

Millburn Township Committee Special Emergency Meeting Minutes

Minutes of the Special Meeting of the Township Committee of the Township of Millburn, in Essex County, New Jersey, held in Town Hall starting at 10:00 AM on the above date in order to hold a special emergency session.

Mayor Prupis opened the meeting and read the following statement: this Meeting is being held pursuant to the provisions of NJSA 10:4 – 9 in order to consider and potentially act upon items of an urgent nature. The Township received a comprehensive draft of a Settlement Agreement from the Fair Share Housing Center on July 28 followed by the provision of a comprehensive reply Settlement Agreement concurring on all of the major terms thereof with certain clarifying language. During the course of its review and return of the comprehensive draft coupled with conversations between Elizabeth McManus PP and Adam Gordon Esq. of FSHC, additional comments and provisions were submitted by Counsel for to interested party developers. All parties were actively engaged in attempting to conclude the Settlement Agreement but in light of the fact that the Court had set July 31, 2021 as the date upon which the Township's immunity is to expire absent further action by the Court, it became necessary to hold a public meeting notwithstanding that it was impossible due to these time constraints to give the normal notice required pursuant to the Open Public Meetings Act. Nevertheless the Act makes provision for such circumstances and permits a public meeting to be held upon the affirmative vote of three quarters of the members of the public body to deal with matters of urgency and importance, this meeting is being held. The Township clerk has given notice in accordance with the provisions of NJSA 10:4 – 9 (see) Under the circumstances the Township Committee could not have reasonably foreseen the need for a meeting at a time when normal adequate notice could have been provided.

Mayor Prupis called for a roll call. Upon call of the roll, the following Committee members were recorded present: Tara Prupis, Dianne Thall Eglow, Maggee Miggins, Sanjeev Vinayak (Remotely, Via Zoom), and Richard J. Wasserman. Also present were Business Administrator Alexander McDonald, Township Clerk Christine Gatti, and Township Attorney Christopher Falcon

RESOLUTION

Mayor Prupis asked for a motion to approve Resolution 21-216. A motion was made by Mr. Wasserman to approve the resolution, seconded by Ms. Thall Eglow.

Roll Call Vote: All Ayes

**RESOLUTION 21-216
AUTHORIZE EMERGENCY MEETING**

WHEREAS, an Millburn Township Committee Emergency meeting has been called for the purpose of conducting a closed session meeting to discuss: Attorney Client Privileged briefing on pending Litigation/ Court Ordered Mediation involving the Declaratory Judgment Action, Fair Share Housing Center, Woodmont Properties and Annie Sez Property. Open session and formal action may be taken thereafter to consider the approval of a Settlement Agreement concerning In the matter of the Township of Millburn, county of Essex, docket no. ESX-L-2778-18"

WHEREAS, the normal requirements of the law regarding 48 hours' notice have not been met due to lack of time and subject matter, however notices of this Emergency Meeting were sent to the official newspapers of the township, the Item of Millburn Short Hills and the Star Ledger; and which notice provided that at 10:00 a.m. on July 30, 2021, that the Millburn Township Committee will hold the Special Emergency Meeting in order to hold a closed session at the Municipal Building in the meeting room, located at 375 Millburn Avenue, Millburn; and

WHEREAS, this emergency meeting is called in order to prevent substantial harm to public interest likely to result from a delay in holding the closed session meeting and thereafter an open session to possibly consider a settlement agreement; and

WHEREAS, the need for such adequate notice could not reasonably have been foreseen at a time when adequate notice could have been provided.

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NOW THEREFORE BE IT RESOLVED by the Millburn Township Committee of the Township of Millburn, County of Essex, authorizes the Emergency Meeting on July 30, 2021 at 10:00AM by 3/4ths of the members of the Township Committee

PUBLIC COMMENT

Mayor Prupis asked if anyone had questions or comments.

Jeffrey Feld, of 11 Alexander Lane, provided comments on the emergency meeting. He questioned the settlement and believed the terms should be provided to the public. He voiced his displeasure with the Committee.

Mayor Prupis closed public comment.

Mr. Vinayak noted that he understood Mr. Feld’s concerns and asked Mr. Falcon if the details could be released. Mr. Falcon advised due to confidentiality requirements of the court it could not be released prior to. He advised the settlement agreement would be provided once it was fully executed.

Mr. Wasserman also addressed Mr. Feld’s concerns and advised the Committee was the courts instructions.

Mayor Prupis asked Mr. Feld to not disrupt the meeting.

Mayor Prupis and Ms. Miggins recused themselves from the meeting and Deputy Mayor Wasserman took over as Chairman of the meeting.

Mr. Falcon advised the reasoning for Mayor Prupis’ and Ms. Miggins’ recusal and noted they had not taken part in any part of mediations.

Mr. Vinayak questioned and suggested that if there were items that could be released to the public that they should. Mr. Falcon reiterated that the documents once executed are available for release to the public.

RESOLUTION

Deputy Mayor Wasserman asked if there were any comments in regard to Resolution 21-217, receiving none; Deputy Mayor Wasserman asked for a motion to approve Resolution 21-217 in order to enter into closed session. A motion was made by Mr. Vinayak to approve the resolution, seconded by Ms. Thall Eglow

Vote: All Ayes

**RESOLUTION 21-217
RESOLUTION TO CLOSE SESSION**

WHEREAS, Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the Public from a meeting under certain circumstances; and

WHEREAS, this public body is of the opinion that such circumstances do exist;

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

1. The public shall be excluded from discussion of and action upon the hereinafter specified subject matters;

The general nature of the subject matter to be discussed is as follows:

- a.) Pending Litigation – Attorney Client Privileged briefing on pending Litigation/ Court Ordered Mediation involving the Declaratory Judgment Action, Fair Share Housing Center, Woodmont Properties and Annie Sez Property

2. The minutes of the discussions shall be made public as soon as the matters under discussion are no longer of a confidential or sensitive nature.

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The Township Committee entered into closed session and returned to open session immediately following their closed session meeting.

RESOLUTION

Deputy Mayor Wasserman asked for a motion to approve Resolution 21-218. A motion was made by Ms. Thall Eglow to approve the resolution, seconded by Mr. Vinayak.

Roll Call Vote: All Ayes, except Ms. Miggins and Mayor Prupis who recused

RESOLUTION 21-218

AUTHORIZE EXECUTION OF A SETTLEMENT AGREEMENT WITH FAIR SHARE HOUSING CENTER AND OTHER DESIGNATED INTERESTED PARTIES AND IN ADDITION TO AUTHORIZE THE EXECUTION OF A CONSENT ORDER

WHEREAS the Township of Millburn ("Township") commenced litigation on April 19, 2018 captioned "In the Matter of the Township of Millburn, County of Essex, Docket No. ESX – L – 2778 – 18", in order to obtain a declaration of its compliance with its constitutional obligation to provide a reasonable opportunity for the development of affordable housing; and

WHEREAS the Township has participated in numerous confidential Mediation proceedings as directed by the Superior Court of New Jersey and presided over by Frank Banisch, PP, the Special Master appointed by Judge Robert H. Gardner; and

WHEREAS the Township and the Fair Share Housing Center ("FSHC") have engaged in good faith negotiations and discussions in order to reach a settlement to present to the Court; and

WHEREAS the Township Committee has met this day to review and discuss the proposed settlement agreement most recently provided by FSHC on July 28, 2021 following numerous negotiations and has been briefed by Elizabeth McManus, PP and Edward Buzak, Esq., Special Affordable Housing Counsel on the terms and conditions of the Settlement Agreement which is in near final form; and

WHEREAS the Township Committee supports and agrees with the principal provisions of the same subject to the need for the parties to conclude certain clarifying language and further subject to the approval of the Agreement by all of the interested parties; and

WHEREAS the Township Committee is informed that counsel for the two developer interested parties will be submitting additional provisions particular to their projects for inclusion in the Settlement Agreement;

NOW THEREFORE BE IT RESOLVED on this 30th day of July 2021 as follows:

1. The Deputy Mayor is authorized and directed to execute the final form of Settlement Agreement.
2. In the event that the parties elect to submit a Consent Order to the Court in the form annexed hereto, Edward Buzak, Esq. is authorized to execute the said Consent Order on behalf of the Township.
3. This Resolution shall take effect immediately and shall be provided today to Judge Gardner and to Counsel for the interested parties.

ADJOURNMENT

Deputy Mayor Wasserman asked if anyone had any remaining comments or questions. Receiving none, Ms. Thall Eglow made a motion to adjourn the special meeting which was seconded by Mr. Vinayak. The meeting was adjourned at 12:30PM. Vote: All Ayes

Christine A. Gatti, RMC
Township Clerk

Approved: October 19, 2021