best Management Practice</u>	<u>Maximum Contributory Drainage Area</u>
<u>Dry Well</u>	<u>1 acre</u>
<u>Manufactured Treatment Device</u>	<u>2.5 acres</u>
<u>Pervious Pavement Systems</u>	<u>Area of additional inflow cannot exceed three times the area occupied by the BMP</u>
<u>Small-scale Bioretention Systems</u>	<u>2.5 acres</u>
<u>Small-scale Infiltration Basin</u>	<u>2.5 acres</u>
<u>Small-scale Sand Filter</u>	<u>2.5 acres</u>

- (c) To satisfy the stormwater runoff quantity standards at paragraph d. 18, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with paragraph d. 7.
- (d) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with paragraph d.4. is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with paragraph d. 7. may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at paragraph d. 16, 17, and 18.
- (e) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at paragraph d. 16, 17, and 18, unless the project is granted a waiver from strict compliance in accordance with paragraph d. 4.

16. Groundwater Recharge Standards

- (a) This subsection contains the minimum design and performance standards for groundwater recharge as follows:
- (b) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at paragraph e., either:
  - (1) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
  - (2) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.

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- (c) This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to (d) below.
- (d) The following types of stormwater shall not be recharged:
  - (1) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - (2) Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

## 17. Stormwater Runoff Quality Standards

- (a) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
- (b) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
  - (1) Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
  - (2) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
- (c) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with (b) above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
- (d) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

- (e) If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100,$$

Where

R = total TSS Percent Load Removal from application of both BMPs, and

A = the TSS Percent Removal Rate applicable to the first BMP

B = the TSS Percent Removal Rate applicable to the second BMP.

- (f) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in paragraph d. 16, 17, and 18.

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- (g) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (h) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (i) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
- (j) This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

## 18. Stormwater Runoff Quantity Standards

- (a) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (b) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at paragraph e., complete one of the following:
  - (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - (3) Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - (4) In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with (b) (1), (2), and (3) above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
- 3. The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

## e. Calculation of Stormwater Runoff and Groundwater Recharge.

- 1. Stormwater runoff shall be calculated in accordance with the following:
  - (a) The design engineer shall calculate runoff using one of the following methods:

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- (1) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in *Technical Release 55 - Urban Hydrology for Small Watersheds* (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:

[https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf)

or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or

- (2) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:

<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>.

- (b) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology above at paragraph e. 1.(a) (1) and the Rational and Modified Rational Methods at paragraph e. 1.(a)(2). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (c) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
- (d) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS *Technical Release 55 – Urban Hydrology for Small Watersheds* or other methods may be employed.
- (e) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

2. Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented.

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Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at:

<https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf>

or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

f. Sources for Technical Guidance.

1. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at:

[http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).

- (a) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.

- (b) Additional maintenance guidance is available on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

2. Submissions required for review by the Department should be mailed to:

The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

g. Solids and Floatables Materials Control Standards.

1. Site design features identified under paragraph d. 6 above, or alternative designs in accordance with paragraph d. 7 above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see paragraph g. 1.(b) below.

- (a) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

- (1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
- (2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- (3) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

- (b) The standard in 1.(a) above does not apply:



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- (1) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
- (2) Where the Township agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- (3) Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
  - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
  - b. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- (4) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- (5) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

#### h. Safety Standards for Stormwater Management Basins.

1. This paragraph sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This paragraph applies to any new stormwater management BMP.
2. The provisions of this paragraph are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in paragraph h.3.(a), h.3.(b), and h.3.(c) for trash racks, overflow grates, and escape provisions at outlet structures.
3. Requirements for Trash Racks, Overflow Grates and Escape Provisions
  - (a) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:
    - (1) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
    - (2) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
    - (3) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
    - (4) The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
  - (b) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:

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- (1) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
- (2) The overflow grate spacing shall be no less than two inches across the smallest dimension
- (3) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.

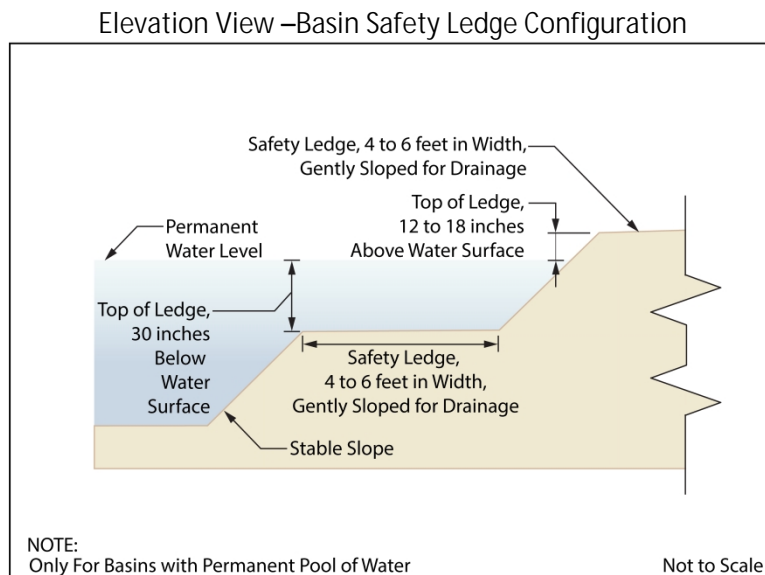
(c) Stormwater management BMPs shall include escape provisions as follows:

- (1) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to h.3, a free-standing outlet structure may be exempted from this requirement;
- (2) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See h.5 for an illustration of safety ledges in a stormwater management BMP; and
- (3) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

4. Variance or Exemption from Safety Standard

A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

5. Safety Ledge Illustration



i. Requirements for a Site Development Stormwater Plan:

- 1. Submission of Site Development Stormwater Plan
  - (a) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at paragraph i.3 below as part of the submission of the application for approval.
  - (b) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.

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- (c) The applicant shall submit 20 copies of the materials listed in the checklist for site development stormwater plans in accordance with paragraph i.3 of this section.

### 2. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this ordinance.

### 3. Submission of Site Development Stormwater Plan

The following information shall be required:

#### (a) Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

#### (b) Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

#### (c) Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

#### (d) Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of Sections c. through e. are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.

#### (e) Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- (1) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- (2) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

#### (f) Calculations

- (1) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in Section d. of this ordinance.
- (2) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

(g) Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of paragraph j.

(h) Waiver from Submission Requirements

The municipal official or board reviewing an application under this Section 525.3 may, in consultation with the municipality's review engineer, waive submission of any of the requirements in paragraphs i.3.(a) through i.3.(f) of this Section when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

j. Maintenance and Repair.

1. Applicability

Projects subject to review as in paragraph a.3 of this Section 525.3 shall comply with the requirements of paragraphs j. 2 and j. 3.

2. General Maintenance

- (a) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- (b) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
- (c) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- (d) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
- (e) If the party responsible for maintenance identified under paragraph j. 2.(c) above is not a public agency, the maintenance plan and any future revisions based on paragraph j. 2.(g) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.

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- (f) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
- (g) The party responsible for maintenance identified under paragraph j. 2.(c) above shall perform all of the following requirements:
  - (1) maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
  - (2) evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
  - (3) retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by paragraphs j. 2.(f) and 2.(g) above.
- (h) The requirements of paragraphs j. 2.(c) and 2.(d) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department. The municipality requires the posting of a two-year maintenance guarantee in accordance with N.J.S.A. 40:55D-53 for all stormwater management facilities not dedicated to and accepted by the municipality.

Maintenance and inspection guidance can be found on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

- (i) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

- 3. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53

k. Penalties. Any person who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of Section 525.3 shall, for each and every violation thereof and for each and every day that such violation thereof continues, be subject to the penalties stated in Section 419, Violations and Penalties.

l. Severability. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

m. Effective Date. This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

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### Old Business

#### Main Street Closure & Expansion of Outdoor Allowances

Mr. McDonald reviewed changes in outdoor dining during the beginning of the pandemic. He reviewed the continuation of relaxed rules and spoke in regards to parklets. He advised that resolutions on the rules and regulations would be drafted and put on the agenda for further consideration.

Mr. Wasserman thought closing Main Street last year was a wonderful decision and advised that there was a lot of foot traffic even from residents from neighboring towns. He didn't believe there was an ambulance issue last year since which was an initial concern. Mr. Wasserman suggested perhaps closing on weekends in April since the weather would be warmer. He commended Mr. McDonald for reacting under stress and getting a plan together so quickly. He urged his Committee members to get on board to help the businesses.

Mr. Vinayak asked what other streets could be closed to further assist businesses. Mr. McDonald advised Main Street was really the only street that could be closed; however, the idea of parklets would allow for restaurants to have extra space.

Ms. Thall Eglow stated Main Street became a magnet and left the rest of town without visitation. She stated that she did not agree that it should be closed for three months. She thought it was vibrant and exciting although it shut down the circulation. Once traffic picked up it would impact the streets. She reiterated that she not believe Main Street should be closed for three months.

Mr. Wasserman thought it could be a fun summer, not only for Main Street, but all of the businesses. Ms. Miggins suggested creating magnets in other places of town while Main Street is closed to create more visitation in other areas and businesses.

Mr. McDonald provided the Committee with the idea of expanded dining and ideas for Lot 14 on Upper Millburn Avenue. He noted that he would discuss further with Mr. Ryan Gleason. He advised the Committee to be cognizant because while the pandemic had allowed the township to operate in a certain way, once it reverted, there would be a shift in parking and traffic which would impede use of parking lots and such.

Mayor Prupis asked that Mr. McDonald and Mr. Gleason review to come up with a successful plan.

#### Amendment to Plastic Bag Ordinance

Mr. Falcon provided updates to the plastic bag ordinance that the Committee was looking to introduce. He spoke to the timing on when municipalities could amend ordinances. He advised that he spoke to Ms. Patel from the Environmental Commission and would report back once he received more information.

No other old business was presented.

### New Business

#### Shopper Parking Permit

Mr. McDonald reviewed the option to have a resident shopper permit to allow residents to park and not pay the meters. He noted that time limits would still apply but the permits would add a level of convenience and would encourage residents to come to the downtown and shopping districts. The permit would have to be approved by ordinance and advised the Committee was provided a draft of the ordinance for review. He noted that the Parking Ad Hoc Committee was involved in developing the idea. Mr. McDonald reviewed the details of how much shoppers on average were spending on parking and how that would correlate to the parking permit. He stated that the proposed fee would be \$60 per annum and Mr. McDonald reviewed the draft ordinance and its language.

Mr. Wasserman asked how many hours would those permits holders be allotted. Mr. McDonald advised street parking was two hours and lot parking was three hours. Ms. Miggins asked how much of the

parking meter money was kept by the company; versus the \$60 would go directly to the Township. Mr. McDonald advised that the company kept 25¢ of every transaction.

Ms. Thall Eglow asked if a discussion was had to make the parking deck a “pay for as long as you park”. Mr. McDonald advised it was not discussed and noted that parking demand would change.

Mayor Prupis asked if there was a consensus to have the ordinance up for introduction for the next meeting. Consensus was reached and the ordinance was scheduled to be introduced at the February 23<sup>rd</sup> meeting.

#### Business Advocacy Zoning Regulations Recommendations

Mayor Prupis stated that when the Downtown Vision Steering Committee met with Perkins Eastman some of the recommendations were in regards to the zoning regulations of Millburn’s business districts.

Mr. McDonald noted the changes were discussed previously and provided background on what was discussed.

Mayor Prupis clarified that the message Millburn wanted to put out is it was welcoming and open to businesses. Mr. Wasserman stated they needed to serve residents and businesses, as well as allow more permitted uses that were up to date, to bring more vibrant businesses to town.

Beth Zall, Planning Board Chair, advised that the Downtown Vision Plan had been underway since 2020. She stated that the goal once the visioning plan was done was to tackle short term visions and then long term visions. She reviewed some of the items that needed to be addressed including parking and review of the sign ordinance. Expanding the opportunities for businesses and making it easier for their entry into town was a goal. She recalled the language of the current zoning regulations were outdated and limited.

Ms. Thall Eglow stated that she was happy to see the topics being discussed.

Mayor Prupis thanked Ms. Zall for all her hard work. She asked if there was a consensus then the Committee would ask the Township Planner, Mr. Paul Phillips, to begin drafting some zoning ordinances for their review. The Committee reached consensus to have the ordinances drafted.

#### Status Update on Downtown Redevelopment Area

Mr. Joseph Maraziti, of Maraziti Falcon LLP, reviewed updates from the redevelopment plan. He advised that he has been reviewing the 2006 area in need study with Township Planner, Paul Phillips, and reviewed the study’s validity and vibrancy. He noted that the plan was considered but never adopted; therefore, there was no redevelopment for that area. He advised that the study was still valid and there was no substantial change. Mr. Phillips would write his recommendations to the Township Committee for further consideration.

Ms. Thall Eglow asked why it was not adopted back in 2006 and Mr. Maraziti advised the study was adopted but the plan was not. Mr. Maraziti explained a redevelopment plan was a hybrid between a master plan and a zoning ordinance. He reviewed the process of adoption and redevelopment agreement to implement the plan.

Ms. Miggins asked why they believed the study was still valid. Mr. Maraziti advised he spoke with Mr. Phillips and it was confirmed no significant change since 2006 that would render the plan invalid.

No other new business was presented.

#### **Public Comment**

Mayor Prupis 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

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by computer or electronic device please click raise hand button. All members of the public wishing to speak will 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@millburntp.org](mailto:townclerk@millburntp.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 will be prompted when there is 30 seconds remaining. This is a business meeting and please do not address professionals or staff directly and please direct all comments to me. Each individual will be given one opportunity to make their public comment. Please be patient and we will address each member of the public that wishes to speak."

Mayor Prupis opened the public comment period.

Mr. Vinayak asked in regard to Resolution 21-062 and the legality of releasing closed session minutes. Mr. Falcon advised that closed session minutes were voted on by the Committee but the release of those minutes had to do with continuing and ongoing matters which were not subject to disclosure. He pointed out that some of the legal matters went on for a long time.

Jeffery Feld, of 11 Alexander Lane, advised the Committee to get the state's handbook on redevelopment which was issued in 2010. He suggested the Committee get a second opinion from an outside firm to review the validity of the redevelopment study and cited law. He spoke in regard to the OPRA and its enactment and asked for various contracts which he had not yet received them. He advised the Committee to be very careful.

Tracy Hatch, of 428 Millburn Avenue, spoke to the unbalanced Café Monet experienced in 2020 with the closure of Main Street. She stated the town had more time to better plan for closures and outdoor dining which would create a town people would want to walk through. She suggested better signage that indicated where other restaurants or stores were located.

Mayor Prupis provided words of encouragement and advised the Committee would work on a plan.

Perri Urso, of 514 Millburn Avenue, thanked Mayor Prupis for wanting to change the rules about decorum. She noted that she continually asked to rescind the SID. She spoke in regard to her daughter being suggested as a liar by the Committee and stated that she did not raise a liar. Ms. Urso advised the Committee that they did not know her and they have turned her into something she was not. She further stated she and her family had received threats and comments all because she had opposed with the Committee. She asked Mayor Prupis where her determination to advocate for the dissolution of the DMDA was.

A discussion ensued between Mayor Prupis and Ms. Urso in regard to meeting disruption after her allotted public comment time.

Mayor Prupis called for brief recess.

David Cosgrove, of 99 Oakview Terrace, spoke in regard to outdoor dining and noise from the restaurants. He asked to keep the residents in mind when expanding businesses. He suggested the indemnification be further reviewed to ensure it was the right thing to do. He urged the Committee to not lose site of the residents that live near restaurants when they consider relaxing zoning regulations.

Nancy Stone, of 10 Fielding Road, voiced her displeasure with Mayor Prupis. She raised her children in the Millburn. She went through the various events she participated in while being a resident of Millburn. She exclaimed that she had donated many times to various charities. She exclaimed that she knew all police officer's names. She spoke to the disheartening details from the previous meeting and the support she's received since then. Ms. Stone exclaimed that she was committed to Millburn.

Mayor Prupis called for brief recess.

Jean Pasternak, of 342 Hobart Avenue, appreciated the change that allowed residents to speak multiple times during the meeting. She recalled the comments made by the SID Board secretary in regard to Mr. Feld's comments. The lack of public comment was a concern as she felt it was blocking their freedom of speech and a way to turn residents away. She recalled the Vision Plan Steering Committee and though some people had good thoughts the meeting felt unfocused and unclear. She asked in regard to the excess allocation of monies paid to Mr. Falcon's law firm and how it was being addressed.



David Hawes, of 320 Millburn Avenue, spoke in regard to the Main Street closure and parking and asked that the township not forget about the other businesses other than restaurants. He noted that the enforcement on parking needed to be addressed and there was too much double and triple parking because of deliveries. He suggested a designated parking area for delivery drivers.

Dominique Urso, of 514 Millburn Avenue, encouraged residents to go to the TAPinto website to read an article from November 2018 and to request a copy of police report against Mayor Prupis.

Mayor Prupis closed public comment.

Mr. Wasserman responded to Mr. Cosgrove's public comment and ensured that with the change in rules for outdoor dining the residents were to be protected.

Mr. Vinayak advised he never meant to disrespect any neighbors or residents. He added that it was not his intention to make others upset. He provided clarification and details of the SID article Ms. Urso spoke on. Mr. Vinayak highlighted his continued support for the SID.

Ms. Miggins asked if OPRA requests had to be answered within seven days. Mr. Falcon and Mr. McDonald provided information on OPRA and the various details that were required of an OPRA custodian and requestor. Mr. Vinayak asked if a requestor put in hundreds of OPRA requests. Mr. McDonald advised it would put quite a strain on the resources available in town hall as the employees did not only serve a few residents but the population as a whole.

Ms. Miggins also asked if it was advisable to meet with someone who was representing another person that was suing the township. Mr. Falcon advised that he would not recommend the meeting unless it was sanctioned and either Mr. Falcon or someone from Mr. Falcon's firm was present at said meeting.

Ms. Miggins asked Mr. Falcon to speak on the conflict of interest in question. Mr. Falcon advised there was no categorical conflict of interest. Unless Ms. Miggins had an affiliation with an applicant than she would recuse herself but it did not ban her from participating on the Planning Board or the Historic Preservation Commission.

Ms. Miggins asked that regardless if someone owned property, rented property or held a business in town the monies paid was paying someone's property taxes.

Mayor Prupis advised the Committee had no intention of taking anyone's property. She stated that property owners did not need to be worried about it and the Downtown Redevelopment Study was still valid. She reiterated that the Committee could not meet with anyone that was suing the town and if a meeting was held Mr. Falcon or someone from his firm would be present. Mayor Prupis reassured residents that their comments about the Main Street closure, noise, and cleanliness were heard. Mr. McDonald and Mr. Gleason would work on coming up with a plan. Mr. McDonald would ensure the enforcement of the delivery drivers parking was communicated.

Mr. Vinayak recalled before he was elected he would hear that the township was not being transparent and a part of him believed it, until he came to the other side. He advised that the five Committee members could not meet and he could only speak to one person at a time without a quorum forming. He advised residents that the Committee could not legally meet and discuss business without public knowledge. He's seen nothing but transparency since he became Committeeman and had not seen anything hidden from him.

Ms. Thall Eglow asked Mr. Vinayak to meet with him for a coffee. He advised he could if he had the time but would not commit to a meeting just because she asked in public.

Mayor Prupis thanked the police officers and everyone who had stayed until the end of the meeting.

**Adjournment**

Mayor Prupis asked if anyone had any remaining comments or questions. Receiving none, she asked for a motion to close the public session of the meeting, which was offered by Mr. Wasserman and seconded by Mr. Vinayak. The meeting was adjourned at 11:25 PM. Vote: All Ayes

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Christine A. Gatti, RMC  
Township Clerk