

Millburn Township Committee Meeting Minutes

Minutes of the Regular Meeting of the Township Committee of the Township of Millburn, in Essex County, New Jersey, held in Town Hall starting at 7:30 PM on the above date.

Mayor Thall Eglow opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, are advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:30 PM on March 19, 2019.

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

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

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

Approval of Agenda

Mayor Thall Eglow asked for a motion to approve the agenda. The motion was offered by Ms. Lieberberg and seconded by Ms. Burstein.

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

Minutes

Mayor Thall Eglow asked for a motion to approve the December 18, 2018 regular meeting minutes. The motion was made by Ms. Burstein and seconded by Ms. Lieberberg. Vote: All Ayes

Mayor Thall-Eglow asked for a motion to approve the December 18, 2018 special meeting minutes. The motion was made by Ms. Burstein and seconded by Ms. Lieberberg. Vote: All Ayes

Proclamation

A Proclamation was presented recognizing Red Cross Awareness month.

Reports

Mayor Thall Eglow read the following statement:

“I attended a press conference held by Governor Murphy, entitled Building A Safer NJ Combating Gun Violence. The Governor talked about the urgency for getting illegal guns off NJ’s streets. In Jersey City almost 400 illegal guns were collected in 2018- !

Also there was Kevin Quinn from town, Kevin is the Chairman of The Brady Campaign, named for James Brady, President Reagan’s former White House Press Secretary, who was shot and left permanently disabled.

Governor Murphy talked about holding gun manufacturers more accountable, the need for sensible yet stricter gun licensing laws, back round checks and the need for gun safeties

We held the 1st of 2 public out reach meetings for the planned improvements at the Short Hills Train Station. Christine Bugel, our town engineer, outlined the initial ideas. This project is specifically targeting the disorganization on the Chatham Road side of the station. #1 everyone agreed the need for better lighting everywhere –

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Need for more Parking would include moving the Handicapped spots next to the station vs where they are now across the street in the parking lot. Additional parking spots on the station side and adding more spots by allowing for angled-in parking along Chatham road. A median will be built along the center of Chatham Rd. which will slow traffic by narrowing the road and serve as a pedestrian refuge by providing specific and safe crossings.

We encourage users of the SH Station to attend, Sunday the 24th at the Millburn Library 3pm for the next out reach. In the mean time the plans can be found on the web site.

PACTS met and our first task will be to have our in house engineer work in conjunction with our Traffic Consultant Firm to implement revisions to the south corners of Millburn and Main Street. This will include scaling back the bump out in front of Bubble Tea and relocating that traffic light which has been hit several times. We will also bring back the dedicated right turn lane in front of the Lighting Store. These changes will open up the circulation that was constricted and has been problematic.

We will also using paint and new signage make a dedicated right turn lane on Millburn Ave onto Spring Street.

We will have our traffic consultants investigate the option of HEAD IN angled parking along Millburn Ave from the Deli as for east as possible. This provides TWO benefits. We gain many parking spots and more importantly this will change Millburn Ave to 2 lanes, slowing traffic speeds considerably. This can be done initially with paint.

Our task it to ameliorate what we can in the most cost effective and least disruptive manor, while keeping safety paramount!"

Ms. Burstein stated that she attended the recent Library Board meeting and they are holding an event on May 7th at 7 PM with Vivian Gordon, who will be discussing Renaissance portraiture. A movie event is being held on April 7th at 2PM that is sensory friendly. She pointed out that this is to commemorate the start of autism awareness month and library awareness week.

Ms. Lieberberg spoke about the upcoming Mill Wheel kick-off event being sponsored by CEDA which will be held on April 7th and said all are invited to attend. She displayed a sample of the mill wheel. She stated that she recently attended the Senior Citizen Advisory Board meeting. She pointed out that enrollment in programs is doing well and use of the senior bus is up. She said the Old Guard is being phased out due to lack of interest. She spoke about programs for seniors regarding property taxes. She indicated that the Parking Ad Hoc Committee met and she noted that they will be starting an internship parking program, which will assist people with internships in the city to find parking in the lot that is efficient and not expensive. It will run May 1st through September 1st and have a seasonal fee of \$75.00. She gave an update on marijuana legislation. She reviewed suggestions if legislation passes.

Ms. Prupis stated that on March 11th she and Ms. Lieberberg met with Mr. Salzberg of the Millburn Public Schools. She indicated that they discussed the new signage for school drop off at the middle school and the request for police presence to enforce proper drop off procedures. She said they also discussed the Mill Wheel project. She pointed out that they will be meeting monthly. She stated that on March 15th she attended the PTOC safety meeting. She said they have submitted a priority list to the township and appreciate the consideration of the crossing guard placement schedule. She announced the next bike walk to school date is May 8th. She announced that all schools were nominated for safe routes to schools gold status in January and we will find out if it is awarded in April. Ms. Prupis reminded people to stop for school busses.

Mr. McDonald reminded residents that herbaceous waste pick up started yesterday and DPW will be picking it up on the first collection day and that branches should be cut to be less than 4 feet in length.

George Serio, Essex County representative, provided a brief update regarding County activities.

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Public Comment

Mayor Thall Eglow opened the floor to public comment.

Jamie Serruto, of 77 Jefferson Avenue, inquired about the electronic sign board that went out to bid. Mr. McDonald advised that the bids were received and are currently under review. Mr. Serruto also inquired about lighting at the Short Hills Train Station. Mayor Thall Eglow explained the changeover to LED lighting and the additional lighting to be added. He asked if there are any plans for the Millburn Train Station and Mayor Thall Eglow explained that is a much bigger project and they are hoping to get grant money to facilitate it.

David Cosgrove, of 99 Oakview Terrace, asked if there is an update for the Woodland project. Mr. Falcon said there has been no change at all and no mediation since January 2nd. He said they are waiting for the Special Master to convene a mediation session.

Janet Pizar, of 186 Main Street, spoke about the last report on the PACTS meeting, noting that it identified target areas. She asked how the target areas were identified and diagnosed. Mayor Thall Eglow reviewed the process at the meeting that brought them to identify areas. Ms. Pizar said this was all subjective and nothing objective or scientific was used. Ms. Pizar asked if the hand-picked Committee members are all like-minded. She asked who is a Complete Streets supporter that sits on the Committee. She pointed out that if more taxpayer money is to be used on traffic studies, she said she believes it should be a referendum on the November ballot in order to gather residents input. Ms. Pizar stated that there seems to be predetermined goals and she believes a referendum should be in order.

Merrilee Reisbeck, of 91 Whittingham Terrace, stated the election was the referendum.

Ann Rosenthal came forward and said she is an 86 year resident of the community. She stated that she is glad that the board is considering the short term rental ordinance and she supports it. Ms. Rosenthal also spoke about the zoning ordinance regarding the corner of Millburn Avenue and Vauxhall Road. She said she would love to see that corner honored as a historical spot of Millburn.

Nancy Stone, of 10 Fielding Road in Short Hills, said she did not want to be nor was asked to be part of the PACTS Committee and she is thankful for that. She asked how the Governing Body arrived at their decision on the professional contracts. Mayor Thall Eglow stated that she was going to address this before the vote on the consent agenda.

The following comments were read and submitted to the Clerk for inclusion in the minutes:

“Mayor Eglow. Council Members.

Thank you for the opportunity to speak. My name is Neile Weissman. I live in Lower Manhattan.

I’m here on behalf of Complete George – two hundred organizations, businesses, electeds and communities calling on the Port Authority to widen the bike paths on the George Washington Bridge – to ask for a resolution of support.

The George is the sole bike-able connector between North Jersey and New York City. It is already terribly overcrowded at 3700 hundred cyclists per day on weekends and growing 10% per year.

Over the next seven years, the Port Authority will rip out and restore the 1931 paths as part of a \$2 billion dollar restoration. Unless those paths are widened to comply with national standards – AASHTO – service across the one mile span will degrade to “walk your bikes.”

This will hobble the growth of cycling across the region for generations, impacting tourism, public health, property taxes, sustainability and resilience annually worth hundreds of millions of dollars. Conversely, wider paths would spur creation of a connected grid, such as envisioned in the Bergen Master plan to connect county parks with bikeways.

This is important ... because while we may have survived the “summer of hell” ... “winter is coming.”

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And by that I mean extended, widespread disruptions to bus and train service over the coming decades resulting from planned upgrades to the Bus Terminal and Penn Station. Plus any number of unplanned weather or man-made events, including – unless we’re really lucky – emergency repairs to the Hudson rail tunnels which would knock out 75% of train service for 200,000 commuters for two years.

Should any of this come to pass, AASHTO-compliant GWB paths could safely sustain 20,000 bike commuters per day – drawing first from communities near the Bridge, but reducing congestion and freeing capacity for those further out.

Lest anyone still think that a Hudson tunnel failure is some remote and manageable event, last September, a metal bracket from a tunnel ceiling pierced the passenger compartment of a moving train. Had that incident resulted in loss of life, those tunnels would have been closed for a very long time.

60 North Jersey municipalities are in support, Union, Hudson, Bergen and Passaic Freeholders and Sierra Club New Jersey I would like to add the Millburn Township. Thank you.”

Marilyn Bierney, of 420 Millburn Avenue, came forward and said she had a list of questions for consideration. She asked if there is anyone with boots on the ground in downtown to see what is happening, specifically in relation to signage and garbage. She reviewed various issues she has noticed. She said some of the township code seems inconsistent. She commended the consideration of the Air B and B ordinance, but hopes the language is wordsmithed a little because she feels it is confusing. She spoke about the commuter parking garage and would like to see additional car charging stations because the current ones are in commuter parking spots. She asked that restrictions on commuter spots be relaxed on the weekends. She asked if there has been any talk on allowing dogs in Taylor Park. She questioned if she could find a list of contaminated sites in town. She spoke about the ad hoc committee regarding traffic and said she doesn’t know if there is anybody on the committee that walks to and from the train and thinks it would be a good addition. She stated that she would like to see more police enforcement in the downtown for double parking and those who jaywalk. She inquired about the County repaving their roads in town, noting that they are in terrible shape.

Mayor Thall Eglow asked there were any other public comments. Seeing none, she continued with the meeting.

Public Comment – Consent Agenda

Mayor Thall Eglow asked if there were any comments or questions regarding items on the Consent Agenda. Seeing none, she brought forth the consent agenda and reviewed the items, most specifically reviewing the resolutions regarding professional contracts. The Committee engaged in discussion regarding the professional contracts and the selection process. Ms. Bierney asked about the cancellation of sewer charge resolution and Mr. McDonald explained that it is due to the demolition of a building.

Consent Agenda

Mayor Thall Eglow asked for a motion to approve the items on the consent agenda. Ms. Burstein made a motion to approve the consent agenda which was seconded by Ms. Prupis.

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

**RESOLUTION 19-080 - A
RESOLUTION TO APPROVE BILLS PAYABLE**

RESOLVED that the Township Treasurer be and hereby is authorized to accept for payment and pay bills or items as they appear on Schedule dated March 19, 2019, in the following accounts:

General	\$ 310,314.17
Capital Fund	6,243.60

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Parking Utility - Operating Fund	1,400.00
Dog Fund Trust	371.10
Donation Trust Fund	200.00
Escrow Trust Fund	3,556.50
Police Off Duty Trust	29,368.00
Waste Recycling Trust	12,471.01
PATFA II	385.00

**RESOLUTION 19-081
AUTHORIZING THE CANCELLATION OF SEWER CHARGE**

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

<u>Block</u>	<u>Lot</u>	<u>Location</u>	<u>No. of Units</u>	<u>Reason</u>	<u>Amount</u>
1210	15	10 Duncan St	1	House demolished Building permit no. 18-1478	176.00

**RESOLUTION 19-082
AUTHORIZING ONE YEAR OPTION #2 ON CONTRACT
FOR OPEN AIR CAFÉ TO JGIL MILLBURN LLC**

WHEREAS, the Township of Millburn currently has a lease with JGIL Millburn LLC owning the property at 35 Main Street, Millburn, NJ 07041 for Open Air Café at the Courtyard owned by the Township of Millburn located as part of Lot 28 and Block 1212 on the tax map and specifically described in Section 15-1-6.1 of the Millburn Township Ordinance Code; and

WHEREAS, JGIL Millburn LLC has requested the township exercise its option to renew the lease pursuant to Section 1.01 of the Lease Agreement, dated April 19, 2016, by and between the Township and the Lessee, as successor in interest to CB Millburn, LLC; and

WHEREAS, the Millburn Township Business Administrator has recommended exercising the Township’s option by renewal of this contract with the same terms and conditions for one additional year which is the second and final option year for the contract for 2019 from May 1, 2019 through October 31, 2019;

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

**RESOLUTION 19-083
AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR LEGAL SERVICES – TOWNSHIP
ATTORNEY [MARAZITI FALCON, L.L.P.]**

WHEREAS, legal services are required of a Township Attorney, for the normal duties of said position which are described in Section 2-3.1 of the Code of the Township of Millburn and for additional legal services authorized, such as in connection with litigation or other proceedings in or before any court, arbitration board, commission or the like, or examination of title to or other interest in real estate, or any other services appropriate to an attorney; and

WHEREAS, the township has fully complied with the “fair and open” process set forth under N.J.S.A. 19:44A-20.1 et seq.; and

WHEREAS, the Township Committee has selected a firm through a competitive fair and open process and has determined that Christopher Falcon, of Maraziti Falcon, L.L.P., shall serve the township as Township Attorney;

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

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1. That the Mayor and Township Clerk are hereby authorized and directed to execute an agreement in a form subject to the approval of the Township Attorney with Maraziti Falcon, L.L.P. to be retained as Township Attorney of the Township of Millburn, from April 1, 2019 through December 31, 2019, at a retainer fee of \$11,250, as stated in the proposal dated January 30, 2019; and
2. That additional legal services will be at the rate of: \$175.00 per hour for partner; \$165.00 per hour for senior associate; \$150.00 per hour for associates.
3. That the Township will be notified when 80% of the Fee Cap of \$100,000.00 is reached.
4. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law within ten days of its passage.

RESOLUTION 19-084

AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR LEGAL SERVICES – SPECIAL TAX COUNSEL [Chiesa, Shahinian and Giantomasi PC]

WHEREAS, there exists a need in 2019 for special tax counsel in connection with legal services as are necessary to defend certain petitions of tax appeal and/or complaints filed with the Essex County Board of Taxation and/or New Jersey Tax Court from April 1, 2019 through December 31, 2019; and

WHEREAS, the township has fully complied with the “fair and open” process set forth under N.J.S.A. 19:44A-20.1 et seq.; and

WHEREAS, the Township Committee has selected a firm through a competitive fair and open process and has determined that John Lloyd, of Chiesa, Shahinian and Giantomasi PC., shall serve the township as Township Special Tax Counsel;

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

1. That the Mayor and Township Clerk are hereby authorized and directed to execute a Professional Services agreement in a form subject to the approval of the Township Attorney between Chiesa, Shahinian and Giantomasi PC and the Township of Millburn, in connection with legal services as are necessary to defend certain petitions of tax appeals and/or complaints filed with the Essex County Board of Taxation and/or New Jersey Tax Court from April 1, 2019 through December 31, 2019 and further subject to the prior filing of a Business Entity Disclosure Statement. Hourly compensation: \$150.00 per hour attorney rate, \$75.00 p/hr paralegal rate, plus out-of-pocket costs and disbursements with a not to exceed amount of \$125,000.00 without further approval of the Township Committee.
2. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law within ten days of its passage.

RESOLUTION 19-085

AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT WITH STANTEC CONSULTING SERVICES INC. FOR THE PERFORMANCE OF TRAFFIC ENGINEERING CONSULTING SERVICES

WHEREAS, a Township is authorized to enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Township; and

WHEREAS, there exists a need for retention of a Traffic Engineering Consultant and the township has fully complied with the “fair and open” process set forth under N.J.S.A. 19:44A-20.1 et seq.; and

WHEREAS, the Township Committee has selected a traffic engineer through a competitive fair and open process and has determined that Stantec Consulting Services Inc. shall serve the township as the Township Traffic Engineer Consultant;

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

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- 3. The Mayor and the Township Clerk are hereby authorized and directed to execute a professional services agreement, in a form subject to the approval of the Township Attorney, between Stantec Consulting Services Inc., 365 Passaic Street, Suite 175, Rochelle Park, NJ 07662 to provide professional traffic engineering consulting services to Millburn Township, from April 1, 2019 through December 31, 2019 as per the proposal dated January 29, 2019.
- 4. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law within ten days of its passage.

**RESOLUTION 19-086
AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT WITH NISIVOCCIA LLP
FOR AUDITING AND ACCOUNTING SERVICES**

WHEREAS, there exists a need in 2019 for the performance of the statutory Annual Audit and other related work for the year 2018 for the Township of Millburn, in the County of Essex, New Jersey; and

WHEREAS, the township has fully complied with the “fair and open” process set forth under N.J.S.A. 19:44A-20.1 et seq.; and

WHEREAS, the Township Committee has selected a professional through a competitive fair and open process and has determined that Nisivoccia LLP shall serve the township and provide Accounting and Auditing Services from April 1, 2019 through December 31, 2019;

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

- 5. That the Mayor and Township Clerk are hereby authorized and directed to execute an agreement in a form subject to the approval of the Township Attorney in the amount of \$42,500.00 as per the proposal dated January 25, 2019 with Valerie Dolan, CPA, RMA, PSA, of Nisivoccia LLP, to be retained as Auditor (Registered Municipal Accountant) of the Township of Millburn for the year 2019 to complete and timely file the Annual Audit with the Division of Local Government Services, perform review of the financial statements of the Deferred Compensation Plan and to perform additional services as specified.
- 6. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law within ten days of its passage.

**RESOLUTION 19-087
AUTHORIZING THE AWARD OF A FAIR AND OPEN CONTRACT FOR HISTORIC PRESERVATION
CONSULTANT SERVICES [BARTON ROSS & PARTNERS LLC]**

WHEREAS, there exists a need in 2019 for the performance of a Historic Preservation Consultant and other related work for the year 2019 for the Township of Millburn, in the County of Essex, New Jersey; and

WHEREAS, the township has fully complied with the “fair and open” process set forth under N.J.S.A. 19:44A-20.1 et seq.; and

WHEREAS, the Township Committee has selected a professional through a competitive fair and open process and has determined Barton Ross, of Barton Ross & Partners, LLC shall serve the township and provide Historic Preservation Consultant Services from April 1, 2019 through December 31, 2019;

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

- 7. The Mayor and the Township Clerk are hereby authorized and directed to execute a professional services agreement in a form subject to the approval of the Township Attorney with Barton Ross, of Barton Ross & Partners, LLC, 184 S. Livingston Avenue, Suite 9-140, Livingston, NJ 07039 for this professional service as per his proposal dated January 22, 2019.

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- 8. That a notice of this resolution shall be published in The Item of Millburn and Short Hills as required by law within ten days of its passage.

RESOLUTION 19-088

AUTHORIZING AND AWARDING A PROFESSIONAL SERVICES CONTRACT WITH ENGINEERING & LAND PLANNING ASSOCIATES FOR THE PERFORMANCE OF ENGINEERING CONSULTING SERVICES

WHEREAS, a Township is authorized to enter into any and all contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient or desirable for the purposes of the Township; and

WHEREAS, there exists a need for retention of engineering services relative to a feasibility study for the relocation of Millburn Department of Public Works Facility to John F. Kennedy Parkway Site; and

WHEREAS, the Township Committee has determined that those services should be performed by Engineering & Land Planning Associates; and

WHEREAS, the Business Entity Disclosure Certification and determination of Value shall be placed on file; and

WHEREAS, the Local Public Contracts Law (NJSA 40A:11-1 et seq.) requires that a resolution authorizing the payment of such professional fees, without competitive bidding must be publicly advertised;

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

- 1. The Mayor and the Township Clerk are hereby authorized and directed to execute a professional services agreement, in a form subject to the approval of the Township Attorney, between Engineering & Land Planning Associates, 140 West Main Street, High Bridge, NJ 08829 to provide professional engineering consulting services to Millburn Township through December 31, 2019 as per the proposal dated February 6, 2019.
- 2. This contract is made without competitive bidding as a “professional service” under the provisions of the Local Public Contracts Law because of the qualitative nature of services provided.
- 3. A copy of this resolution shall be published in The Item of Millburn Short Hills as required by law, within ten (10) days of its passage.

RESOLUTION 19-089
APPROVE RAFFLE LICENSES

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

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

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

- PTO Deerfield School
- Birth Haven, Inc.
- Overlook Auxiliary Inc.

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Ordinance/Second Reading and Consideration of Adoption

Ordinance 2524-19 and 2525-19

Mayor Thall Eglow announced that the next two items on the agenda are Ordinances 2425-19 and 2525-19 concerning the prohibition of Short Term Rentals, both of which were passed on first reading at the Public Meeting of February 19th. At our meeting of March 5th, and following the receipt of public comment, the Committee agreed that additional time is required for further review and research on this topic, and that we would consider a motion to table the ordinances when they came up at this meeting on second reading.

The adoption of a motion to table would postpone indefinitely the consideration of these ordinances until such time as they are taken up again either in their current form or in amended form, whereupon they would be reintroduced on first reading. Accordingly, the Chair will entertain a motion to table Ordinances 2425-19 and 2525-19.

Mayor Thall-Eglow asked for a motion, which was made by Ms. Burstein and seconded by Ms. Prupis.

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

Ordinance 2526-19

Ms. Prupis brought forth and reviewed Ordinance 2526-19 for consideration of adoption. Mayor Thall Eglow declared the public hearing open. Merrily Reisbeck, of 91 Whittingham Terrace, asked if this includes canvassing by religious organizations and she was advised no, it does not. Mr. Falcon explained about the use of the no knock list. Seeing there weren't any public comments, Mayor Thall Eglow declared the public hearing closed. Ms. Burstein stated that she supports the ordinance and thinks fixing it is a good thing. Ms. Prupis made a motion to approve the ordinance on final reading, which was seconded by Ms. Lieberberg.

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

ORDINANCE NO. 2526-19

AN ORDINANCE OF THE TOWNSHIP OF MILLBURN, COUNTY OF ESSEX, STATE OF NEW JERSEY, AMENDING THE GENERAL LICENSING ORDINANCE OF THE TOWNSHIP OF MILLBURN CONCERNING CANVASSERS AND SOLICITORS

STATEMENT OF PURPOSE: *The purpose of this Ordinance is to enact a comprehensive revision of the Township's door-to-door canvassing and solicitation regulations and to bring them into conformance with controlling constitutional case law.*

WHEREAS, the Township Committee has determined that the ordinance provisions in the Revised General Ordinances of the Township of Millburn which regulate door-to-door canvassing and soliciting require substantial revision so as to implement legitimate control of such activities while observing the requirements of constitutional protection for such persons engaged in these activities pursuant to the First Amendment of the U.S. Constitution; and

WHEREAS, the Township Committee has determined that it is lawful and appropriate to provide for the protection of its residents' privacy concerns through the adoption of provisions to make available a "no knock" list supplemented by premises signage; and

WHEREAS, the Township Committee intends to adopt hereby a comprehensive revision of the current Ordinance governing Canvassers and Solicitors.

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

Section 1. Chapter IV entitled "General Licensing" is hereby amended at Section 4-8 "Canvassers, Solicitors, Transient Merchants and Peddlers" and more particularly Part I thereof entitled "Canvassers and Solicitors" which is hereby amended in its entirety to read as follows:

PART I. CANVASSERS AND SOLICITORS

4-8.1 Definition.

As used in this section:

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Canvassers and *solicitors* shall mean any individual, organization, group, association, partnership, corporation or any combination of them who, in person or by representation by one (1) or a group of volunteer or professional workers, without invitation calls or applies at homes, dwellings, residences or business establishments in the Township with the intent or for the purpose, actual or implied, of soliciting from an occupant or the owner of any such home, dwelling, residence or business establishment, the payment, contribution or donation of, or undertaking to pay money, the purchase, sale acceptance or donation of any goods or orders for the same, or subscriptions to, or endorsement of any publication, undertaking, project, cause, or candidacy, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether or not he is collecting advance payment on such sales or services; provided, that the term "canvasser" or "solicitor" shall not be deemed to include any duly accredited representative of any municipal or governmental authority or agency thereof, nor any person who, by or under any ordinance of the Township or law of the State, or of the United States, is licensed or otherwise authorized to engage in any of the activities hereinbefore enumerated, nor any person engaged in delivering to any home, dwelling or residence in the Township, goods, wares or merchandise previously ordered or requested by an occupant or the owner of the premises or in exchange for any such goods, wares or merchandise, nor any person engaged in making, receiving or lawfully endeavoring to obtain payment for goods, wares, merchandise or other property or services sold or rendered to or by any such occupant or owner.

(1967 Code § 8-1-1; Ord. No. 6-18-73 § 1)

4-8.2 Permit Required; Term of Permits.

No person shall engage in the business or occupation of canvasser or solicitor without first having obtained a permit therefor. The permit shall be issued for a period of one year from the date of issuance.

(1967 Code § 8-1-2; Ord. No. 6-18-73 § 2; New)

4-8.3 Commercial Permit Application and Fee.

Every person applying for a commercial permit under this section shall file with the Township Clerk a sworn application in writing, on a form to be furnished by the Township. The form shall contain the following information:

- a. Name of the applicant. If applicant will be canvassing or soliciting on behalf of an organization, then the application shall also contain the name and address of the organization;
- b. Address of the applicant to which all notices and communications are to be addressed;
- c. A copy of a form of photo identification, such as drivers license, passport or other similar identification;
- d. Payment of an application fee of twenty-five dollars (\$25.00) per applicant for the use of the Township to defray the cost of processing and issuing the permit.

(1967 Code § 8-1-3, § 8-1-6; Ord. No. 6-18-73 §§ 3, 6; Ord. No. 3-84 §§ 1, 4; New)

4-8.4 Disposition of Applications for Permits Generally.

The Township Clerk shall issue a commercial permit within twenty (20) days after receipt of a complete commercial permit application and fee per subsection 4-8.3 hereof. Upon issuance of the permit, the Township Clerk shall provide the permittee with a copy of the nonsolicitation list per subsection 4-8.6.

(1967 Code § 8-1-5; Ord. No. 6-18-73 § 5; New)

4-8.5 Regulations Governing Canvassing and Soliciting.

- a. No commercial canvassing or soliciting shall be done except between the hours of 9:00 a.m. and 9:00 p.m., Monday through Sunday.
- b. Upon going onto any premises in the Township, canvassers and solicitors shall first examine any notice, as described below, which may be attached to said property and shall be governed by the statement contained on any such notice by immediately and peacefully departing from the premises.
- c. It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door or create any sound in any other manner calculated to attract the attention of the occupant of such a residence for the purpose of securing an audience with the occupant thereof and engaging in canvassing or soliciting, as herein defined, in defiance of any notice as defined below.
- d. Every person desiring to secure the protection provided by this subsection 4-8.5 shall notify the Township of his or her desire to be placed on the nonsolicitation list maintained by the Township Clerk, and may also exhibit at the front edge of the property or upon or near the main entrance door to his or her residence a notice indicating the words "no solicitors" or "no soliciting." The

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letters shall be at least one inch in height, and the notice shall be at least three inches by six inches in size.

- e. The permittee shall carry and exhibit his/her permit at all times while canvassing or soliciting.
- f. The permit shall be signed and sealed by the Township Clerk, or designee and shall show:
 - 1. Name and address of the permittee, with a copy of the photo identification produced by the applicant, pursuant to Section 4-8.3 (c);
 - 2. Date of issuance of the permit and date the permit shall expire;
 - 3. Kind of goods to be sold or services to be furnished or performed;
 - 4. Amount of fee paid.

(1967 Code § 8-1-6; Ord. No. 3-84 § 4)

4-8.6 Nonsolicitation List

- a. The Township Clerk shall collect, prepare and maintain a list of addresses of those premises where the owner and/or occupant has notified the Township that he or she does not wish for any solicitor or canvasser to enter upon his or her property for solicitation or canvassing purposes.
 - 1. To be included on this nonsolicitation list, residents must complete a form which will be made available by the Township, and must submit the completed form to the Township Clerk.
 - 2. This list shall be available to the general public.
 - 3. No canvasser or solicitor shall enter upon any private property that is included upon the nonsolicitation list.
 - 4. In the event that a new owner/occupant of a property identified on the nonsolicitation list desires to have that address removed from the list, the Township Clerk shall remove the same upon receipt of a written request from the new owner/occupant.

4-8.7 Unauthorized Canvassing or Soliciting.

No person shall canvass or solicit:

- a. Under any permit issued to him/her as a canvasser or solicitor for any other person, organization, society, association or corporation for whom or for which he/she is not, at the time of such canvassing or soliciting, a duly authorized canvasser or solicitor; or
- b. Under any permit issued to him/her as the result of any material misrepresentation; or
- c. Under a permit not issued to him/her.

(1967 Code § 8-1-7; Ord. No. 6-18-73 § 7)

4-8.8 Nonprofit Canvassing or Soliciting.

The requirements of this section shall not apply to any canvassing or solicitation conducted by any political candidate or a religious, charitable, civic, political, veteran or fraternal organization or association, service club, volunteer fire or first aid company provided that the requirements of subsection 4-8.6 shall apply.

(1967 Code § 8-1-3.2; 7-16.63, § 1; Ord. 3-84, § 3)

4-8.9 Violations and Penalties

If any of the requirements of this Part are not complied with:

- a) the Township may initiate prosecution for a violation pursuant to Chapter I, Section 1-5 "General Penalty", as applicable; and/or
- b) the Township shall have the right to commence litigation in a court of competent jurisdiction; and/or
- c) such other actions may be initiated as permitted by law.

Section 2. The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

Section 3. This Ordinance shall take effect after final passage and publication as required by law.

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Ordinance 2527-19

Mayor Thall Eglow brought forth and reviewed Ordinance 2527-19 for consideration of adoption. Mayor Thall Eglow declared the public hearing open. Ms. Burstein stated that she does not think the ordinance is well written. Mayor Thall Eglow declared the public hearing closed. Mayor Thall Eglow made a motion to approve the ordinance on final reading, which was seconded by Ms. Lieberberg.

Roll Call Vote: Ayes: Ms. Lieberberg, Ms. Prupis and Mayor Thall Eglow

Nays: Ms. Burstein

Absent: Mr. Levy

ORDINANCE NO. 2527-19

ORDINANCE TO AMEND AND SUPPLEMENT ARTICLE 6 OF THE DEVELOPMENT REGULATIONS AND ZONING ORDINANCE, OF THE TOWNSHIP OF MILLBURN TO ALLOW TEMPORARY REAL ESTATE DIRECTIONAL SIGNS FOR USE DURING AN OPEN HOUSE

Statement of Purpose: The purpose of this Ordinance is to allow for and establish guidelines for the use of real estate directional or "trailblazing" signage for open houses.

WHEREAS, there exists a need to allow for temporary real estate directional signs for open houses as a tool for home buyers to identify homes for sale in Millburn Township;

WHEREAS, sensible regulation and guidelines will ensure that these wayfinding tools are properly placed and do not obstruct important areas of mobility within the Township; and

WHEREAS, the following revisions to the zoning ordinance on signage will provide consistency and fairness in the way that such temporary real estate directional signs are placed for all realtors;

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

NOTE: The section of Article 6 that is to be amended by this Ordinance includes only section 609.10 "Street Graphics" and is specifically set forth below. All additions shown in ***bold italics and underlines***. Any deletions are shown as ***strikovers in bold italics***. Sections of section 609.10 will remain in normal type.

**609.10 Street Graphics
[Ord. 2471-16]**

The purpose of this section is to create the legal framework for a system of street graphics.

a. Table of Design Elements

A Table of Design Elements for street graphics is included herewith. Except in Areas of Special Control, as set forth in Section 609.10g., no street graphic shall be erected, displayed, substantially altered, or reconstructed except in conformance with the Table of Design Elements, hereinafter referred to as the Table.

TABLE OF DESIGN ELEMENTS				
	Zoning Districts			
	R-3 thru R-8, R-O	B-1, B-2	B-3, B-4	OR-1 thru OR-3, CMO, CD, C
Basic Elements				
Wall Graphic-Area	2 sq. ft.	20%	20%	10% (Note A)
Wall Graphic-Height	1 ft.	2 ft.	2 ft.	2 ft. (Note A)

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Ground Graphic-Area	2 sq. ft.	(Note B)	20 sq. ft.	20 sq. ft.
Ground Graphic-Height	5 ft.	15 ft.	10 ft.	5 ft.
Auxiliary Elements				
Awnings (Note E)	N	Y	Y	N
Canopies	N	Y	Y	N
Marquees	N	N	Y	N
Time & Temperature	N	Y	Y	N
Window	N	(Notes C & D)		N
Surface Color	W + 1	All	All	W+2
Y = Yes; N = No; W = White [Ord. 12-93, 15-95]				

Notes:

Note A: In the OR-3 District, buildings which are 2 or more stories in height and have a front setback of at least 100 feet, may have wall graphics displayed on each street frontage, provided:

1. Graphics are not over 7 feet in height;
2. Graphics are at least 20 feet above any area used by the public;
3. Graphic area does not exceed 150 square feet;
4. Graphic area does not exceed 5% of the wall area to which attached;
5. Graphic does not project above roof line.

Note B: One ground graphic identifying the activities on the property may be displayed along each street or road which abuts the property, provided there exists at least 200 feet of unbroken frontage and a vehicular access. Ground graphics for individual businesses are not permitted. Area of graphic shall not exceed 50 square feet and height shall not exceed 15 feet above grade at street line. Setback shall be at least 20 feet from the street and all property lines.

Note C: Temporary window graphics must be removed within 5 days after close of the sale or special event and in no event may be displayed more than 40 days. Graphics must be attached flat against the window glass and not occupy more than 25% of the total area of the window in which displayed.

Note D: Permanent window graphics may not occupy more than 25% of the total area of the window in which displayed. Any lettering in the window which is less than 3 inches in height shall not be considered in this calculation.

Note E: Awnings shall be permitted on any retail use in any zoning district under any of the following conditions:

1. The use is specifically permitted in the zoning district; or
2. The use is permitted through the granting of a use variance; or
3. The use is a valid pre-existing nonconforming use. [Ord. 12-93]

Note F: In the R-3 through R-8 and R-O Districts, wall and ground graphics shall not be illuminated, except for those Areas of Special Control as set forth in Section 609.10g.(1) and (2). [Ord. 15-95]

b. Items of Information Allowed

1. Each land use is entitled to display street graphics containing up to 10 items of information on each street to which it has access. The name of the proprietor or the name of the business occupying the building and its premises shall count as only one item of information. The name may be displayed on each street frontage, even if the items of information use up the permitted 10 items.
2. An "item of information" means any of the following: a syllable of a word; an abbreviation; a number (whether one digit or more); a symbol; or a geometric

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shape. In addition, graphics combining several shapes are to be assessed one additional item for each non-continuous plane.

3. Lettering less than 3 inches in height, if contained in a wall graphic, is not included.
- c. Ground Graphics
1. Any land use may display one or more ground graphics, provided:
 - (a) The face of the building or structure is set back at least 35 feet from the street line;
 - (b) The ground graphic shall not exceed 8 feet in height, measured from the grade at the street line;
 - (c) A ground graphic which is 6 square feet or more in area may be displayed only on a frontage of 100 feet or more;
 - (d) The ground graphic shall be set back from each property line and the street line a minimum of 10 feet, or 1.5 times the height of the graphic, whichever is greater.
- d. Wall Graphics
1. The area permitted for wall graphics is shown in the Table of Design Elements.
 2. "Signable area" of the building means an area of the facade of the building which is free of windows, doors, and major architectural detail. The percentage figures shown in the Table are based on the signable area. The following provisions apply in calculating the graphic area:
 - (a) If the graphic is enclosed by a box or outline, the total area of the graphic, including the background, is counted as part of the graphic area;
 - (b) If the graphic consists of individual letters, only the area of the letters is counted as part of the signable area.
 3. A graphic may not cover or interrupt major architectural features, such as frieze, string courses, or other decorative facade details.
 4. Wall graphics height limitations:
 - (a) Wall graphics placed in the space between windows may not exceed in height more than 2/3 of the distance between the top of a window and the sill of the window above, or major architectural details related thereto;
 - (b) Wall graphics may not extend above the second floor line, nor above the roof line of the building to which attached. **[Ord. 9-87]**
- e. Projecting Graphics are Not Permitted
- f. Special Situations
1. Street graphics may be displayed on the side or rear of a building adjacent to an off-street parking area if the off-street parking area is 40 feet or more in width. However, the side or rear of the building may not be included when calculating the signable area.
 2. If a building has frontage on 2 or more streets, each side of the building is to be separately considered.
- g. Areas of Special Control
1. A church, school or other quasi-public land use in an R-3 through R-8, or R-O Districts may display one ground graphic not larger than 15 square feet in area. Golf courses and private clubs may display one ground graphic not to exceed

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10 square feet in area and 5 feet in height for each vehicular entrance from a public street.

2. Apartments in the R-8 District may have one ground graphic not larger than 12 square feet in area and 5 feet in height for each 200 feet of street frontage.
3. Automobile service stations may have one pole mounted ground graphic not larger than 15 square feet in area, nor more than 20 feet in height, in addition to the provisions of the Table of Design Elements.
4. The following graphics are prohibited:
 - (a) Billboards; except as a conditional use in the Commercial/Medical Offices District (CMO), subject to the conditions set forth under Section 606.9d.* **[Ord. 2305-07]**

Editor's Note: Codified per ordinance. Billboard provisions removed by Ord. 2326-08

- (b) Portable graphics;
- (c) Graphics with motion or which give the illusion of motion;
- (d) Flashing or intermittent light for graphics.
- (e) Temporary signs identifying architects, engineers, contractors, builders, painters, gardeners and any other tradesman or service providers engaged in construction, improvement, repair, refurbishing, landscaping or any other commercial activity relating to structures in residential zones. **[Ord. 2170-00]**

5. The following temporary graphics are permitted and do not require a permit:
 - (a) Graphics identifying the sale, rental, or lease of the premises on which located, subject to a maximum graphic area of 4 square feet in the R-3 through R-8 and R-0 Districts, and 9 square feet in all other districts; ground graphic provisions shall apply; graphics shall be removed no more than 7 days after the date when the contract or lease is signed or the reason for the graphic has ceased; open house graphics shall be allowed only during the day when the open house is being conducted. **[Ords. 20-95, 2170-00]**
 - (b) Developments with 3 or more lots for sale shall be permitted one ground graphic not larger than 12 square feet in area or 5 feet in height;
 - (c) Temporary window graphics;
 - (d) Graphics on the grounds of churches, schools, or other quasi-public land uses provided they do not exceed 15 square feet and are not displayed for more than 14 days.

(e) Temporary real estate directional signs

i. "Temporary real estate directional signs shall be defined as removable freestanding signs, to be in or on the ground, not to exceed 18 inches in height, 24 inches in width and no higher than 30 inches above existing grade that are used to direct potential home buyers to an active open house".

ii. Signs may be placed in the public right of way; however, no sign shall create a site triangle obstruction for motorists or an obstruction to pedestrians. No sign shall be placed on private property without the written permission of the property owner.

iii. A temporary real estate directional sign may only be installed during the hours of 11:00am to 5:00pm on the day of the open house, Signs must be removed by 6:00pm on the same day of the open house.

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iv. No more than four (4) temporary real estate directional signs shall be placed for a single open house. These signs must identify the broker sponsoring the open house and a phone number.

v. A temporary real estate directional sign, as defined herein, shall not include any illumination, nor shall there be affixed thereon any balloons, streamers or other decorative accessory.

vi. Any violation of this section will be enforced as defined in section 419.

- 6. Signs indicating the presence of a security device or system are permitted. Security device or system shall have the same meaning as a "local alarm" or a "private alarm system" as defined in Chapter IV, subsection 4-1.4 of the Revised General Ordinance of the Township of Millburn (1994). **[Ord. 2170-00]**

h. Permits

- 1. No street graphic other than temporary graphics as set forth in Section 609.10g.5, or those operations set forth in paragraph 3. below, shall be erected, altered, or relocated without a permit issued by the Zoning Officer.
- 2. Applications for permits shall include a drawing showing the design, location, pertinent details, and the name and address of the owner and applicant.
- 3. The following operations shall not require a permit:
 - (a) Changing copy on a theater marquee;
 - (b) Renovating an existing graphic where no change in copy is made.

i. Auxiliary Elements

See Table.

- 1. Awnings and canopies are permitted in the B-1 through B-4 Districts, and as otherwise permitted in accordance with Note E in the Table of Design Elements. Letters over 3 inches in height which are displayed are debited against the allowable graphic area.
- 2. Temporary window graphics are not debited against the allowable graphic area.
- 3. Indirect illumination, i.e. a light source not seen directly, is permitted.
- 4. Floodlight illumination is permitted, provided none of the light shines onto an adjoining property or in the eyes of motorists or pedestrians.
- 5. Bare bulb illumination is not permitted.

j. Advisory Board

The Design Review Committee shall act in an advisory capacity to the Planning Board, Board of Adjustment, and Zoning Officer relating to street graphics.

Ordinance 2528-19

Mayor Thall Eglow brought forth and reviewed Ordinance 2528-19 for consideration of adoption. Mayor Thall-Eglow declared the public hearing open. Mayor Thall Eglow declared the public hearing closed. Mayor Thall Eglow made a motion to approve the ordinance on final reading, which was seconded by Ms. Burstein.

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

**ORDINANCE NO. 2528-19
ORDINANCE AMENDING AND SUPPLEMENTING THE TOWNSHIP OF MILLBURN DEVELOPMENT
REGULATIONS AND ZONING ORDINANCE**

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STATEMENT OF PURPOSE: *Analysis of existing development within the Township’s OR-2 zone concentrated at the east end of Millburn Avenue revealed that the district contains principally office uses, including medical offices, together with a number of retail/personal service uses. Neither retail sales establishments nor eating and drinking establishments currently exist within the district. While the built condition largely conforms to the current OR-2 zone standards with regard to use, the subject amendment accomplishes the following objectives. It expressly allows for medical offices, which is not presently the case, and, in recognition of the fact that OR-2 zone is in close proximity to established residential uses and zones it expands upon and reinforces the definition of retail services rendering it clear that retail service use shall not include establishments primarily engaged in the sale of products or merchandise, including food or drink, to the general public.*

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX AND STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. Article 3 “Definitions”, Section 301.54 “Retail Services” is hereby amended and supplemented by adding the following as underlined below:

301.54 Retail Services: Establishments primarily engaged in providing services involving the care of a person or his or her personal goods or apparel, such as laundry, cleaning and garment services; photographic portrait studios; beauty and barber shops; and shoe repair shops. Retail services shall not include establishments primarily engaged in the sale of products or merchandise, including food or drink, to the general public. Retail services shall not include those uses defined under “Medical Office” as defined in this ordinance.

Section 2. Article 6 “Zoning Provisions”, Section 606.8 “Office Research OR-1, OR-2, OR-3” is hereby amended and supplemented under Section b. “Permitted Principal Uses” by adding the following as underlined below:

- b. Permitted Principal Uses
 - 1. Offices, including medical offices in the OR-2 Zone, and financial institutions.
 - 2. Retail services, such as beauty salons and barber shops.
 - 3. In addition in the OR-1 Zone, office-hotel complex.
 - 4. In addition in the OR-3 Zone, Mixed-Use Development subject to the standards contained herein.

Section 3. Conflicts and Severability

- a. Conflicts. All other Ordinances, parts of Ordinances, or other local requirements that are inconsistent or in conflict with this Ordinance are hereby superseded to the extent of any inconsistency or conflict, and the provisions of this Ordinance apply.
- b. Severability. If any portion or clause of this Ordinance is declared invalid for any reason whatsoever, same shall not affect the validity or constitutionality or any other part of portion of this Ordinance.
- c. This Ordinance shall be so construed as not to conflict with any provision of New Jersey law.
- d. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 3. This Ordinance may be renumbered for purposes of codification.

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

Old Business

No one presented old business.

New Business

Proposed Combination of Lots at Short Hills Train Station

Mr. McDonald stated that he would like the Committee to consider drafting an ordinance to combine parking lots 3, 8 and 11 at the Short Hills Train Station into one lot. He pointed out that the purpose of combining the lots would be to create one solitary lot and to create handicap parking that is reasonable for that use and would be next to the train station. The Committee briefly discussed the creation of additional parking and what the new signage would reflect as far as the name of the lot. The consensus of the Committee was to have a draft ordinance drawn up for consideration.

Adjournment

Mayor Thall Eglow asked if anyone has any remaining comments or questions. Receiving none, she called for a motion to close the public session meeting which was offered by Mr. Levy and seconded by Mayor Thall Eglow. The meeting was adjourned at 8:40 PM. Vote: All Ayes

Christine A. Gatti, RMC
Township Clerk

Approved: May 7, 2019