

September 15, 2020

Millburn Township Committee Meeting Minutes

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

Mayor Lieberberg opened the meeting and read the following statement:

In accordance with Section 5 of the Open Meetings Act, Chapter 231, Public Laws, 1975, are advised that notice of this meeting was made by posting on the Bulletin Board, Town Hall, and serving the officially designated newspapers, a notice stating that this meeting would take place at the Town Hall at 7:00 PM on September 15, 2020.

Mayor Lieberberg 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, Tara B. Prupis, Dianne Thall Eglow and Richard J. Wasserman. Also present were Business Administrator Alexander McDonald, Township Clerk Christine Gatti (remotely, via Zoom), Cheryl H. Burstein (remotely, via Zoom), Township Attorney Christopher Falcon (remotely, via Zoom) and Assistant Administrator Jimmy Homs.

Approval of Agenda

Mayor Lieberberg asked for a motion to revise the agenda to remove Ordinance 2566-20. The motion was offered by Ms. Thall Eglow and seconded by Mr. Wasserman.

Vote: All Ayes

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

Vote: All Ayes

Reports

Mayor Lieberberg reported and provided the following statement.

“We currently have 178 cases of Covid 19 in the Township. Essex County is reporting 20,435, 83% have recovered. These are cumulative cases and those residents that have recovered are still counted as part of our total. As you all know, Governor Murphy has mandated that masks be worn at all times—when social distancing is not possible. Essex County continues to offer free testing for residents multiple times per week—please register at EssexCovid.org We have extended outdoor dining on Main Street through September 27th and have received positive feedback that residents are enjoying the outdoor dining, fitness events and overall community engagement. Please be sure to participate and support all that our local businesses have to offer. AND REMEMBER to wear your masks at all times in accordance with Executive Order 163 in public spaces where social distancing is not possible. Friday, Sept 4th Governor Murphy signed executive order 183 yesterday which allows for indoor seating up to 25% capacity. Please remember to wear your masks at all times when Social Distancing is not possible. Please remember that parking fees are now being collected. The township had been on a fee hiatus since mid-March and we are grateful to the Township for this break. On September 24, Essex County will be providing another COVID-19 testing site in Millburn. The testing site will be located in Lot 7 at the Millburn Train Station. Lot 7 will be closed on this date and commuters are encouraged to use Lot 9 (Library) and the parking deck. The Township will share additional information once it is made available. On Wednesday, September 9th, at 7 PM the Township hosted a ZOOM call with our Police Chief Brian Gilfedder where by the chief shared Millburn’s Policies and Procedures regarding training, community safety with our Police Department. A transcript of the Zoom call is posted on the website. The Fire Department held a small ceremony on the morning of Sept 11th to honor and remember the 3000+ souls that lost their lives on that horrific sad day for our nation and the world. We are grateful for the service of our Fire and Police Departments that continue to keep us all safe in our community. Essex County will

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be providing a ballot box at town hall, ballots are anticipated to be mailed on or about September 28th. Please continue to consult our website for additional details. Thank you.”

Ms. Prupis thanked the groups that sponsored *Tour de Millburn* and noted there were about two hundred different bikes that rode at the event. The Pedestrian Safety Advisory Board (PSAB), Bike Walk Millburn and The Environmental Commission were all involved in the event. She took the opportunity to address raising commemorative flags in the township after serious reflect and advice from council she set forth to amend and postpone her efforts to raise the Black Lives Matter Flag (BLM) Flag in Millburn Township. Her declaration and support for resolving justice issues had not wavered. She suggested her motion be incorporated under or forwarded to a Diverse Policy Committee that would set the rules and regulations for such advocating whose mission would be to establish protocols for flag and banner flying requests. She advised that she was still in complete support of raising the BLM flag and the support was not intended to cause division within the township but to shed light on what already existed. She added that it was a driving factor to run for office for people who didn't have a voice or a say in politics. She pointed out that under New Business she would talk to her fellow Committee members on how they felt about a Diversity Commission to address the issues. She thanked those who supported and trusted her position on the Township Committee.

Mr. Wasserman thanked both Mayor Lieberberg and Deputy Mayor Prupis. He stated that they all wanted to do what was right for the community. The Special Improvement District (SID) had their inaugural meeting on September 10th where board leadership was selected. He indicated that they have set up five subcommittees in order to commence strategic initiatives. He stated that the job description for the Executive Director was finalized. He added that a part-time public relations and media professional joined the team to assist with marketing for the fall season. Mr. Wasserman advised that the meeting could be viewed on the township's website. He pointed out that Volunteer Interest Forms would also be made available for members of the public that would like to be part of the subcommittees. He thanked Ms. Prupis and those involved with the *Tour de Millburn* event. Mr. Wasserman thanked the Fire Department for hosting the 9/11 memorial event. He stated that he has spoken to many restaurant owners and hoped to consider keeping Main Street closed longer.

Ms. Thall Eglow agreed that the 9/11 memorial event was beautiful. Ms. Thall Eglow reported and submitted the following statement. “Last year, early in 2019, the Township Committee passed Resolution 20-035. The Resolution provided for the appointment of individuals to the Advisory on Culture, Engagement, Diversity and Arts. CEDA it begins: WHEREAS; Millburn township is a community composed of people with a wide variety of faiths, philosophies and backgrounds and can become stronger, more cohesive and more interesting by embracing its diversity; and WHEREAS; the Township committee created the Advisory Committee to assist local cultural organizations in highlighting programs that recognize and showcase the diversity in CULTURE and arts in Millburn Township. We put 14 residents of diverse backgrounds on this committee, which Jackie became the Chair. Including a representatives from the Paper-mill and a Millburn High school counselor. We had an exciting roll out with over 30 artistic hand decorated wheels in Taylor Park last spring, many are still showcased around town. The committee was also meant to ask and answer; however the committee was also meant to ask and answer are there feelings, real or perceived of racism in town that leave some residents uncomfortable. The goal was always to unify our community not divide and if the committee had seen that through perhaps we would have been in the unfortunate situation we are now in. I would like to offer the forming of and sitting on a subcommittee within this already established CEDA committee that will look at issues in the township that may be silently brewing. The Mayor has the authority to do this, this evening, and I would encourage this and ask a fellow TC member join me on this subcommittee for the remainder of 2020. I would like to see a mission statement established that will move us towards social justice and engage in an open dialogue within our community. Perhaps this subcommittee with community input can create a neutral a banner that speaks to all our different voices. And put forth a resolution against hate, racism, violence yet respects and honors our police, fire department and all first responders. We must all work together to be inclusive and respect our neighbors and friends with different backgrounds, races, religions, and opinions.”

She asked the Mayor as she was unaware Mayor Lieberberg was planning on creating a subcommittee and she would like to be on that subcommittee. Mayor Lieberberg advised that the Committee should be looked into and perhaps be under the CEDA committee she expressed the Committee should look into having teachers and students, as well as some merchants as part of the committee. Mayor Lieberberg used other towns as examples of the kind of committees they had; therefore, she would like to give the subcommittee more thought.

Ms. Burstein did not have any reports. She stated that she was shocked on the vote at the last meeting in regards to the Black Lives Matter Flag seeing she was told there would be no vote. She agreed with Mayor Lieberberg on creating a subcommittee.

Mr. McDonald updated the Committee that the Taylor Park bathroom project was complete and open. He advised that the bathroom would be locked at 7:00 p.m. each evening. He added that the water filling station was in process and would be installed. He reported that the Lot 5 entrance reconfiguration project which would include a pedestrian activated beacon had begun.

Mr. Falcon did not have any reports.

Joseph Maraziti, of Maraziti Falcon, LLC, advised that a resolution is on the agenda for consideration in order to authorize the execution of a professional service contractor, Perkins Eastman, in order to undertake the downtown plan which was presented at the last Committee meeting. He advised that there was discussion at the last meeting referring to Perkins Eastman lawsuits and he indicated that the lawsuits were settled. He noted that the lawsuits were filed on different services than what the township would be using Perkins Eastman for.

Public Comment

Mayor Lieberberg made the following statement:

“When invited to speak, please come to the lectern. Clearly state your name and address, and speak loudly so your comments may be understood by all and properly recorded. There was a properly noticed zoom webinar option for those that could not attend in person. If you are attending by computer or electronic device please click the raise hand button. All members of the public wishing to speak will be put in a queue. Please state your name and address so your comments may be properly recorded. Whenever an audience or Committee member reads from a prepared statement, please email a copy to the Township Clerk’s Office at townclerk@millburntwp.org. To help facilitate an orderly meeting speakers are asked to limit their comments to one 3 minute session. This is a business meeting and please do not address professionals or staff directly and please direct all comments to me. Please be patient and we will address each member of the public that wishes to speak.”

Mayor Lieberberg opened the public comment period.

Andrew Lane, of 806 Morris Turnpike, was not aware there was a 9/11 memorial and requested a moment of silence for the victims of the 9/11 tragedy. He recalled the events that occurred on that day. Since then many continue to pass due to the many ailments resulting from the attack. The Township of Millburn’s first responders assisted the City of New York. He asked to remember those who passed, those who continued to mourn and the first responders.

A moment of silence was observed.

Jillian Braunstein, of 45 Barnsdale Road, expressed the time had come to honor the Millburn Police Officers by observing national *Thank a Police Officer Day* on September 19th. She asked the Committee to show their community their appreciation for the Millburn Police Department by displaying the blue line flag in front of town hall. She pointed out that the flag was displayed on the Millburn PBA website in which it honored all fallen police officers. A petition sent out had over five hundred signatures.

Al Carlin, of 246 Millburn Avenue, believed Perkins Eastman presented an outdated inaccurate proposal. He stated that they disregarded the changed dynamic due to Covid-19. He believed an independent parliamentarian well versed in Robert’s Rules of Order be present at all future Committee meetings

instead of relying on the Township Attorney. He indicated that the motion made to fly the Black Lives Matter (BLM) flag at the September 1, 2020 meeting was technically out of order. Mr. Carlin expressed if the Committee believed in law and order they should faithfully adhere to Robert's Rules of Order.

Sujoy Menon, of 21 Elsway Road, disclosed he was the Republican candidate running for Township Committee. He stated an honest public discourse and dialogue was needed to be the bedrock of the community but that seemed to be lost in the Committee meetings. He added that the demeanor made it discouraging for other members of the public to participate. He listed issues the town was facing and stated those issues needed to be addressed with calmness and transparency.

Richard Futter, of 333 Millburn Avenue, stated most of the Committee members ran to fix the Complete Streets debacle. He added that there was very little support from the business community for Complete Streets. He pointed out that due to the lack of knowledge during Complete Streets the residents had now a heightened awareness and stronger opinions within the community. It was wrong to introduce a vision plan during a pandemic when businesses were more fragile than in Complete Streets. He also stated the difficulties residents faced when they watched a Township Committee meeting virtually. He recalled statements he asked during the September 1st and provided some ideas where Millburn would be put ahead of their growth curve.

Jeffery Feld, of 11 Alexander Lane, supplied two documents to the Committee members with a series of questions and stated he would like answers to his questions. He recommended the Township Committee adopt administrative code to avoid situations of new business walked on without public notice or comment. He recalled his comment during the last meeting where he asked why certain documents from the legislative packet were not provided to the public. He stated the agenda did not contain details in which the community should have been made aware of before the Committee voted on items of the agenda.

Carissa Reilly, of 72 Hillside Avenue, stated that she was personally disappointed in regard to the BLM flag. She expressed differences in the flags in relation to BLM as a movement and BLM as the organization. She revealed some research she conducted on the Blue Lives Matter movement which contained controversial statements that were fueled with violence. She supported the idea of a Committee that would address the ideals of anti-racism and it shouldn't sit within CEDA.

Mike Cohen, resident, stated that he did not see any upsides to flying the BLM flag and he only saw a downside and asked if the township would be legally liable if something occurred in town. He expressed that Millburn was a great town and if the Committee had a political agenda behind the reasoning of flying the flag he would like to know and asked the Committee to explain the upside of flying the flag.

Daniel Cannon, of 29 Bailey Road, indicated that the issues of raising flags had polarized the community. He hoped the Committee would listen to suggestions in order to unite the community once again. Even if the flag was flown for two weeks and was well intended it would not result in the change desired. He noted that he believed the Committee should refrain from affiliating with organizations and focus on values of inclusiveness, diversity and respect. He listed his approach then asked the Committee to consider the points stated and also requested the Committee reach far instead of short term decisions.

David Cosgrove, of 99 Oakview Terrace, recalled the Planning Board agenda which had an application for the Chatham Road development. He advised that they had requested to add a roof top deck to the top of the building. He believed the settlement agreement the town entered prohibited the roof top deck and asked what the Committee's thoughts were on the matter. Ms. Burstein advised Mr. Cosgrove's questions would be better answered by the Planning Board and asked Mr. Falcon if he had any input. Mr. Falcon advised that the application was in front of the Planning Board for the hearing process and the Township Committee would not be able to take positions with respect to applications before the Planning Board.

Ann Ludwig, of 46 Myrtle Avenue, shared her experience with a neighbor operating a short term rental property. She had addressed the issue in the past in regards to the safety concerns. She added that neighbors had contacted Code Enforcement to address many issues at the property. She stated that the renters posed health concerns as they were from a state with a high Covid-19 transmission. She encouraged the adoption of the short term rental ordinance.

Jenna Israel, of 16 Briarwood Drive, appreciated the vote on flying the BLM flag at town hall. She said there was no neutrality when faced with the BLM issue it was either for or against the cause. She referred to the thin blue line flag for the Blue Lives Matters cause had racist and white supremacist ties.

She read the following quote, "In the "thin blue line" mindset, loyalty to the badge is paramount; reporting excessive force or the use of racial slurs by a colleague is an act of treason. This emphasis on loyalty can create conditions for abuses, even systematic ones, to take place". She stated that if a policy was being thought of then one should be put in place when flying a flag with racist or white supremacist ties from being flown. She thanked the young people who worked so hard to present the flag raising to the Committee.

Jean Pasternak, of 342 Hobart Avenue, stated it was hard to hear everyone on Zoom. She thanked Andrew Lane for requesting the moment of silence for the victims of 9/11. Ms. Pasternak asked how the Committee would prevent a departure in the procedures and protocols with the proposal Ms. Prupis raised at the last meeting in regard to the BLM flag raising. She also stated Ms. Prupis provided some disparaging remarks to a candidate from the opposing political party and asked Mayor Lieberberg how that situation was dealt with and how it would be prevented in the future. She requested that Ms. Thall Eglow be included in the Committee to further look into matters in relation to the BLM movement. Ms. Pasternak seconded to recognize observing national *Thank a Police Officer Day* on September 19th.

Dominique Urso, spoke on behalf of her parents, Perri and Vincent Urso residing at 506 Millburn Avenue. She read the following statement prepared by Perri Urso. "I filed an ethics complaint against TC members with the Department of Consumer Affairs in Trenton. The Department of Consumer Affairs informed me of their acknowledgement. Thereafter, my attorney filed an Order to Show Cause with Complaint and subsequently a Summons with Amended Complaint against the Township Committee in Superior Court, Essex County, Chancery Division. The Township has not yet answered. The lawsuit seeks an Order nullifying the vote approving the SID ordinance and the disqualification of Tara Prupis from further voting on the SID ordinance. The Township Committee is well aware of this lawsuit (and others) wherein the actions of the Township Committee have been challenged as being improper for a number of reasons including conflict of interest. Yet, the Township Committee continues to act in its own interest. The Township Committee continues to ignore relevant and pertinent questions from Mr. Feld, myself and other members of the public who have been living and working here for many years. I received no answers to my many questions and I am hopeful that you are all in receipt of the latest 136 pages document concerning the Main Street SID sent to township clerk on Friday. The Township Committee ignores the many statements from knowledgeable observers that its actions are the polar opposite of transparent. The Township Committee has retained Perkins Eastman ignoring the concerns of those who brought to the attention of the townspeople the questionable actions by that firm leading to the settlement of a lawsuit against that firm. Don't we already have a revised Master Plan from 2018? Why all this carefree spending of Township money especially now during this pandemic that we have not yet recovered from. I would not a thank you for my time, I'd like answers to my questions, both of them please. Thank you."

Miles Mu, of 81 Mountain Avenue, asked if the Committee had contacted multi-family properties to see if they were willing to convert a portion of their units to affordable housing to meet the township's requirement on the affordable housing obligation.

Regina Truitt, of 385 Hartshorn Drive, was disappointed to hear the BLM flag flying was being rescinded. She stated that she reached out on various media channels to show her support for the flag and the movement. Ms. Truitt hoped one day the flag would indeed fly over town hall. She also hoped to hear more about the proposed Committee to tackle the difficulties people of color faced in the community. She expressed passionately that the time was now for black lives to be heard and included and to express to those individuals that they mattered. Ms. Truitt said there was a member of the Committee that frequently expressed her opinions and spoke derogatively toward members of the public on social media and she hoped the Committee would consider creating a Code of Ethics.

Maureen Marcketta, of 214 Passaic Avenue, wanted the Blue Line Flag flown all year round and pointed out that they represented the men and women who protected the community. She went over what the colors on the flag represented thanked Ms. Thall Eglow who spoke up for them.

Jade Wicker, of 85 Rector Street, commended the Committee and hoped they would still fly the BLM flag. She said the arguments voiced already existed, and due to recent events is why the matter was not discussed. Ms. Wicker stated residents who've called the police on other black neighbors were coming to light versus the residents who supported their black neighbors. Stating the matter would be further discussed was another way of avoiding the issue. Ms. Wicker went on to state the same members of the Committee that stated they wanted to be part of a subcommittee were the same people who ignored their emails to have the discussion on racism. She read off some upsetting comments she received on

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social media from residents. Ms. Wicker knew which police officers she could count on and which she could not.

Victoria Ramos, resident, oftentimes felt she wasn't welcome in the community. The conversation regarding race tended to be avoided and ignored. She felt it was really important that the conversation was happening in order to make everyone feel unified and comfortable living in town.

Eddy McCallis, of 46 Raleigh Place, recalled a situation at his home where a police officer was called to mediate. He stated the police run toward danger. He was shocked of the disdain for which the BLM movement had of the police. His parents were holocaust survivors and were scared of leaving the house due to the anarchistic movement occurring because of the BLM movement. He urged the Committee to honor the police by flying the Blue Line Flag.

Henry Knoll-Finn, of 14 Pine Terrace East, stated that it concerned him that the Committee went through a two month process with Mr. Knoll-Finn and other BLM supporters about the symbolism and the meaning of BLM in which they voted on and now rescinded the motion. He urged them to reconsider the decision.

Oladimeji Owolabi, of 46 Maple Street, asked what would raising the flag do and questioned if it would eliminate all of the issues black people were facing. She asked how the Committee reached the result and if policies were in place for raising the pride flag.

Nancy Stone, of 20 Fielding Road, responded to what Ms. Reilly commented and how she was not aware of the different connotation the Blue Line Flag had and it was a learning moment for her. Ms. Stone went on to state that certain Committee members had no regard for members of the public that had opposing views. She addressed the SID and mentioned the two lawsuits the Committee faced. She said the Committee members would be personally liable for anything the SID did if the Committee was found guilty. Ms. Stone hoped the Committee would vote on recognizing *Thank a Police Officer Day*. She shared her thanks to a select number of Committee members.

Mayor Lieberberg closed public comment.

Public Comment – Consent Agenda

Mayor Lieberberg advised Resolution 20-175 had been removed from the consent agenda. Ms. Thall Eglow asked in regards to Resolution 20-177 - Authorize Request for Proposals for Professionals, which professionals were request for proposals expected to be issued for. Mayor Lieberberg advised General Council and Township Planner. Ms. Thall Eglow asked why after they had already addressed changes two years ago. Ms. Prupis stated that she had felt rushed and not many candidates had been received. Ms. Prupis added that it was time to revisit the idea and see what professionals were interested. Per Ms. Prupis' request Ms. Thall Eglow explained the thought process of how the Pride Flag was flown and how it brought the community members together instead of having them divided.

Ms. Thall Eglow asked in regards to Resolution 20-185 - Authorizing a Professional Services Contract with Perkins Eastman Architects for The Performance of Planning Services in Connection with the Preparation of the Downtown Millburn Vision Plan if it was the agreement with the property owner to paint a mural on the wall in the walkway between Goldberg's Deli and if it was in fact in the agreement. Mayor Lieberberg provided some background information for members of the audience. She asked if there were any comments or questions regarding items on the Consent Agenda.

No additional comments or questions were presented.

Consent Agenda

Mayor Lieberberg 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

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**RESOLUTION 20-174
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 September 15, 2020, in the following accounts:

General	\$	535,446.21
Parking Utility - Operating Fund		622.59
Dog Trust Fund		168.40
SUI Trust Fund		5.00
PATFA II		924.00

RESOLUTION 20-176

DETERMINING THE FORM AND OTHER DETAILS OF ITS “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 \$1,230,000, AND PROVIDING FOR THE ISSUANCE AND SALE OF SUCH NOTE TO THE NEW JERSEY INFRASTRUCTURE BANK, AND AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH NOTE 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;

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;

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 Phase I of the Joint Meeting’s Flood Mitigation Facilities Project consisting of the construction of an Effluent Pumping Station, which will be connected to the existing twin outfall channels to the Arthur Kill tidal strait (the “Joint Meeting Project”);

WHEREAS, it is the desire of the Local Unit to obtain financing for its allocable share 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”);

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 a short-term loan to be made by the I-Bank (the “Construction Loan”) to the Local Unit, pursuant to the Water Bank Construction Financing Program of the I-Bank (the “Construction Financing Program”);

WHEREAS, the United States Federal Emergency Management Agency (“FEMA”) has approved the scope of Phase I of the Project and, consequently, has agreed to fund up to 90% of the costs of planning and constructing the Project;

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

WHEREAS, in order to (i) evidence and secure the repayment obligation of the Local Unit to the I-Bank with respect to the Construction Loan 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 “Note Relating to the Water Bank Construction Financing Program of the New Jersey Infrastructure Bank” in an aggregate principal amount of up to \$1,230,000 (the “Note”);

WHEREAS, it is the desire of the Local Unit to authorize, execute, attest and deliver the Note 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;

WHEREAS, Section 28 of the Local Bond Law allows for the sale of the Note to the I-Bank without any public offering, and N.J.S.A. 58:11B-9 allows for the sale of the Note 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 Note for the purpose of financing the costs 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, in substantially the form attached hereto as Exhibit B.

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 Note (and any renewals thereof) in accordance with the provisions hereof. The obligation represented by the 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, at which time a quorum was present and acted throughout, all pursuant to the terms of the Local Bond Law and other applicable law.

Section 2. 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 Note (subject to the maximum limitation set forth in Section 4(a) hereof), and (ii) the dated date of the Note.

Section 3. Any determination made by the Chief Financial Officer pursuant to the terms hereof shall be conclusively evidenced by the execution and attestation of the Note by the parties authorized pursuant to Section 4(h) hereof.

Section 4. The Local Unit hereby determines that certain terms of the Note shall be as follows:

- (a) the principal amount of the Note to be issued shall be an amount not to exceed \$1,230,000;
- (b) the maturity of the Note shall be as determined by the I-Bank, and the Note may be renewed from time to time as may be determined by the I-Bank;
- (c) the interest rate of the Note shall be as determined by the I-Bank;
- (d) the purchase price for the Note shall be par;
- (e) the Note shall be subject to prepayment prior to its stated maturity in accordance with the terms and conditions of the Note;
- (f) the Note shall be issued in a single denomination and shall be numbered "NJWB - CFP-2020-1-JM-FEMA";
- (g) the Note 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 Note 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, printed, engraved or reproduced thereon and attested by the manual signature of the Local Unit Clerk.

Section 5. The Note shall be substantially in the form attached hereto as Exhibit A.

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Section 6. The law firm of Rogut McCarthy LLC is hereby authorized to arrange for the printing of the Note, which law firm may authorize McCarter & English, LLP, bond counsel to the I-Bank for the Construction Financing Program, to arrange for same.

Section 7. The Agreement, in substantially the form attached hereto as Exhibit B 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 is 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.

Section 8. 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 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 Note 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 Note and the Agreement and the participation of the Local Unit in the Construction Financing Program.

Section 9. This resolution shall take effect immediately.

Section 10. 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.

RESOLUTION 20-177 AUTHORIZING A REQUEST FOR PROPOSALS

BE IT RESOLVED by the Township Committee of Millburn in the County of Essex, that the Township Clerk be and is hereby authorized and directed to advertise, as required by law, in the ITEM, a newspaper published in said Township, a request for proposals to be received by the Township Administrator's Office of the Township of Millburn in the County of Essex, New Jersey, for various Township Professional Services for 2021;

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

RESOLUTION 20-178 AUTHORIZING THE EXECUTION OF A ONE (1) YEAR CONTRACT EXTENSION WITH GIORDANO COMPANY, INC. FOR THE COLLECTION, REMOVAL & DISPOSAL OF SOLID WASTE AND RECYCLABLE MATERIALS

WHEREAS, the Township entered into a contract with Giordano Company, Inc., 142-156 Frelinghuysen Avenue, Newark, NJ 07114 in 2017 for the Collection, Removal & Disposal of Solid Waste and Recyclable Materials commencing on March 1, 2017 and ending on December 31, 2019 with two additional one-year options to extend the contract in the Township's discretion; and

WHEREAS, the Millburn Township Business Administrator has recommended exercising the Township's option by renewal of this contract with Giordano Company, Inc. and the Township of Millburn authorizes the execution of the second and final one (1) year option to extend the contract with the same terms and conditions until December 31, 2021; and

WHEREAS, the cost of the one (1) extension as bid by Giordano Company, Inc. will be \$650,960 for the collection, removal and disposal of solid waste and \$259,040 for the collection, removal and disposal of recyclable materials for 2021; and

WHEREAS, the Township reserves the right to terminate the contract at any time, providing the contractor is given (30) days written notice;

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

**RESOLUTION 20-179
AUTHORIZING THE EXECUTION OF A ONE (1) YEAR CONTRACT EXTENSION TO SUBURBAN DISPOSAL, INC. FOR THE TRANSPORTATION, DISPOSAL AND REMOVAL OF TYPE 13 WASTE FROM THE DEPARTMENT OF PUBLIC WORKS YARD**

WHEREAS, the Township of Millburn entered into a contract with Suburban Disposal Inc., 54 Montesano Road, Fairfield, NJ 07004, in 2017 for the Transportation, Disposal and Removal of Type 13 Waste from the Department of Public Works Yard commencing on March 1, 2017 and ending on December 31, 2019 with two one-year options to extend the contract in the Township's discretion; and

WHEREAS, the Millburn Township Business Administrator has recommended exercising the Township's option by renewal of this contract with Suburban Disposal, Inc. the Township of Millburn authorizes the execution of the second and final one (1) year option to extend the contract with the same terms and conditions until December 31, 2021; and

WHEREAS, the cost of the one (1) extension as bid by Suburban Disposal, Inc. is \$245 per load for 2021; and

WHEREAS, the Township reserves the right to terminate the contract at any time, providing the contractor is given thirty (30) days written notice;

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

**RESOLUTION 20-180
APPROVE RAFFLE LICENSE**

WHEREAS, the following has submitted an 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:

St. Rose of Lima Academy

**RESOLUTION 20-181
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;

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

- a.) Settlement Agreement Revision - Chai Center
- 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.

**RESOLUTION 20-182
CONFIRM FIRE DEPARTMENT PROMOTIONS**

WHEREAS, the Township of Millburn is in need of Fire Captains; and

WHEREAS, Augustin Muresan and Theodore Beady have met the criteria set-down for Fire Captain 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 Augustin Muresan and Theodore Beady to the rank of Fire Captain, effective September 16, 2020.

**RESOLUTION 20-183
AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY
USE AGREEMENT BETWEEN THE TOWNSHIP OF MILLBURN AND
PROPERTY OWNER TO ALLOW INSTALLATION OF A MURAL ON THE PROPERTY LOCATED AT
321 MILLBURN AVENUE**

WHEREAS, the Township desires to create a vibrant Downtown area in order enhance the community and encourage tourism and commerce in the Township; and

WHEREAS, as part of its efforts to create a vibrant Downtown area, the Township intends to install original artwork in the form of one or more murals (the "Mural" or "Murals") at various locations in the Downtown area, including at the Property located at 321 Millburn Avenue, and owned by 321 Millburn TIC, LLC ("Owner"); and

WHEREAS, the Owner recognizes that the purpose is mutually beneficial to the Township and the Owner and therefore desires to have a Mural installed on the side of his building; and

WHEREAS, the Township finds that it is necessary and desirable to enter into an Agreement to provide for the installation of the Mural, which Agreement expressly sets forth the respective rights, duties, and obligations of the parties ("Mural Agreement").

NOW, THEREFORE, BE IT RESOLVED by the Township Committee in the Township of Millburn in the County of Essex and the State of New Jersey on this 15th day of September, 2020 as follows:

- 1. The Mayor is authorized to execute the Mural Agreement between the Township of Millburn and 321 Millburn TIC, LLC in substantially the same form as attached hereto.
- 2. Copies of the Mural Agreement shall be on file for public inspection pending execution of the same.
- 3. This Resolution shall take effect immediately.

Resolution

Resolution 20-184

Mayor Lieberberg brought forth Resolution 20-184 Authorization of Set-up of Reserve for Preliminary Planning Expenses for the Downtown Area Vision Plan, Mr. McDonald provided an explanatory statement. Mayor Lieberberg asked for a motion to approve Resolution 20-184. Ms. Prupis made a motion to approve Resolution 20-184 which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

RESOLUTION 20-184

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AUTHORIZATION TO SET UP A RESERVE FOR PRELIMINARY PLANNING EXPENSES FOR THE TOWNSHIP OF MILLBURN FOR THE DOWNTOWN AREA VISION PLAN

WHEREAS, the Township Committee of the Township of Millburn hereby acknowledges the need for preliminary costs associated with the planning and study of the Township's Downtown Area Vision Plan; and

WHEREAS, the amount to be charged for this project will be used to fund the professional services, engineering, design and study of the Downtown Area Visionary Improvement Plan in an amount not to exceed \$190,000.00;

NOW, THEREFORE, BE IT RESOLVED that the amount appropriated for preliminary costs shall not exceed \$190,000.00 and the Chief Financial Officer is (authorized or directed) to set up a "Reserve for Preliminary Expenses" out of the Capital Improvement Fund of the General Capital Fund.

Resolution 20-185

Mayor Lieberberg brought forth Resolution 20-185 Award Professional Services Agreement for Preparation of the Downtown Vision Plan by Perkins Eastman. Mr. McDonald provided an explanatory statement. Ms. Burstein asked to confirm the contract was reviewed by township council. Mr. Falcon advised yes, as the agreement was prepared by council. Mayor Lieberberg asked for a motion to approve Resolution 20-185. Ms. Prupis made a motion to approve Resolution 20-185 which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

RESOLUTION 20-185

AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH PERKINS EASTMAN ARCHITECTS DPC FOR THE PERFORMANCE OF PLANNING SERVICES IN CONNECTION WITH THE PREPARATION OF THE DOWNTOWN MILLBURN VISION PLAN

WHEREAS, the 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 a Township; and

WHEREAS, at the February 18, 2020 Township Committee meeting, Paul Phillips, Township Planner, and Deputy Mayor Prupis presented the suggestion to seek consultants to prepare a Downtown Area Vision Plan for Millburn Township; and

WHEREAS, the Township Committee unanimously agreed at that time to create a subcommittee (the "Subcommittee") to steer the Downtown Area Vision Plan process until such time as a recommendation could be made to the Township Committee; and

WHEREAS, on February 25, 2020 the Township issued a Request for Proposals ("RFP") seeking to engage planning firms that may be interested in consulting with the Township in the preparation of a Downtown Area Vision Plan, with a deadline, which had been extended by addendum of April 16, 2020; and

WHEREAS, the Township received six (6) responses to the RFP. The interview committee consisting of Deputy Mayor Prupis, Committeeman Wasserman, Planning Board Chair Zall, Planning Board Members Mastropietro and Baer, Business Administrator McDonald, Township Planner Phillips and Council Maraziti received presentations and undertook interviews with four (4) of the firms, on June 9 and 10, 2020. Thereafter two (2) of the four (4) candidates for further interviews with Deputy Mayor Prupis, Committeeman Wasserman and Business Administrator McDonald on July 2 and July 8, 2020; and

WHEREAS, the Subcommittee carefully considered each of the firms and have recommended that Perkins Eastman be engaged by the Township for reasons including, but not limited to:

- Perkins Eastman provided an excellent presentation with succinct and thorough answers to the interview panel's questions. This included relevant work experience in other communities; some substantially similar to Millburn.
- Thoughtful consideration of the current global health crisis in presenting a public engagement plan

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- The synergy and experience of their team members was apparent. Furthermore, each of the team members are involved in land use boards in their respective communities. This is an added benefit to their understanding of the challenges that municipalities face in all types of land use issues.
- Were clear that they want to produce a plan that results in actionable items
- A strong willingness to negotiate and work with the Township on scope of work and pricing. Perkins Eastman reduced their cost for the vision plan by 31 % to \$189,690.

WHEREAS, in accordance with the recommendation of the Subcommittee, the Township has determined to engage Perkins Eastman in the preparation of the Millburn Downtown Area Vision Plan as set forth in its Proposal of Perkins Eastman Architects, DPC, dated April 16, 2020, as further revised on September 15, 2020, which is Proposal is annexed as **EXHIBIT A**.

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

The Township of Millburn hereby engages the professional services of Perkins Eastman to perform the services described in the Proposal dated April 16, 2020, as further revised on September 15, 2020, in an amount not to exceed \$189,650.00 without prior written approval of the Township Committee.

1. The Mayor and Township Clerk are authorized to execute the Professional Services Contract with Perkins Eastman Architects, DPC.
2. This Resolution shall be published in accordance with N. J. S. A. 40 A: 11 – 5 (1)(a)(i).
3. This Resolution shall take effect as provided by law.
4. Funding to effectuate this Resolution is available pursuant to the Resolution to Set Up a Reserve for Preliminary Planning Expenses for the Township of Millburn for the Downtown Area Vision Plan, adopted September 15, 2020.

Resolution 20-186

Mayor Lieberberg brought forth Resolution 20-186 - Constitute and Provide for the Operation of a Steering Committee to Act in Conjunction with the Downtown Area Vision Plan and to Appoint Individuals to the Steering Committee as Identified for Service on the said Committee. Ms. Thall Eglow asked how the people were chosen for the steering committee and she recalled the lack of communication when picking members for other boards and committees. Ms. Prupis announced the names of those to be part of the committee which were mostly chairs of other board and committees to steer the committee and work with Perkins Eastman. She referred to a timeline provided by Perkins Eastman. Ms. Thall Eglow emphasized the information would be on the website for the public to view. Mr. Wasserman recalled that anything outside of the scope would have to be evaluated and receive approval before extra costs were paid out. Mayor Lieberberg asked for a motion to approve Resolution 20-186. Ms. Prupis made a motion to approve Resolution 20-186 which was seconded by Mr. Wasserman.

Roll Call Vote: All Ayes

RESOLUTION 20-186

CONSTITUTE AND PROVIDE FOR THE OPERATION OF A STEERING COMMITTEE TO ACT IN CONNECTION WITH THE DOWNTOWN AREA VISION PLAN AND TO APPOINT INDIVIDUALS TO THE STEERING COMMITTEE POSITIONS IDENTIFIED FOR SERVICE ON THE SAID COMMITTEE

WHEREAS, the Township is currently undertaking a Downtown Areas Vision Plan; and

WHEREAS, the Township desires to appoint a Steering Committee (“Committee”), to oversee the progress of planning, promote public engagement and support the efforts of the community toward completion of the aforementioned Downtown Area Vision Plan; and

WHEREAS, the Committee will act in an advisory capacity to the Township Committee in connection with monitoring the progress of the vision plan efforts and by providing updates to the Township Committee as necessary; and

WHEREAS, the Committee shall continue as a subsidiary instrumentality which will be involved in progress meetings, review of draft materials provided by the appointed planning firm and charged with ensuring that the scope of work and timeline of the Township's contract are adhered to; and

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 Downtown Area Vision Plan Steering Committee shall act as herein described and carry out the following duties:
 - a) Participate in meetings, monitor progress and otherwise assist the Township Committee in its effort to receive a complete and comprehensive Downtown Area Vision Plan document as outlined in its contract with the professional planning firm, agreed upon scope of work and submitted timeline.
 - b) Receive and review copies of draft materials and progress reports, participate in and support public engagement pertaining to said Downtown Area Vision Plan.
 - c) Make periodic reports to the Township Committee as necessitated.
 - d) Formulate any recommendations to the Township Committee concerning scope of work changes, deadline changes or other pertinent topics as it relates to the project.
- 2) The Committee shall meet as outlined in the project timeline provided by the appointed professional planning firm.
- 3) The individuals to serve on the Committee shall be:
 - a) Committeewoman Tara Prupis and Committeeman Richard Wasserman;
 - b) Beth Zall, Planning Board Chair
 - c) Gaston Hauptert, PTOC Safety Chair and Pedestrian Safety Advisory Board Member
 - d) Alex Zaltsman, Board of Education President
 - e) Amy Lawrence, Former Member of Public Works Relocation Ad Hoc Committee
 - f) Priya Patel, Environmental Commission Chair
 - g) Alex McDonald, Business Administrator
- 4) These individuals shall serve until the later of the following: Conclusion of the project and delivery of a final product to the Township Committee, unless a vacancy shall occur by virtue of a person leaving office or being otherwise unavailable to serve, in which event, the Township Committee shall appoint a substitute.

Ordinance/Introduction

Ordinance 2565-20

A brief explanatory statement about the ordinance was made, Mayor Lieberberg cited the different views received from residents in regard to short term rentals. She pointed out that there had been many citations issued throughout the years for noise violations, garbage collections and vehicle congestion to name a few. Mayor Lieberberg provided additional examples both for and against short term rentals. The ordinance would forbid the whole house rental option and only allow for owner occupied short term rentals. Mayor Lieberberg went over some main details of the ordinance.

Ms. Thall Eglow asked what did the current code allowed in regards to short term rentals. Mr. Falcon advised it was not a permitted use at the time. Ms. Thall Eglow asked why the normal order of business or introducing and adopting ordinances was different than in previous years. A discussion ensued on whether or not to have the additional meeting between public hearing and final adoption for the

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ordinance. Ms. Thall Eglow and Ms. Burstein believed the normal routine should be followed to allow members of the public to formulate their thoughts and comments on proposed ordinances.

Mayor Lieberberg brought forth Ordinance 2565-20 for introduction. Mayor Lieberberg reiterated a brief explanatory statement about the ordinance. Mayor Lieberberg moved that the ordinance be taken up and passed on first reading noting that the public hearing would take place on October 20, 2020, Mr. Wasserman seconded the motion. Mayor Lieberberg requested a roll call vote.

Roll Call Vote: Ayes: Mayor Lieberberg, Ms. Prupis, Mr. Wasserman, and Ms. Burstein

Nays: Ms. Thall Eglow

ORDINANCE NO. 2565-20

ORDINANCE TO AMEND AND SUPPLEMENT ARTICLE 4 OF THE MUNICIPAL CODE OF THE TOWNSHIP OF MILLBURN TO PROVIDE FOR THE LICENSING AND REGULATION OF SHORT TERM RENTALS IN OWNER-OCCUPIED DWELLINGS

Statement of Purpose: *The purpose of this Ordinance is to provide regulations for the licensing and occupation of Short Term Rentals within the Township of Millburn.*

WHEREAS, the number of short term rentals (generally defined as stays of 30 days or less) of dwelling units; individual rooms within dwelling units; and building, structures and uses accessory to dwelling units has grown rapidly in recent years, aided in large part by the creation of Internet-based home-sharing hosting platforms which can create an easy connection between property Owners and individuals looking for short term rental housing; and

WHEREAS, the Township Committee seeks to permit the short-term rental use of certain legally permitted dwelling units throughout the Township of Millburn (the "Township" or "Millburn") in order to facilitate the booking of reservations for such uses through internet-based booking platforms, and promote economic vitality in the Township; and

WHEREAS, the short-term rental of homes can provide a flexible housing stock that allows travelers a safe accommodation while contributing to the local economy, and tourism and supporting the local tourism industry and business community; and

WHEREAS, the short-term rental of homes can provide homeowners an opportunity to maintain ownership of property in difficult economic circumstances; and

WHEREAS, the needs of long-term residents should be balanced with the allowance of short-term rentals; and

WHEREAS, the Township Committee recognizes that unregulated short-term rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of short-term rentals of residential dwelling units in established residential neighborhoods can create negative compatibility impacts and nuisance violations, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, it is in the public interest that short-term rental uses be regulated in order to help preserve housing for long-term owners and tenants and to minimize any potential deleterious effects of short-term rental properties on other properties in the surrounding neighborhoods in which they are located.

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. Article 4 of the Municipal Code of the Township of Millburn is hereby amended, supplemented and revised to add the following sections:

Section 4-42.1 Definitions.

Owner shall mean an individual or entity holding title to a property proposed for short term rental, by way of a legally recorded Deed.

Owner-Occupied shall mean the Owner of the property resides in the short term rental property (also referenced as "STRP"), or in the principal residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section. For purposes of this Section if the Owner of the property is an entity other than an individual or individuals, then at least one principal or member of the Owner entity must reside in the STRP, or in the principal residential unit with which the STRP is associated on the same lot, and identify same as his or her principal residence as that term is defined in this Section.

Principal Residence shall mean the address: (1) where at least one of the property Owners spends the majority of his or her non-working time, and (2) which is most clearly the center of his or her domestic life, and (3) which is identified on his or her driver's license or State Identification Card as being his or her legal address. All the above requirement must be met in order for an address to constitute being a principal residence for purposes of this Section.

Responsible Party shall mean both the short-term rental property Owner and a person (property manager) designated by the Owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and, in the case of the property manager, to accept service of legal process of behalf of the Owner of the Short-Term Rental Property.

Short-Term Rental: Rental of an Owner-Occupied dwelling unit, or any part of a dwelling unit, including any accessory building, structure or use to the dwelling unit, which dwelling unit is regularly used and kept open as such for the lodging of guests, and which is advertised or held out to the public as a place regularly rented to transient occupants, as that term is defined in this Section, for twenty-eight (28) consecutive days or less up to a cumulative total period of not to exceed sixty (60) days in a calendar year, excluding community residences, shelters, adult family care homes, a residence temporarily occupied by the Owner of another residential property within the Township then undergoing construction activity, or the extension, on a month-to-month basis, of an existing lease with a term of at least six months duration, by the existing tenant.

Short-Term Rental Property (also referenced as "STRP") shall mean a residential dwelling unit that is used and/or advertised for rent as a short-term rental by transient occupants as guests. Dwelling units rented to the same occupant for more than thirty (30) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered Short-Term Rental Property.

Short-Term Rental Property Agent shall mean any New Jersey licensed real estate agent or other person designated and charged by the Owner of a short-term rental property, with the responsibility for making the STR application to the Township on behalf of the Owner, and fulfilling all of the obligations in connection with completion of the short-term rental property permit application process on behalf of the Owner. Such person shall be available for, and responsive to contact on behalf of, the Owner, at all times.

Transient Occupant shall mean any person or a guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Section.

Section 4-42.2 Regulations Pertaining to Short-Term Rentals

- a. It shall be unlawful for any owner of any property within the geographic bounds of the Township of Millburn, New Jersey, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section or applicable State statute.
- b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the Township of Millburn:

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1. Individually or collectively owned single-family residences, which one of the owners legally identifies as the address of his or her principal residence, as that term is defined herein;
 2. Up to two separate units within a two-family residential dwelling, where one of the two units is occupied by the owner and identified by the owner as his or her principal residence, as that term is defined herein;
 3. Not more than two bedrooms within a single-family residential dwelling unit, where the bedrooms share common kitchen and bathroom facilities with the occupant of the dwelling unit, and the remainder of the single-family dwelling unit is occupied by the owner and identified by the owner as his or her principal residence, as that term is defined herein;
 4. Guest houses, carriage houses, and any other qualifying structures located on the same property as an Owner-Occupied Dwelling.
- c. Notwithstanding the provisions of Subsection b. above, short-term rentals shall not be permitted in boarding or rooming houses, dormitories, foster homes, adult family care homes, assisted living facilities, community residences for developmentally disabled persons, community shelters for victims of domestic violence, or nursing homes. Further, short term rental of the following properties is prohibited:
1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit such short-term rental of condominium units in the development;
 2. An individually or collectively owned single-family residential dwelling unit, which address none of the owners legally identifies as his or her principal residence;
 3. A unit in a two-family residential dwelling, where the other unit is not occupied by the owner nor legally identified by the owner as his or her principal residence;
 4. Apartments or units in a multi-family residential dwelling;
 5. Any room within a single-family, two-family or multi-family residential dwelling unit, where the room shares common kitchen and bathroom facilities with the occupant(s) of the dwelling unit in which it is located, which occupant(s) is not the Owner of the dwelling unit.
- d. The provisions of this Section shall apply to Short-Term Rentals as defined above. The following do not qualify as a privately-owned residential dwelling unit, as that term is used herein, and therefore do not need to obtain a short-term rental permit pursuant to this Section: any hotel, motel, studio hotel, rooming house, dormitory, public or private club, bed and breakfast inn, convalescent home, rest home, home for aged people, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental agency and used to house its employees or for governmental purposes.
- e. A property owner shall be able to transfer a legal short-term rental to family, an estate, etc., upon death and not lose the rights vested as per this section.

Section 4-42.3 Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy

- a. In addition to any land use requirement(s) set forth by the Township of Millburn Land Use Regulations, the owner/operator of a short-term rental property shall obtain a short-term rental permit from the Township of Millburn Business Administrator, before renting or advertising for rent any short-term rental.
- b. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner/operator of the property first having obtained a STR permit issued by the Township of Millburn Business Administrator. The failure to obtain a valid STR permit prior to advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this Section. No STR permit issued under this Section may be transferred or assigned or used

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by any person or entity, other than the Owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.

- c. An owner of property intended to serve as a short-term rental property, as defined herein, or any agent acting on behalf of the owner, shall submit to the Township of Millburn Business Administrator, a short-term rental permit application provided by the Township, along with an annual application/registration fee of \$250.00. Said fee shall be non-refundable, including in the event that the application is denied. The fee shall also constitute the required fee for the rental Certificate of Occupancy application, referenced below.
- d. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.
- e. The Owner of a STRP, or any agent acting on behalf of the owner, who intends to rent all of the property, or any permitted part thereof as a short-term rental, shall also make application to the Business Administrator in conjunction with the short-term rental permit application, for the issuance of a rental Certificate of Occupancy for the short-term rental property, on such forms as required by that Department.
- f. A short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Business Administrator, a short-term rental permit application and rental Certificate of Occupancy application and a renewal registration fee of \$250.00. A reinspection fee of \$85 shall apply for each failed reinspection.
- g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and registration fee will be required in the event that the new owner intends to use the property as a short-term rental property. A new application and registration fee shall also be required for any short-term rental that had its short term rental permit revoked or suspended.

Section 4-42.4 Application Process for Short-Term Rental Permit and Inspections.

- a. Applicants for a short-term rental permit shall submit, on an annual basis, an application for a short-term rental permit to the Township of Millburn Business Administrator, who shall review and issue said permits with the assistance of such other departments or individuals as s/he deems appropriate or necessary. The application shall be furnished, under oath, on a form specified by the Business Administrator, accompanied by the non-refundable application fee as set forth above. Such application shall include:
 - 1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a permit is sought. If such owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them;
 - 2. The address of the unit to be used as a short-term rental;
 - 3. A copy of the driver's license, voter registration or state identification card of the owner of the short-term rental property, confirming, as set forth in this section, that the property is the principal residence, as that term is defined herein, of the owner making application for the STR permit;
 - 4. The owner's sworn acknowledgement that they comply with the requirement that the short-term rental property constitutes the owner's Principal Residence, as defined above, or that the owner is entitled to an exemption from that requirement as set forth above;
 - 5. The name, address, telephone number and email address of the short-term rental property agent, which shall constitute his or her 7 day a week, 24- hour a day contact information;

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6. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her 7 day a week, 24-hour a day contact information;
 7. The owner's sworn acknowledgement that he or she has received a copy of this Ordinance, has reviewed it, understands its requirements and certifies, under oath, as to the accuracy of all information provided in the permit application;
 8. The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort will be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the short-term rental is located, resulting from excessive vehicles generated by the short-term rental of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood;
 9. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per two occupants in the short-term rental property;
 10. Copies of two (2) utility bills from the STRP that are less than thirty (30) days old;
 11. The owner's agreement to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties; and
 12. Any other information that this Section requires a property owner to provide to the Township in connection with an application for a rental certificate of occupancy. The Business Administrator or his designee shall have the authority to obtain additional information from the STRP owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this Section.
- b. Every application for a short-term rental permit shall require annual inspections for the STRP's compliance with the Township's fire safety regulations and Property Maintenance Code. In addition, each application is subject to review to verify the STRP's eligibility for use as a short-term rental and compliance with the regulations in this section. Failure to abate any outstanding violations prior to occupancy shall result in a summons.
 - c. A zoning permit, which states that the premises are not being occupied or used in violation of the Township's Land Use Regulations and Zoning Ordinance, shall be required.
 - d. Attached to and concurrent with submission of the permit application described in this Section, the Owner shall provide:
 1. Proof of the Owner's current ownership of the short-term rental unit;
 2. Proof of general liability insurance in a minimum amount of \$500,000; and
 3. Written certifications from the short-term rental property agent and responsible party that they agree to perform all of the respective duties specified in this Section.
 - e. The STRP owner/permit holder shall publish the short-term rental permit number issued by the Township in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the short-term rental property is advertised for rent on a short term basis.
 - f. In no event shall a short-term rental property be rented to anyone younger than twenty-one (21) years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of twenty-one (21), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have up to three (3) guests who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the STRP owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the property is not occupied by at least one adult over the age of twenty-one, during the term of the short term rental.

Section 4-42.5 Issuance of Permit and Appeal Procedure.

- a. Once an application is submitted, complete with all required information and documentation and fees, the Business Administrator, following any necessary investigation for compliance with this Section, shall either issue the short-term rental permit and Certificate of Occupancy, or issue a written denial of the permit application (with the reasons for such denial being stated therein), within ten (10) business days.
- b. If denied, the applicant shall have ten (10) business days to appeal in writing to the Business Administrator, by filing the appeal with the Business Administrator's Office.
- c. Within thirty (30) days thereafter, the Business Administrator or his designee shall hear and decide the appeal.
- d. A permit shall only be issued after all outstanding violations have been abated.

Section 4-42.6 Short-Term Rental Operational Requirements.

- a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the Township of Millburn and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short term rental.
- b. A dwelling unit shall be limited to a single short-term rental contract at a time.
- c. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage or mailbox signage identifying the property for rent as a short-term rental property.
- d. Transient occupants of the STRP shall comply with all ordinances of the Township of Millburn including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the owner of the STRP, the Responsible Party and the Short-Term Rental Agent listed in the short term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the STRP permit.
- e. The owner of a STRP shall post the following information on an 8.5 x 11" placard placed at eye level on the inside surface of the front door within the short term rental:
 - 1. Owner name; if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
 - 2. The names and phone numbers for the Responsible Party and the Short-Term Rental Agent (as those terms are defined in this Section);
 - 3. The phone numbers for the Millburn Police Department, the Millburn Fire Department, the Township of Millburn Department of Code Enforcement and the Township of Millburn Business Administrator;
 - 4. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;
 - 5. Notification that a guest, Transient Occupant, the Short-Term Rental Property Agent, the Responsible Party or STRP owner may be cited or fined by the Township of Millburn Police Department, the Township of Millburn Business Administrator, or Code Enforcement Official for violations of this Ordinance, or with any applicable Ordinance(s) of the Township of Millburn;
- f. In the event any complaints are received by the Millburn Police Department, Code Enforcement or the Business Administrator regarding the short-term rental and/or the Transient Occupants in the STRP, and the owner of the STRP is unreachable or unresponsive,

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both the Responsible Party and the Short-Term Rental Agent listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.

- g. While a STRP is rented, the owner, the Short-Term Rental Agent, or the Responsible Party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the Millburn Police Department or neighbors, arising by virtue of the short-term rental of the property.
- h. If the STRP is the subject of one (1) or more substantiated civil and/or criminal complaints, the Business Administrator or his designee may revoke the short-term rental permit issued for the property, in which case, the STRP shall not be eligible to apply for a new STRP permit for one (1) year following the date of revocation of the permit.
- i. Failure to make application for, and to obtain the issuance of, a short-term rental permit prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a permit, and shall constitute a violation of this Code, and will result in enforcement action and the issuance of a Summons, and shall subject the STRP owner, the Short-Term Rental Agent, and the Responsible Party to issuance of fines and/or penalties.
- j. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a short-term rental permit, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section will result in enforcement action against the tenant, the STRP owner, the Short Term Rental Agent, and the Responsible Party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.
- k. In the event that the Township receives three (3) substantiated complaints concerning excessive vehicles belonging to the transient occupants of a STRP, the short-term rental permit for the property is subject to revocation by the Business Administrator or his designee.
- l. The STRP owner must be current with all tax and sewer charges assessed to the property prior to the issuance of a short-term rental permit. In the event that any code violations have been issued by the Township relating to the STRP, a short-term rental permit shall not be issued until such time as such violations have been properly abated. The STRP owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.
- m. All fines or penalties issued by the Municipal Court for the Township of Millburn for any past code violations relating to the STRP, including penalties for failure to appear in Court, must be satisfied in full prior to the issuance of a short-term rental permit.
- n. Only one (1) vehicle per two (2) Transient Occupants is permitted per short-term rental.
- o. No more than 2 bedrooms in any dwelling unit may be rented concurrently.
- p. Short-Term Rentals may be occupied concurrently by no more than four (4) Transient Occupants.

Section 4-42.7 Violations and Penalties.

- a. The provisions of this Ordinance shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, Police Department, Code Enforcement, Business Administrator or other Department Head or Sub-Code or Code Official, as their jurisdiction may arise or other persons designated by the Township Committee, to issue municipal civil infractions directing alleged violators of this Ordinance and/or to appear in court or file civil complaints.

- b. Any person found to have violated any provision of this Ordinance without regard to intent or knowledge, shall be liable for the maximum civil penalty, upon adjudicated violation or admission of a fine not exceeding \$2,000.00. Each day of such violations shall be a new and separate violation of this ordinance.
- c. All fines and/or penalties issued for a violation of this Ordinance shall be due and payable to the Township within thirty (30) calendar days. If the Owner fails to remit payment to the Township within thirty (30) calendar days, the Township of Millburn may pursue any and all remedies available at law in order to recover the unpaid fine(s) or penalty(-ies).
- d. The fines and/or penalties imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorney's fees or other fees and costs, in the Township's Municipal Court or the Superior Court of New Jersey in the vicinage of Essex County or in such other Court or tribunal of Competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding

Section 4-42.8 Collection of Taxes

- a. Charges for Short-Term Rentals are subject to Sales Tax in accordance with N.J.S.A. 54:32B-1 et seq. and the State Occupancy Fee in accordance with N.J.S.A. 54:32D-1 et seq.

Section 3. All other provisions of the Municipal Code of the Township of Millburn shall be unaffected and are hereby continued.

Section 4. 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 shall apply.

Section 5. This Ordinance shall be so construed as not to conflict with any provision of New Jersey or Federal laws. Notwithstanding that any provision of this Ordinance is, for any reason, held to be invalid or unconstitutional by a Court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue to be of full force and effect. The provisions of this Ordinance shall be cumulative with, and not in substitution for, all other applicable zoning, planning and land use regulations.

Section 6. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey, following the required twenty-day period after adoption.

Old Business

Ms. Prupis took the time to reiterate that she was in support of the Black Lives Matter (BLM) Movement. She stated that the conversation needed to happen in an authentic and true way within the community.

Ms. Prupis made a motion to rescind her prior motion from the September 1st Township Committee meeting to fly the Black Lives Matter flag over town hall on October 9th. Ms. Prupis made the motion to rescind her motion to fly the Black Lives Matter flag on the left hand pole at town hall for fourteen days on October 9th. Mr. Wasserman seconded the motions.

Ms. Burstein stated that she believes there is systemic racism in the country but by flying a flag that is tied to divisiveness would cause divide in the township. She stated that creating a diversity subcommittee would be a more productive path. Ms. Thall Eglow agreed with Ms. Burstein and asked to be involved in a subcommittee to further speak on the issues. Mr. Wasserman asked that to all those who were involved in bringing the matter forward to the Committee to continue to stay involved. He wanted to make it known that the township was a place of inclusion and love and all were welcome; even if members of the Committee and the public differ on how to get there. He agreed that creating a fair and equitable policy was the way to go. Mayor Lieberberg stated the Committee would have to look closely at the criteria for the subcommittee that would be created. She cited examples on how neighboring towns selected the members for their diversity committees.

Roll Call Vote: All Ayes

No other old business was presented.

New Business

Ms. Burstein requested from the Business Administrator, Alex McDonald, that he require public officials to wear masked when out in the public. Mr. McDonald accepted her request.

Ms. Thall Eglow asked if the Committee should have a parliamentarian present during meetings. She also suggested a training session for members of the Township Committee in order to learn policies.

Mr. McDonald announced that National Night Out would not be hosting a physical event in the park this year.

No other new business was presented.

Closed Session

Mayor Lieberberg advised that the public portion of the meeting is finished and the Township Committee would be entering closed session at 9:25PM.

Adjournment

Immediately following closed session a motion was made by Ms. Burstein and seconded by Ms. Prupis to adjourn the meeting at 9:35PM. Vote: All Ayes

Christine A. Gatti, RMC
Township Clerk

Approved: November 10, 2020

Resolution 20-185 - **EXHIBIT A**