

**March 21, 2023**

**Millburn Township Committee Meeting Minutes**

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

Deputy Mayor Vinayak opened the meeting and read the following statement: In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, be advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:00 PM on March 21, 2023. Meeting details and the draft agenda were also posted on our Township website.

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

Upon call of the roll, the following Committee members were recorded present: Michael Cohen, Annette Romano, and Sanjeev Vinayak.

Absent: Maggee Miggins and Tara Prupis

Also present were Business Administrator Alexander McDonald, Township Counsel Joseph Maraziti, Assistant Business Administrator Jesse Moehlman and Municipal Clerk Christine Gatti.

**Approval of Agenda**

Deputy Mayor Vinayak asked for a motion to approve the agenda, the motion was offered by Mr. Cohen and seconded by Ms. Romano. Vote: All Ayes

**Minutes**

Deputy Mayor Vinayak asked for a motion to approve the January 3, 2023 Regular Township Committee meeting minutes. The motion was made by Ms. Romano and seconded by Mr. Cohen. Vote: All Ayes.

Deputy Mayor Vinayak asked for a motion to approve the January 17, 2023 Regular Township Committee meeting minutes. The motion was made by Mr. Cohen and seconded by Ms. Romano. Vote: All Ayes.

Deputy Mayor Vinayak asked for a motion to approve the February 7, 2023 Regular Township Committee meeting minutes. The motion was made by Ms. Romano and seconded by Mr. Cohen. Vote: All Ayes.

Deputy Mayor Vinayak asked for a motion to approve the February 7, 2023 Special Township Committee meeting minutes. The motion was made by Mr. Cohen and seconded by Ms. Romano. Vote: All Ayes.

**Promotions of Members of the Fire Department**

Fire Chief Robert Echavarria introduced Captain Russell Lynn and Captain Felix Reyes who were being recommended for promotions to Fire Battalion Chiefs; a background was provided for both.

Deputy Mayor Vinayak asked for a motion to approve Resolution 23-087. Ms. Romano made a motion to approve Resolution 23-087 which was seconded by Mr. Cohen.

Roll Call Vote: All Ayes

Municipal Clerk Gatti administered the Oaths of Office to Captain Russell Lynn and Captain Felix Reyes.

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**RESOLUTION 23-087  
CONFIRM FIRE DEPARTMENT PROMOTIONS**

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

**WHEREAS**, Russell Lynn and Felix Reyes have met the criteria set-down for Fire Battalion Chiefs and have gone through the appropriate selection process;

**NOW THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Millburn, that confirmation is given to the promotions of Russell Lynn and Felix Reyes to the rank of Fire Battalion Chiefs, effective March 21, 2023.

A brief recess was taken.

**Proclamation**

Elaine Becker, Community Service Award Committee Chair, reviewed the background of the Community Service Award recipient and Community Service Award Committee Member Ms. Janay elaborated on the background of the March Fourth Committee raising awareness of colorectal cancer. Ms. Romano presented a Community Service Award Proclamation to the March Fourth Committee. Mr. Dranikoff thanked everyone for the recognition.

**Reports**

Mr. McDonald announced the budget schedule had changed; introduction was scheduled for April 18th, presentation would be on May 4th and adoption would be on May 16th. He made everyone aware the Affordable Housing public session would be held on April 17th at the Library. He reminded restaurant and business owners to obtain a cafe licenses through the Township Clerk's office before setting up outdoor seating. He reviewed the "Notify Me" option available on the website for residents to receive notifications when things are updated on the township website.

Ms. Romano reported on the upcoming SID activities and events.

Mr. Cohen reminded everyone that Founding Day was on April 22nd and CEDA Sunday would be held on May 21st. He announced the Arboretum group was in the early stages of planning a cornhole event. He noted that Museum Night would be on March 27<sup>th</sup> and reviewed upcoming events and activities at the Library.

Deputy Mayor Vinayak reiterated the budget introduction was scheduled for April 18<sup>th</sup>. He announced a Flood Mitigation public session would be held on March 30.

Mr. McDonald announced that on March 29<sup>th</sup> there would be a second public session to discuss recreation fields.

**Public Comment**

Deputy Mayor Vinayak made the following statement: "When invited to speak, please come to the lectern, clearly state your name and whether you are a Millburn resident and/or business owner, and speak loudly so that your comments may be understood by all and properly recorded. Please do not provide your whole address as our meetings are recorded and readily available to the public. For the convenience of our community there was a remote option available. If you called in and would like to comment, please press \*6 now and if you are attending by computer or electronic device, please do click the raise hand button. All members of the public wishing to speak would be put into the queue to address the Committee. Whenever an audience or Committee member reads verbatim from a prepared statement, please email a copy to the Township Clerk's Office at [townclerk@millburntwp.org](mailto:townclerk@millburntwp.org). To help

facilitate an orderly meeting and to permit all to be heard, speakers were asked to limit their comments to one 3-minute session. You would be prompted when there was 30 seconds remaining. Each individual would be given one opportunity to make their public comment. Please be patient and we would address each member of the public that wishes to speak. This was a business meeting, please do not address professionals or staff directly and direct all of your comments to me. A reminder that we were all neighbors and personal attacks would not be tolerated.”

Deputy Mayor Vinayak opened the public comment period.

Ben Stoller, resident, commented on how great the Fire Department promotions were. He requested copies of the minutes from previous affordable housing sessions; Mr. McDonald noted they were available on the township website. He voiced his comments on affordable housing and would like to understand the financial aspect. He questioned why they were still moving forward with the 100 percent affordable site on Main Street. He voiced concerns with the number of students added and environmental concerns.

Mayor Diane Thall Eglow, resident, reviewed comments made at the last meeting regarding vacancies on various boards and questioned the selection process. She reviewed and questioned the appointment power of the Mayor and whether the form of government should be reviewed. She noted she was looking forward to next week’s meeting regarding the recreation fields and noticed there seemed to be no public support to destroy the Par 3 at the last public meeting on the recreation fields. She added that she had spoken to realtors who stated that the Par 3 was a selling point for the town. She would like to know where the Township Committee members stand on this.

Jay Morreale, resident, thanked Mr. McDonald and Mr. Moehlman for meeting with Mr. Cosgrove and himself regarding proposed zoning changes. He thanked recreations for answering his questions. He discussed his feelings on the recreation fields and agreed with Deputy Mayor Vinayak that they should move forward with improvements to fields and not wait for the Master Plan to be updated. He made everyone aware that the parking app used in Millburn does not always get the zone correct and he had received a parking ticket even though he paid through the app.

Jeffrey Feld, resident, reviewed what occurred at the fair share housing hearing on April 19th. He made everyone aware that there would be a virtual hearing this coming Friday on his “right to be heard prior to official action” case. He discussed items he felt should be on the township website and reviewed comments made at the last Township Committee meeting regarding how much he had cost the township due to his litigation.

Richard Seibert, resident, voiced his feelings on holding the Fair Share Housing public hearing after the deadline for residents to turn in comments to the court.

Dr. Jerry Kung, resident, reviewed a comment made at the last meeting regarding ways to avoid raising taxes, yet the development of a 100 percent affordable housing project would cause a financial strain on the township and it was not mentioned. He discussed how other townships are handling their need for affordable housing and wondered why Millburn was not looking at these ways.

Debbie Frank, resident, voiced her comments on affordable housing and stated the town was in this situation because they did not fulfill any of their obligations. She was not opposed to fair share housing and it was the town’s legal and moral obligation to provide this.

Frank Saccomondi, resident, addressed the notion that Millburn had not done anything to address affordable housing and this was not true. He reviewed the history of affordable housing in the township and other municipalities. He noted that he and other residents were not against affordable housing and they were against the way it was being handled and how building a 100 percent affordable housing

development was not inclusive. He added that they were also against the residents not being involved in the decision making of the affordable housing settlement.

Elaine Becker, resident, reviewed why the past Township Committee did not zone for affordable housing and explained they were never against affordable housing and added that the town was fully developed at that point. She added that now there are some areas that have opened up for development.

Jean Pasternak, resident, voiced her opposition of not having public participation during the process on the affordable housing matter. She questioned the budget introduction being moved to April 18<sup>th</sup> and would like to know if the residents could expect no tax increase this year. She voiced her concern over the Board of Education referendum possibly causing a tax increase as well as a possible county tax increase. She voiced her feelings on the affordable housing public hearing being held just two days prior to the court hearing and after the date when public comment was allowed to be submitted to the court. She addressed Mr. Feld's hearing this coming Friday and the important topics this represents. She voiced her concerns with Mayor Miggins.

Perri Urso, resident, congratulated Captain Russell Lynn and Captain Felix Reyes on their promotions to Fire Battalion Chiefs. She asked for a legal answer to her question and questioned why video was required to be on during public comment period. She questioned the legal obligation of elected officials and others to respond back to emails and what the policy was for all questions during public comment to be answered. She wondered when she and others could expect an update to their questions and concerns regarding lot 14 and inquired on other topics including solid waste code, SID assessment transfers and amendments to the SID by-laws.

Deputy Mayor Vinayak closed the public comment period.

Mr. McDonald commented on the affordable housing public hearing date and the difficulty in finding a date that was agreeable to all professionals.

Mr. Maraziti responded to Ms. Urso and explained there was no legal obligation for officials to respond to emails or questions.

Mr. Cohen advised that the reason for the video requirement during public comment was to make the zoom feature as close to in person as possible. He agreed with Mr. Stoller's comment regarding catching up new students who move into the affordable housing in town and that would be for the Board of Education to address. He reviewed the need for recreation fields and felt that other options have come up so the Par 3 should be saved.

Mr. Vinayak added he would not be in favor of removing the Par 3 for fields. He reviewed the financials for affordable housing and noted that the Board of Education's financials were separate from the townships. He noted that recreation and the Board of Education would be meeting this Friday. He explained that there was a consensus at the last meeting and it was agreed to review the Master Plan before making improvements to fields. He asked Mr. McDonald to look into whether the employee handbook could be posted on the website. He reviewed Best Practices and Mr. McDonald explained this was something that was completed each year and was turned into the state, but there was no requirement that the Best Practices be posted to the website and was available to the public.

Mr. Vinayak addressed a comment made about no tax increases as long as Mayor Miggins and he were here and reiterated that was not said. He reviewed the town was still reviewing a nominal tax increase for this year.

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Consent Agenda

Deputy Mayor Vinayak asked if any of the Committee members had any questions or concerns regarding consent agenda items. Deputy Mayor Vinayak asked for a motion to approve the items on the consent agenda including Resolutions 23-088 through 23-097. Ms. Romano made a motion to approve the consent agenda, which was seconded by Mr. Cohen.

Roll Call Vote: All Ayes

RESOLUTION 23-088
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 21, 2023, in the following accounts:

Table with 2 columns: Fund Name and Amount. Rows include General Fund (\$433,855.26), Capital Fund (97,710.12), Parking Utility - Operating Fund (5,325.30), Dog Fund Trust (5,511.80), Escrow Trust Fund (5,743.75), Recreation Trust Fund (355.28), and Waste Recycling Trust (940.00).

RESOLUTION 23-089
AUTHORIZING MUNICIPAL ALLIANCE GRANT EXTENSION

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse (GCADA) established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey. In coordination with GCADA, the New Jersey Department of Human Services/Division on Mental Health and Addiction Services (DMHAS) has awarded a Youth Leadership Grant to the GCADA Municipal Alliance Program; and

WHEREAS, The Township Committee of the Township of Millburn, County of Essex, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Township Committee further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Township Committee has applied for DMHAS Youth Leadership funding through the Governor’s Council on Alcoholism and Drug Abuse through the County of Essex;

WHEREAS, the Fiscal Year has been extended to for the period of 3/15/2023- 6/30/2023 for the DMHAS fund to be expended.

NOW, THEREFORE, BE IT RESOLVED by the Township of Millburn, County of Essex, State of New Jersey hereby recognizes the following:

- 1. The Millburn Township Committee does hereby authorize the DMHAS Grant funding for the Millburn Municipal Alliance for Year One Grant Term be extended 3/15/2023 – 6/30/2023 in the amount of:

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DMHAS Grant Funding \$4,831.85

- 2. The Township Committee acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

RESOLUTION 23-090
REAPPOINTMENT OF TOWNSHIP ENGINEER - CALLAHAN

WHEREAS, Martha J. Callahan has been effectively serving as Township Engineer for the Township of Millburn since May 1, 2017; and

WHEREAS, the Township Committee has confidence in the demonstrated ability of Martha J. Callahan to continue to perform the duties of the Office of Township Engineer;

BE IT RESOLVED, by the Township Committee of the Township of Millburn, County of Essex, State of New Jersey, in accordance with the provisions of NJSA 40A:9-140, that Martha J. Callahan is hereby reappointed as Township Engineer for a three (3) year term, from May 1, 2023 to April 30, 2026.

RESOLUTION 23-091
AUTHORIZE REJECTION OF BIDS RECEIVED FOR "SUMMER CAMP BUS SERVICE"

WHEREAS, the Township of Millburn (the "Township") received one sealed bid on March 2, 2023 in response to its advertisement for the receipt of bids for the "Summer Camp Bus Service"; and

WHEREAS, the amount of the bid received for the "Summer Camp Bus Service" is set forth as follows:

Table with 2 columns: Bidder, Bid Amount. Row 1: Villani Bus Company Linden, NJ, \$30,640.00

WHEREAS, the bid of Villani Bus Company substantially exceeds the pre-bid cost estimate; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-13.2, permits the rejection of all bids if "the lowest bid substantially exceeds the cost estimate for the goods or services."

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

- 1. The Township Committee hereby rejects the bid of Villani Bus Company for the "Summer Camp Bus Service" because the bids substantially exceeds the pre-bid cost estimate for the goods or services.
2. The "Summer Camp Bus Service" shall be advertised for rebid.
3. The township is authorized and directed to forward notice of rejection to Villani Bus Company and return their respective bid security.
4. The Township's staff and consultants are hereby authorized and directed to take all other actions necessary or desirable to effectuate the terms and conditions of this Resolution.
5. This Resolution shall take effect immediately.

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**RESOLUTION 23-092  
ADOPTION OF 2023 EMERGENCY TEMPORARY APPROPRIATIONS  
PRIOR TO ADOPTION OF BUDGET**

**WHEREAS**, Local Finance Notice 2022-22 set the statutory deadline for 2023 municipal budget adoption as April 29, 2023 or the next scheduled meeting of the governing body; and

**WHEREAS**, Resolution 23-001 adopted the 2023 temporary budget as 26.25% prior year appropriations; and

**WHEREAS**, N.J.S.A. 40A:4-20 provides that, in addition to temporary appropriations necessary for the period prior to the adoption of the budget and regular appropriations, the governing body may make emergency temporary appropriations for any purpose for which appropriations may lawfully be made for the period between the beginning of the current fiscal year and the date of the adoption of the budget for the current fiscal year; and

**WHEREAS**, the Township has deemed certain emergency temporary appropriations to be necessary and such appropriations are conforming to the provisions of N.J.S.A 40A:4-20; and

**WHEREAS**, the total 2023 emergency temporary resolutions adopted in the year 2023 pursuant to the provisions of Chapter 96, P.L. (N.J.S.A. 40A:4-20) including this resolution total \$33,347,428;

**NOW, THEREFORE, BE IT RESOLVED** by the Millburn Township Committee that in accordance with the provisions of N.J.S.A. 40A:4-20:

- Emergency temporary appropriations be and the same are hereby made for and in the amounts as follows:

<b>Administrative and Executive:</b>	<b>R 2023-001</b>	<b>Additions</b>
<b>Salaries and Wages</b>	138,838	131,896
<b>Other Expenses</b>	46,410	44,090
<b>Governing Body:</b>		
<b>Salaries and Wages</b>	9,844	9,352
<b>Municipal Clerk:</b>		
<b>Salaries and Wages</b>	64,701	61,466
<b>Other Expenses</b>	25,856	24,563
<b>Elections</b>		
<b>Salaries and Wages</b>	2,625	2,494
<b>Other Expenses</b>	3,806	3,616
<b>Comptroller</b>		
<b>Salaries and Wages</b>	95,704	90,919
<b>Other Expenses</b>	12,731	12,094
<b>Annual Audit</b>	13,125	12,469
<b>EDP</b>		
<b>Other Expenses</b>	80,125	76,119
<b>Collection of Taxes:</b>		
<b>Salaries and Wages</b>	44,447	42,225
<b>Other Expenses</b>	14,333	13,616
<b>Tax Assessor:</b>		
<b>Salaries and Wages</b>	56,578	53,749
<b>Other Expenses</b>	16,144	15,337
<b>Legal Services and Costs:</b>		
<b>Other Expenses</b>	223,125	211,969

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<b>Engineering Services and Costs:</b>		
<b>Salaries and Wages</b>	88,100	83,695
<b>Other Expenses</b>	29,400	27,930
<b>Historic Preservation</b>		
<b>Salaries and Wages</b>	1,313	1,247
<b>Other Expenses</b>	289	275
<b>Zoning Board</b>		
<b>Salaries and Wages</b>	14,692	13,957
<b>Other Expenses</b>	12,574	11,945
<b>Planning Board</b>		
<b>Salaries and Wages</b>	16,175	15,366
<b>Other Expenses</b>	11,209	10,649
<b>Construction Code</b>		
<b>Salaries and Wages</b>	161,753	153,665
<b>Other Expenses</b>	102,375	97,256
<b>Insurance:</b>		
<b>General Liability</b>	260,640	247,608
<b>Workers' Compensation</b>	197,143	187,286
<b>Employee Group Health</b>	1,749,678	1,662,194
<b>Health Waivers</b>		
<b>Department of Public Safety:</b>		
<b>Salaries and Wages</b>	2,337,923	2,221,027
<b>Other Expenses</b>	157,500	149,625
<b>Crossing Guards:</b>		
<b>Other Expenses</b>	200,000	190,000
<b>Emergency Management:</b>		
<b>Other Expenses</b>	3,938	3,741
<b>Fire Department:</b>		
<b>Salaries and Wages</b>	1,875,360	1,781,592
<b>Other Expenses</b>	89,775	85,286
<b>Aid to Volunteer Ambulance:</b>		
<b>Other Expenses</b>	1,313	1,247
<b>Road Repairs and Maintenance:</b>		
<b>Salaries and Wages</b>	958,225	910,314
<b>Other Expenses</b>	62,213	59,102
<b>Snow Removal:</b>		
<b>Salaries and Wages</b>	51,250	48,688
<b>Other Expenses</b>	134,325	127,609
<b>Shade Tree:</b>		
<b>Salaries and Wages</b>	229,149	217,692
<b>Other Expenses</b>	143,588	136,409
<b>Sewer Sanitation:</b>		
<b>Other Expenses</b>	45,701	43,416
<b>Public Buildings and Grounds:</b>		
<b>Other Expenses</b>	109,883	104,389
<b>Vehicle Maintenance</b>		
<b>Salaries and Wages</b>	94,356	89,638
<b>Other Expenses</b>	62,738	59,601
<b>Health Department:</b>		



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Salaries and Wages	5,392	5,122
Other Expenses	3,628	3,447
<b>Environmental Commission:</b>		
Other Expenses	656	623
<b>Public Assistance:</b>		
Other Expenses	5,500	5,225
<b>Parks and Playgrounds:</b>		
Salaries and Wages	198,884	188,940
Other Expenses	51,896	49,301
<b>Swimming Pool:</b>		
Salaries and Wages	30,188	28,679
Other Expenses	24,518	23,292
<b>Customer Service:</b>		
Salaries and Wages	48,526	46,100
Other Expenses	919	873
<b>Par 3:</b>		
Other Expenses	4,174	3,965
<b>Senior Citizens:</b>		
Salaries and Wages	37,742	35,855
Other Expenses	3,938	3,741
<b>Celebrations:</b>		
Other Expenses	7,875	7,481
<b>Municipal Court:</b>		
Salaries and Wages	87,616	83,235
Other Expenses	33,118	31,462
<b>Public Defender:</b>		
Other Expenses	3,544	3,367
<b>Recycling and Landfill</b>		
Other Expenses	1,050,625	998,094
<b>Utilities:</b>		
Gasoline, Diesel Fuel and Lubricants	155,000	147,250
Street Lighting	59,063	56,110
Natural Gas	28,875	27,431
Telephone	45,938	43,641
Fire Hydrant	105,000	99,750
Electricity	73,631	69,949
<b>OPERATIONS WITHIN CAPS</b>	<b><u>12,117,216</u></b>	<b><u>11,511,355</u></b>
Public Employees' Retirement System	380,136	1,068,000
Public Employees' Retirement System ERI	-	
Social Security System (O.A.S.I.)	288,900	274,455
Police and Firemen's Retirement System	1,084,566	3,047,113
State Unemployment Insurance DCRP	6,562	6,234
<b>TOTAL APPROPRIATION WITHIN CAPS</b>	<b><u>13,877,380</u></b>	<b><u>15,907,157</u></b>

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Free Public Library	1,001,045	950,993
Joint Outlet Sewer Maintenance	431,265	409,702
Special Improvement District:	14,011	13,310
Interlocal - Condo	23,625	22,444
Interlocal - Plumbing (Maplewood)	17,563	16,685
Interlocal - Electric (Maplewood)	15,294	14,529
Interlocal - Livingston	38,883	36,939
Interlocal - Dispatch	288,258	273,845
Capital Improvement Fund	1,000,000	
Bond Interest	1,700,000	
Note Interest	120,000	
Note Principal		
Note Interest		
<b>TEMPORARY BUDGET PRIOR TO EXCLUSIONS</b>	<b><u>18,527,324</u></b>	<b><u>17,645,604</u></b>
<b>LESS ITEMS EXLUDED:</b>		
DEBT SERVICE	-1,820,000	
CAPITAL IMPROVEMENT FUND	-1,000,000	
PUBLIC ASSISTANCE	-5,500	
<b>TOTAL MUNICIPAL TEMPORARY APPROPRIATIONS</b>	<b><u>15,701,824</u></b>	<b><u>17,645,604</u></b>
<b><u>PARKING UTILITY</u></b>		
Salaries and Wages	78,750	74,813
Other Expenses	51,786	49,197
Utilities	9,713	9,227
Wireless Services	6,562	6,234
FICA	5,250	4,988
<b>TOTAL PARKING UTILITY TEMPORARY BUDGET</b>	<b><u>152,061</u></b>	<b><u>144,458</u></b>

2. That said emergency temporary appropriations will be provided for in the 2023 budget under the titles aforesaid.

3. That one certified copy of this resolution be filed with the Director of Local Government Services.

**RESOLUTION 23-093  
 AUTHORIZE CORRECTION TO ALCOHOLIC BEVERAGE CONTROL LICENSE NUMBER**

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**BE IT RESOLVED** by the Township Committee of the Township of Millburn, Essex County, to correct Canoe Brook Country Club Alcoholic Beverage Control License number which was listed and approved by Resolution 22-158 on June 21, 2022, for the year July 1, 2022 to June 30, 2023, to their current Alcoholic Beverage Control License number 0712-33-003-002.

**RESOLUTION 23-094  
AUTHORIZE APPROVAL OF AMENDED RIGHT OF WAY PERMIT**

**NOW THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of Millburn, in the County of Essex, State of New Jersey, does hereby approve effective March 21, 2023, the amended Right of Way Permit by Verizon Wireless dated February 13, 2023 (original permit dated November 10, 2022 and approved December 20, 2022), as recommended by the Township Engineer;

**BE IT FURTHER RESOLVED** the permit application submitted to the Township Engineer is complete in all respects and is in accordance with Ordinance 2522-18 and N.J.S.A. 27:16-6.

**RESOLUTION 23-095  
APPROVE RAFFLE LICENSE**

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

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

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

Deerfield Elementary School PTO

**RESOLUTION 23-096  
APPROVE LICENSE TO DEAL SECOND HAND JEWELRY AND PRECIOUS METALS**

**WHEREAS**, the following have submitted applications to the Township Clerk to deal second hand jewelry and precious metals, providing all required identification and the appropriate fees; and

**WHEREAS**, the Police Department has conducted an investigation and has found nothing to prevent their issuance;

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

Jeffrey Singer - Circa

**RESOLUTION 23-097  
APPLICATION FOR COMMUNITY PROJECT FUNDING**

**WHEREAS**, the United States Congress is accepting applications for the Community Project Funding Program; and

**WHEREAS**, the Township of Millburn desires to participate in this grant program to the greatest extent possible as a means of providing a needed generator relocation and replacement for Firehouse #2; and

**WHEREAS**, Firehouse #2 provides vital protection services not only for the residents of Millburn, but also for residents of Summit, the Mall at Short Hills, and New Jersey American Water's Short Hills Reservoir; and

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**WHEREAS**, the current generator is underpowered and subject to flood conditions; and

**WHEREAS**, the Township of Millburn has available local matching funds to fulfill its share of obligation related to this grant application should the grant funds be awarded; and

**WHEREAS**, the Township of Millburn will provide adequate funding for on-going operations and maintenance of this generator should the grant funds be awarded; and

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MILLBURN AS FOLLOWS:**

Section 1: The Township Committee demonstrates its support for the submittal of a grant application to the Community Project Funding Program for the relocation and replacement of the generator at Firehouse #2.

Section 2: This Resolution shall be effective following its adoption by the Township Committee.

**Resolution**

Resolution 23-098

Deputy Mayor Vinayak asked if any of the Committee members had any questions or concerns regarding Resolution 23-098. Mr. McDonald provided a brief explanation. Deputy Mayor Vinayak asked for a motion to approve Resolutions 23-098. Mr. Cohen made a motion to approve Resolution 23-098 which was seconded by Ms. Romano.

Roll Call Vote: All Ayes

**RESOLUTION 23-098**

**DETERMINING THE FORM AND OTHER DETAILS OF ITS PHASE II, PHASE III, AND PHASE IV NOTES, EACH ENTITLED “NOTE RELATING TO THE WATER BANK CONSTRUCTION FINANCING PROGRAM OF THE NEW JERSEY INFRASTRUCTURE BANK”, TO BE ISSUED IN THE PRINCIPAL AMOUNT OF UP TO \$850,000, \$3,225,000 AND \$575,000, RESPECTIVELY, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTES TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTES BY THE TOWNSHIP OF MILLBURN IN FAVOR OF THE NEW JERSEY INFRASTRUCTURE BANK, ALL PURSUANT TO THE NEW JERSEY INFRASTRUCTURE BANK WATER BANK CONSTRUCTION FINANCING PROGRAM**

**WHEREAS**, the Township of Millburn (the “Local Unit”), in the County of Essex, State of New Jersey (the “State”), is a participant in the Joint Meeting of Essex and Union Counties, constituting a joint meeting of various municipalities located in the Counties of Essex and Union in the State (the “Joint Meeting”), which Joint Meeting is organized pursuant to N.J.S.A. 40:63-68 *et seq.* as a public body corporate and politic, duly created and validly existing pursuant to the laws of the State; and

**WHEREAS**, the Joint Meeting is not statutorily authorized to incur debt obligations for any purpose, including, without limitation, in order to finance any capital improvements thereof and, therefore, any capital improvements that are undertaken by the Joint Meeting must be financed by its member municipalities and other participating municipalities, including, without limitation, the Local Unit, through the incurrence of debt thereby or otherwise; and

**WHEREAS**, the Joint Meeting has determined that there exists a need to, as applicable, acquire, construct, renovate or install a project of the Joint Meeting consisting of (a) the unfunded portion of Phase II of the Flood Mitigation Facilities Project (Co-Generation Upgrade) consisting of (i) upgrades to the existing Co-Generation Facility to power an Effluent Pumping Station, two storm water pumping stations, and the Sludge Dewatering Facility, (ii) the acquisition and installation of two engine generator sets and associated equipment including all required electrical and instrumentational connections to

integrate the new engines into the existing systems, (iii) the acquisition and installation of digester gas and natural gas piping to the new engines, (iv) construction of a new substation at the Sludge Dewatering Facility, and (v) the installation of medium voltage connections to the Co-Generation grid (“Phase II(b)”); (b) Phase III of the Flood Mitigation Facilities Project (Main Treatment Plant Walls) consisting of, but not limited to, the construction of reinforced concrete flood protection walls around the Main Treatment Plant site including, but not limited to, the installation of four (4) flood protection swing gates, the demolition of the existing guard house and the construction of a new guard house, the construction of five (5) storm sewer isolation chambers with sluice gates and electric actuators, the realignment and repaving of various treatment plant roadways, the construction of a new emergency access roadway, the relocation and protection of existing utilities, and associated grading and site restoration (“Phase III”); and (c) Phase IV of the Flood Mitigation Facilities Project (Storm Water Pumping Station) consisting of the rehabilitation of the existing Army Corps of Engineers (ACOE) Storm Water Pumping Station including the removal of existing equipment, modifications to the existing pumping station structure, installation of three (3) new storm water pumps and discharge piping, replacement of two (2) existing sluice gates, installation of two (2) new sluice gates, modifications to the existing storm water piping influent to the pumping station, replacement of storm water inlet gratings, installation of a new seal water service to the pumping station, installation of new electrical power to the pumping station, and site restoration (“Phase IV” and together with Phase II(b) and Phase III, shall be collectively referred to herein as the “Joint Meeting Project”); and

**WHEREAS**, it is the desire of the Local Unit to obtain financing for its allocable share of Phases II, III and IV of the Joint Meeting Project (such allocable share being referred to herein as the “Project”) through participation in the environmental infrastructure financing program (the “New Jersey Water Bank”) of the New Jersey Infrastructure Bank (the “I-Bank”); and

**WHEREAS**, the Local Unit has determined to temporarily finance, as applicable, the acquisition, construction, renovation or installation of the Project prior to long-term bond financing through the New Jersey Water Bank, and to undertake such temporary financing with the proceeds of short-terms loans to be made by the I-Bank (the “Construction Loan(s)”) to the Local Unit, pursuant to the Water Bank Construction Financing Program of the I-Bank (the “Construction Financing Program”); and

**WHEREAS**, the Local Unit adopted Bond Ordinance No. 2556-20 on June 16, 2020, which appropriated and authorized amounts necessary to cover costs of the Project for Phases I and II; and

**WHEREAS**, on January 18, 2022, the Local Unit financed its allocable share of Phase II of the Project (“Phase II(a) of the Project”) in the amount of \$420,000 through the I-Bank (the “2022 Note”); and

**WHEREAS**, the Local Unit adopted Bond Ordinance No. 2618-22 on July 19, 2022, which appropriated and authorized amounts necessary to cover costs of the Project for Phase III; and

**WHEREAS**, due to inflation and increases in the costs of materials, supplies and equipment, primarily caused by the COVID-19 pandemic, the estimated costs of the Joint Meeting Project, which were originally estimated in 2017, have increased considerably over the past six (6) years; and

**WHEREAS**, the Local Unit adopted Bond Ordinance No. 2631-23 on March 7, 2023, which appropriated and authorized amounts necessary to cover the increased costs of Phases II and III and the costs of Phases IV, V and VI of the Project; and

**WHEREAS**, the Local Unit now desires to cancel the 2022 Note, which will be replaced with the Phase II Note (as hereinafter defined) to finance the costs of Phase II of the Project; and

**WHEREAS**, the Local Unit will also issue the Phase III Note (as hereinafter defined) to finance the costs of Phase III of the Project; and

**WHEREAS**, the Local Unit will also issue the Phase IV Note (as hereinafter defined) to finance the costs of Phase IV of the Project; and

**WHEREAS**, the United States Federal Emergency Management Agency (“FEMA”) has approved, or prior to the issuance of the respective Notes (as hereinafter defined) will approve, the scope of each phase of the Project and, consequently, has agreed to fund up to 90% of the costs of planning and constructing the Project; and

**WHEREAS**, after receipt of the FEMA reimbursements, the Local Unit will finance the remaining approximately 10% percent of the costs of each phase of the Project via (i) the issuance of long term bonds, (ii) the payment of cash, or (iii) a combination thereof; and

**WHEREAS**, in order to (i) evidence and secure the repayment obligation of the Local Unit to the I-Bank with respect to the Construction Loans and (ii) satisfy the requirements of the Construction Financing Program, it is the desire of the Local Unit to issue and sell to the I-Bank its (a) “Note Relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank” in an aggregate principal amount of up to \$850,000 (the “Phase II Note”), (b) “Note Relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank” in an aggregate principal amount of up to \$3,225,000 (the “Phase III Note”), and (c) “Note Relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank” in an aggregate principal amount of up to \$575,000 (the “Phase IV Note” and together with the Phase II Note and the Phase III Note, the “Notes”), substantially in the forms on file with the Local Unit Clerk and referred to as Exhibit A, Exhibit B, and Exhibit C, respectively, to finance Phase II, Phase III, and Phase IV, respectively, of the Project; and

**WHEREAS**, it is the desire of the Local Unit to authorize, execute, attest and deliver the Notes to the I-Bank pursuant to the terms of the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the Revised Statutes of the State of New Jersey (the “Local Bond Law”), and other applicable law; and

**WHEREAS**, Section 28 of the Local Bond Law allows for the sale of the Notes to the I-Bank, without any public offering, and N.J.S.A. 58:11B-9 allows for the sale of the Notes to the I-Bank without any public offering, all under the terms and conditions set forth therein; and

**WHEREAS**, in connection with its participation in the Joint Meeting and the issuance of its Notes for the purpose of financing the costs of Phases II, III, and IV of the Project, the Local Unit desires to enter into that certain Project Financing Agreement (the “Agreement”), by and between the Joint Meeting and the Local Unit, and acknowledged and agreed to by the I-Bank, substantially in the form on file with the Local Unit Clerk and referred to as Exhibit D, and

**WHEREAS**, a separate Agreement will be executed and delivered upon the closing of each of the Notes.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Local Unit as follows:

**Section 1.** In accordance with Section 28 of the Local Bond Law and N.J.S.A. 58:11B-9, the Local Unit hereby authorizes the issuance, sale and award of the Phase II Note in accordance with the provisions hereof. The \$420,000 portion of the obligation represented by the Phase II Note has been appropriated and authorized by Bond Ordinance No. 2556-20 of the Local Unit, which bond ordinance is entitled “BOND ORDINANCE PROVIDING FOR THE TOWNSHIP’S ALLOCABLE SHARE OF THE FLOOD MITIGATION FACILITIES PROJECT (PHASES I AND II) OF THE JOINT MEETING OF ESSEX AND UNION COUNTIES, BY AND FOR THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, APPROPRIATING \$1,650,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,650,000 BONDS OR NOTES TO FINANCE THE COST THEREOF” and was finally adopted by the Local Unit at a meeting duly called and held on June 16, 2020, and the \$430,000 remaining portion of the obligation represented by the Phase II Note has been appropriated and authorized by Bond Ordinance No. 2631-23 of the Local Unit, which bond ordinance is entitled “BOND ORDINANCE PROVIDING FOR PHASES II(b), III(b), IV, V and VI OF THE TOWNSHIP’S ALLOCABLE SHARE OF THE FLOOD MITIGATION FACILITIES PROJECT OF THE JOINT MEETING OF ESSEX AND UNION COUNTIES, BY AND FOR THE TOWNSHIP OF

MILLBURN, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, APPROPRIATING \$3,440,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$3,440,000 BONDS OR NOTES TO FINANCE THE COST THEREOF” and was finally adopted by the Local Unit at a meeting duly called and held on March 7, 2023 (the “2023 Bond Ordinance”), at which times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

**Section 2.** In accordance with Section 28 of the Local Bond Law and N.J.S.A. 58:11B-9, the Local Unit hereby authorizes the issuance, sale and award of the Phase III Note in accordance with the provisions hereof. The \$2,445,000 portion of the obligation represented by the Phase III Note has been appropriated and authorized by Bond Ordinance No. 2618-22 of the Local Unit, which bond ordinance is entitled “BOND ORDINANCE PROVIDING FOR THE TOWNSHIP’S ALLOCABLE SHARE OF THE FLOOD MITIGATION FACILITIES PROJECT (PHASE III) OF THE JOINT MEETING OF ESSEX AND UNION COUNTIES, BY AND FOR THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX, STATE OF NEW JERSEY, APPROPRIATING \$2,445,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$2,445,000 BONDS OR NOTES TO FINANCE THE COST THEREOF” and was finally adopted by the Local Unit at a meeting duly called and held on July 19, 2022, and the \$780,000 remaining portion of the obligation represented by the Phase III Note has been appropriated and authorized by the 2023 Bond Ordinance, at which times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

**Section 3.** In accordance with Section 28 of the Local Bond Law and N.J.S.A. 58:11B-9, the Local Unit hereby authorizes the issuance, sale and award of the Phase IV Note in accordance with the provisions hereof. The \$575,000 obligation represented by the Phase IV Note has been appropriated and authorized by the 2023 Bond Ordinance, at which times a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

**Section 4.** The Chief Financial Officer of the Local Unit (the “Chief Financial Officer”) is hereby authorized to determine, in accordance with the Local Bond Law and pursuant to the terms and conditions hereof, (i) the final principal amount of the Notes (subject to the maximum limitation set forth in Section 6(a) hereof), and (ii) the dated date of the Notes.

**Section 5.** Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Notes by the parties authorized pursuant to Section 6(h) hereof.

**Section 6.** The Local Unit hereby determines that certain terms of the Notes shall be as follows:

- (a) the principal amount of the Phase II Note, the Phase III Note, and the Phase IV Note to be issued shall be an amount not to exceed \$850,000, \$3,225,000, and \$575,000, respectively;
- (b) the maturity of the respective Notes shall be as determined by the I-Bank, and the Notes may be renewed from time to time as may be determined by the I-Bank;
- (c) the interest rate for each of the Notes shall be as determined by the I-Bank;
- (d) the purchase price for each of the Notes shall be par;
- (e) the Notes shall be subject to prepayment prior to their respective stated maturities in accordance with the terms and conditions set forth in the Notes;
- (f) the Notes shall be issued in a single denomination and shall be numbered “NJWB - CFP-2023-2-JM-FEMA”, “NJWB - CFP-2023-3-JM-FEMA”, and “NJWB - CFP-2023-4-JM-FEMA”, respectively;
- (g) the Notes shall be issued in fully registered form and shall be payable to the registered owner thereof as to both principal and interest in lawful money of the United States of America; and
- (h) the Notes shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer (collectively, the “Authorized Officers”) under official seal or facsimile thereof affixed, imprinted or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

**Section 7.** The Notes, substantially in the forms on file with the Local Unit Clerk and referred to as Exhibit A, Exhibit B, and Exhibit C, respectively, with such additions, deletions, and omissions as may be recommended by the Chief Financial Officer of the Local Unit, upon the advice of bond counsel, general counsel, and/or the municipal advisor to the Local Unit, be and are hereby approved.

**Section 8.** The law firm of Rogut McCarthy LLC is hereby authorized to arrange for the printing of the Notes, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank for the Construction Financing Program, to arrange for same.

**Section 9.** The Agreement, substantially in the form on file with the Local Unit Clerk and referred to as Exhibit D, with such additions, deletions, and omissions as may be recommended by the Chief Financial Officer of the Local Unit, upon the advice of bond counsel, general counsel, and/or the municipal advisor to the Local Unit, be and is hereby approved. The Mayor or Chief Financial Officer of the Local Unit are hereby authorized and directed on behalf of the Local Unit to enter into, execute and deliver, and consummate or perform any actions required under, the Agreement executed and delivered with each of the Notes.

**Section 10.** The Authorized Officers of the Local Unit are hereby further severally authorized to (i) execute and deliver, and the Local Unit Clerk is hereby further authorized to attest to such execution and to affix, imprint or reproduce the corporate seal of the Local Unit to, any document, instrument or closing certificate deemed necessary, desirable or convenient by the Authorized Officers of the Local Unit, in their respective sole discretion, after consultation with counsel and any advisors to the Local Unit, and after further consultation with the I-Bank and its representatives, agents, counsel and advisors, to be executed in connection with the issuance and sale of the Notes and the participation of the Local Unit in the Construction Financing Program, which determination shall be conclusively evidenced by the execution of each such certificate, instrument or other document by the party authorized hereunder to execute such certificate, instrument or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery of the Notes and the Agreement and any other documents, agreements or instruments related to, and the participation of the Local Unit in, the Construction Financing Program.

**Section 11.** This resolution shall supersede Resolution No. 22-205 adopted by the Local Unit on September 6, 2022.

**Section 12.** This resolution shall take effect immediately.

**Section 13.** Upon the adoption hereof, the Local Unit Clerk shall forward certified copies of this resolution to Rogut McCarthy LLC, bond counsel to the Local Unit, Everett M. Johnson, Esq., Wilentz, Goldman & Spitzer, P.A., bond counsel to the Joint Meeting, David Zimmer, Executive Director of the I-Bank, and Richard T. Nolan, Esq., McCarter & English, LLP, bond counsel to the I-Bank.

### **ORDINANCE / INTRODUCTION**

Ordinance 2636-23

Mr. Cohen brought forth Ordinance 2636-23 for introduction and provided a brief explanation of the ordinance and reviewed the affected streets. Mr. McDonald added the township was using the IMS study of the roads in town and they have been tackling the roads that were poor on the index. Mr. Cohen moved the ordinance to be taken up and passed on first reading noting that the public hearing would take place on April 18, 2023. Ms. Romano seconded the motion. Deputy Mayor Vinayak requested a roll call vote.

Roll Call Vote: All Ayes



**ORDINANCE NO. 2636-23**

**CAPITAL ORDINANCE OF THE TOWNSHIP OF MILLBURN, IN THE COUNTY OF ESSEX, NEW JERSEY  
AUTHORIZING THE UNDERTAKING OF THE 2023 ROAD IMPROVEMENT PROGRAM IN, BY AND FOR THE  
TOWNSHIP, APPROPRIATING THEREFOR THE SUM OF \$1,340,000 AND PROVIDING THAT SUCH SUM  
SO APPROPRIATED SHALL BE RAISED FROM THE CAPITAL IMPROVEMENT FUND OF THE TOWNSHIP**

**BE IT ORDAINED** by the Township Committee of the Township of Millburn, in the County of Essex, New Jersey, as follows:

Section 1. The Township of Millburn, in the County of Essex, New Jersey (the "Township") is hereby authorized to undertake the 2023 Road Improvement Program in, by and for the Township, consisting of the resurfacing, reconstruction, seal coating and/or micro-paving of various roads, as set forth on a list hereby approved and placed on file with the Township Clerk and available for public inspection during normal business hours. Additions to or deletions from said list may be made by resolutions adopted by the Township Committee and placed on file with the Township Clerk. Said improvements shall include all work, materials and appurtenances necessary and suitable therefor.

Section 2. The sum of \$1,340,000 is hereby appropriated to the payment of the cost of the improvements authorized and described in Section 1 hereof (hereinafter referred to as "purpose"). Said appropriation shall be raised from the Capital Improvement Fund of the Township, as hereinafter provided. The sum of \$1,340,000 is hereby appropriated from the Capital Improvement Fund of the Township to the payment of the cost of said purpose.

Section 3. Said improvements are lawful capital improvements of the Township having a period of usefulness of at least five (5) years. Said improvements shall be made as general improvements, no part of the cost of which shall be assessed against property specially benefited.

Section 4. The capital budget is hereby amended to conform with the provisions of this capital ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Township Clerk and is available for public inspection.

Section 5. This ordinance shall take effect at the time and in the manner provided by law.

**ORDINANCES / PUBLIC HEARING/ADOPTION**

Ordinance 2630-23

Deputy Mayor Vinayak brought forth Ordinance 2630-23 for public hearing and opened the hearing to the public.

Jeffrey Feld, resident, questioned the effective date and voiced his comments on the public access channel being dark for the past two years. He addressed the Administrative Code listing a Cable Television Advisory Committee and wondered if it was still in existence. He voiced his comments on using the cable access channel.

Perri Urso, resident, voiced her concerns on the cable franchise fees and questioned how the Township Committee could vote on this when the cable access channel was not being used.

Jean Pasternak, resident, concurred with Ms. Urso and Mr. Feld and voiced her support in opening up the cable access channel to help with communication and to publicize events going on in town.

Elaine Becker, resident, reviewed the background on the prior review and approval and noted that it was not that easy to open up the channel. As a prior liaison there was a process.

Mr. McDonald advised that the ordinance was not changing what had previously been put in place and added it would be a 10-year agreement. He stated that this was to give residents a choice between Comcast and Verizon FIOS. He added that the channel would still exist and it could be opened up.

Deputy Mayor Vinayak moved that the public hearing be closed and the ordinance to be taken up and passed on second reading, Ms. Romano seconded the motion. Deputy Mayor Vinayak requested a roll call vote.

Roll Call Vote: All Ayes

Mr. Maraziti addressed the effective date of this ordinance would be when the certificate was received from the BPU.

**ORDINANCE NO. 2630-23**  
**AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO**  
**COMCAST OF NEW JERSEY II, LLC. TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE**  
**TELEVISION AND COMMUNICATIONS SYSTEM IN THE TOWNSHIP OF MILLBURN, ESSEX COUNTY, NEW**  
**JERSEY**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF MILLBURN, ESSEX COUNTY, NEW JERSEY, AS FOLLOWS:

SECTION 1. PURPOSE OF THE ORDINANCE.

The Township hereby grants to Comcast renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets alleys, sidewalks, easements, public ways and public places in the Township, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus, and equipment as may be necessary for the construction, operation, and maintenance in the Township of a cable television and communications system.

SECTION 2. DEFINITIONS.

For the purpose of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. Such meaning or definition of terms in supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. § 48:5A-1 et seq., and shall in no way be construed to broaden, alter, or conflict with the federal and state definitions:

- a. "Township" is the Township of Millburn, County of Essex, State of New Jersey.

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- b. "Company" or "Comcast" is the grantee of rights under this Ordinance and is known as Comcast of New Jersey II, LLC.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. § 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.
- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Township currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

SECTION 3. STATEMENT OF FINDINGS.

Public hearings conducted by the Township, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the Township, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Township hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

SECTION 4. DURATION OF FRANCHISE.

The non-exclusive Municipal Consent granted herein shall expire 10 years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Township shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Township shall have the right to petition the OCTV, pursuant to N.J.S.A. § 48:5A-47, for appropriate action, including modification AND/OR termination of the Certificate of Approval; provided, however, that the Township shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 5. FRANCHISE FEE.

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Township two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Township or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater. The current franchise fee amount for the Township is 3.5% of the gross revenues pursuant to N.J.S.A. 48:5A-30(d)

SECTION 6. FRANCHISE TERRITORY.

The consent granted under this Ordinance for the renewal of the franchise shall apply to the entirety of the Township and any property subsequently annexed hereto.

SECTION 7. EXTENSION OF SERVICE.

The Company shall be required to proffer service to any residence along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. Any extension of plant beyond the Primary Service Area shall be governed by the Company's Line Extension Policy, as set forth in the Company's Application, with a HPM ("homes-per-mile") of 35 dwellings per linear mile from the nearest active trunk or feeder line.

SECTION 8. CONSTRUCTION REQUIREMENTS.

a. Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the natural topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

b. Relocation: If at any time during the period of this consent, the Township shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Township, shall remove, re-lay, or relocate its equipment, at the expense of the Company prior to approval of the board.

c. Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, or other public places of the Township so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

d. Temporary removal of cables: The Company shall, upon request of the Township, at the company's expense, temporarily raise, lower, or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances, subject to the prior approval of the board.

e. Installation of equipment: The Company shall install equipment in the same location and manner as existing public utilities whenever possible, in order to minimize the impact of same on surrounding property.

SECTION 9. CUSTOMER SERVICE.

In providing services to its customers, the Company shall comply with N.J.A.C. § 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service.

a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers.

b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.

c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association ("NCTA").

d. Nothing herein shall impair the right of any subscriber or the Township to express any comment with respect to telephone accessibility to the Complaint Officer or impair the right of the Complaint Officer to take any action that is permitted under law.

**SECTION 10. MUNICIPAL COMPLAINT OFFICER.**

The Office of Cable Television is hereby designated as the Complaint Officer for the Township pursuant to N.J.S.A. § 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. § 14:17-6.5. The Township shall have the right to request copies of records and reports pertaining to complaints by Township customers from the OCTV.

**SECTION 11. LOCAL OFFICE.**

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. § 14:18-5.1 for the purpose of receiving, investigating, and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters

**SECTION 12. PERFORMANCE BOND.**

During the life of the franchise the Company shall give to the Township a bond in the amount of Twenty-Five Thousand Dollars (\$25,000). Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

**SECTION 13. SUBSCRIBER RATES.**

The rates of the Company shall be subject to regulation as permitted by federal and state law.

**SECTION 14. COMMITMENTS BY THE COMPANY.**

a. The Company shall continue to provide Basic cable television service at no cost to one (1) to outlet at no cost to each qualified existing school and library in the Township, public and private, elementary, intermediate, and secondary, provided the school building is within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school or library requesting service.

b. The Company shall continue to provide Basic cable television service at no cost to one (1) to outlet at no cost to each qualified existing and future municipal building, police, fire, emergency management facility and public library in the Township, provided the facility is located within two hundred (200) feet of active cable distribution plant or through customer owned conduit. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Township.

c. Within six months of the issuance of a Renewal Certificate of Approval by the BPU, the Company shall provide to the Township a one-time Access Capital Grant in the amount of \$30,000 to meet the Access capital needs of the community.

d. The Communications Act of 1934, as amended [47 U.S.C. § 543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, education, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves its external cost, pass-through rights to the full extent permitted by law.

SECTION 15. GOVERNMENTAL ACCESS

- a. The Company shall continue to make available one (1) dedicated municipal access channels for use by the Township.
- b. The Company does not relinquish its ownership of or ultimate right of control over the channels by designating it for municipal access use. An access user acquires no property or other interest by virtue of the use of a channel so designated and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use.
- c. The Company will maintain the cable, modulators, and equipment necessary for the signal to be sent to the Company, and to receive the return feed of the signal.
- d. The Company shall not exercise editorial control over any governmental use of channel by the Township, except Company may refuse to transmit any access program or portion of any educational or governmental access program that contains obscenity, indecency, or nudity.
- e. Company Use of Fallow Time. Because blank or underutilized channel are not in the public interest, in the event the Township or other qualified access users elect not to fully program their access channel, Company may program unused time on those channels subject to reclamation by the Township upon no less than 60 days written notice.
- f. Indemnification. The Township shall indemnify Company for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties on the channel and from claims arising out of the rules for or administration of access channel and its programming.
- g. The Communications Act of 1934, as amended [47 U.S.C. § 543 (b)], allows the Company to itemize and/or identify: (1.) the amount on the subscriber bill assessed as a franchise fee and the identity of the governmental authority to which the fee is paid; (2.) the amount on the bill assessed to satisfy any requirements imposed on the Company by the cable franchise to support public, education, and/or governmental access channels or the use of such channels; and (3.) any grants or other fees on the bill or any tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber. The Company reserves its external cost, pass-through rights to the full extent permitted by law.

SECTION 16. EMERGENCY USES.

- a. The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.
- b. The Company shall in no way be held liable for any injury suffered by the Township or any other person, during an emergency, if for any reason the Township is unable to make full use of the cable television system as contemplated herein.

SECTION 17. LIABILITY INSURANCE.

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of One Million Dollars (\$1,000,000) covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or “umbrella”) policy in the amount of Five Million Dollars (\$5,000,000).

SECTION 18. INCORPORATION OF THE APPLICATION.

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the

Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with application State or Federal law.

SECTION 19.                   COMPETITIVE EQUITY.

Should the Township grant municipal consent for a franchise to construct, operate and maintain a cable television system to any other person, corporation, or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of

N.J.A.C. § 14:17-6.7.

SECTION 20.                   SEPARABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 21.                   THIRD PARTY BENEFICIARIES.

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.

SECTION 22.                   EFFECTIVE DATE.

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval from the BPU.

**NEW BUSINESS**

Steering Committee for Recreation & Open Space Master Plan Review

Mr. McDonald advised that at the last meeting, the Township Committee had decided it would like to proceed with a review of the Master Plan Element update regarding recreation and open space. He was looking for clarification from the Township Committee of how they would like this to move forward. Deputy Mayor Vinayak asked what was the quickest way to get through this. Mr. McDonald advised that the best way would be to start with a resolution that would be forwarded to the Planning Board with the Township Committee's recommendation. He noted that the Master Plan would assist with long term planning on how they would like the town to look in the future.

Mr. Maraziti clarified that the function of preparing the Master Plan would be primarily with the Planning Board. The resolution would be a recommendation that the Planning Board create a steering committee for guidance consisting of certain people. Mr. Cohen noted he would like two members of the public, possibly coaches, to be part of the committee; Deputy Mayor Vinayak and Ms. Romano agreed. Mr. McDonald advised that he would make the revisions and it would be presented at the next meeting for consideration.

**Adjournment**

**March 21, 2023**  
**Millburn Township Committee Meeting Minutes**

Deputy Mayor Vinayak asked for a motion to adjourn the meeting. Mr. Cohen made a motion to adjourn; the motion was seconded by Ms. Romano to adjourn the meeting at 8:45 PM. Vote: All Ayes.

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Christine A. Gatti, RMC  
Municipal Clerk

Approved: May 2, 2023