

TENTATIVE AGENDA FOR WORK SESSION MEETING MAY 17, 2022, 5:30 P.M.

1. CALL TO ORDER

2. ROLL CALL

Hewitt ___ Sooy ___ Romanik ___ McQuade ___ Orndorf ___

3. SALUTE TO THE FLAG

4. OPEN PUBLIC MEETINGS STATEMENT BY MAYOR LISA ORNDORF

"This meeting is being conducted in accordance with the Open Public Meetings Act of 1975, was advertised, posted, and made available to the public as required by Statute. The Municipal Clerk is directed to include a statement in the minutes of this meeting."

5. CITY CLERK TO REVIEW CHANGES TO THE AGENDA

6. PUBLIC COMMENT ON AGENDA ITEMS ONLY

7. DISCUSSION OF COMMISSIONERS

8. COMMISSIONER ROMANIK

9. COMMISSIONER HEWITT

9.I. Commissioner Hewitt Item (WS1)

~~Discussion - August 16, 2022 Commission Meeting.~~

10. COMMISSIONER MCQUADE

11. VICE-MAYOR SOOY

11.I. Vice Mayor Sooy Item (WS1)

Discussion of the following items:

1. Closure of Menantico ponds by New Jersey Department of Environmental Protection.
2. Possible necessity of a Redevelopment attorney.

12. MAYOR ORNDORF

13. NEW BUSINESS

14. PUBLIC COMMENT PORTION

"We have now reached the public comment portion of our meeting. Anyone who would like to address the Commission, please go to the podium, state your name and address your concerns. Please limit your comments to approximately 5 minutes."

Open Public Portion

Close Public Portion

Comments of Commissioners

15. RESOLUTION

15.I. Resolution Closed Session

Resolution authorizing a Closed Session for the following matter:

1. City of Millville v. DeSantis, et als

Attorney/ Client Privilege & Contract Negotiations

Motion-

Second-

Hewitt __ Sooy __ Romanik __ McQuade __ Orndorf __

Documents:

[RES NO. -2022 CLOSED SESSION MEETING.PDF](#)
[SETTLEMENT MOU - DESANTIS 05-17-2022.PDF](#)

16. ADJOURN

Motion-

Second-

RESOLUTION NO. -2022

WHEREAS, the Board of Commissioners of the City of Millville is subject to certain requirements of the Open Public Meetings Act, NJSA 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act Chapter 231 of the Public Laws of 1975, provides that an Executive Session, not open to the public may be held for certain specified purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Board of Commissioners of the City of Millville to discuss in a session not open to the public certain matters relating to the item or items authorized by NJSA 10:4-12 Meetings open to public; Exceptions and are cited below:

- 1. City of Millville v. DeSantis, et als
Attorney/ Client Privilege & Contract Negotiations

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MILLVILLE, that an Executive Session closed to the public is to be held on Tuesday, May 17, 2022 immediately following the 5:30 p.m. Work Session Meeting, in the 4th floor Conference Room, City of Millville Municipal Building, 12 S. High Street for the discussion of matters authorized pursuant to N.J.S.A. 10:4-12.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Board of Commissioners that the public interest will no longer be served by such confidentiality.

Moved By:

Seconded By:

VOTING

Lisa M. Orndorf
 Benjamin J Romanik
 Joseph Sooy
 Charles Kirk Hewitt
 Robert W. McQuade, Jr.

<u>In Favor</u>	<u>Against</u>	<u>Abstain</u>	<u>Absent</u>

CERTIFICATION

I hereby certify that the foregoing is a true copy of Resolution adopted by the Board of Commissioners of the City of Millville, in the County of Cumberland, at a meeting thereof held on May 17, 2022.

Jeanne M. Parkinson, City Clerk

City of Millville v. DeSantis, et al.
Docket No. CUM-C-24-20

Proposed Memorandum of Settlement Agreement

1. The Parties to this Settlement Agreement are The City of Millville, and Anthony DeSantis, Gary Porat and Concezio DeSantis (A. DeSantis, Porat and C. DeSantis, collectively, “the DeSantis Group”) and the Property is defined as Block 260, Lot 1 on the Tax Map of the City of Millville.
2. Upon the execution of this Memorandum of Settlement, the parties shall prepare and submit to the court a stipulated and proposed Consent Order for the dismissal of the above referenced litigation without prejudice. The Parties shall report their progress to the Court at the scheduled May 6, 2022, Case Management Conference, and to the extent that the proposed Consent Order has not yet been submitted, will ask the Court to stay all discovery and other pre-trial proceedings until the proposed Consent Order has been submitted. The Parties shall also execute a tolling agreement for the period of six months.
3. No later than May 17, 2022, the governing body of the City of Millville shall adopt a resolution authorizing the signing and execution of this Memorandum of Settlement Agreement. The City of Millville shall provide all necessary notices.
4. The DeSantis Group, or its designee, will conduct the demolition and removal of all structures on the Property, with the exception of Building 36 which will be demolished by the City of Millville pursuant to the proposed Consent Order that was submitted to the Court on April 25, 2022. The DeSantis Group, or its designee, will retain an environmental survey company by May 20, 2022 to do a pre-demolition survey for asbestos and regulated materials. The City of Millville shall provide access to the Property to the retained environmental survey company. Upon the issuance of the survey, which shall be shared with the City of Millville, environmental representatives for the Parties shall consult each other to determine and submit to the Parties a written report specifying limits and conditions on the scope of the demolition. After the completion of the survey, the DeSantis Group, or its designee, shall apply for a demolition permit after the completion of the removal and disposal of any asbestos and regulated materials, as well as the cutting and capping of any utilities to the Property. The City of Millville agrees that it will process and approve the demolition permit as expeditiously as possible. Once all of the necessary local, state and federal approvals are received and provided that the DeSantis Group, or its designee, has obtained title to the Property, the DeSantis Group, or its designee, shall commence demolition within 30 days and any such demolition shall be completed within six (6) months of the date that it starts. If necessary, the DeSantis Group may request an extension of 2 months to complete the demolition and the City of Millville may not unreasonably decline such request for an extension.
5. By June 1, 2022, the DeSantis Group, or its designee, shall submit a proposed Redevelopment Agreement to the City of Millville. The Redevelopment Agreement shall

be considered by the City of Millville at its June 8, 2022, City Commission meeting, and approval shall not be unreasonably denied.

After a Redevelopment Agreement has been approved, The City of Millville will complete the sale of the Property to the DeSantis Group or their designee, on or before July 15, 2022, by Quit Claim Deed. The purchase price of the Property is \$150,000 (\$130,000 having already been received), plus the cost of the Building 36 demolition (not to exceed \$10,000). At the closing on the sale of the Property, the DeSantis Group will place into a 200G Street related 1031 Exchange proceeds from a 1401 Wheaton Ave. 1031 Exchange, monies which will be used to pay for the cost of the demolition of the Property. The Quit Claim Deed for transfer of the Property from the City to the DeSantis Group, or its designee, shall contain a right of reversion that will expire upon the later of the: (1) completion of the demolition of the Property, or (2) approval of a Site Plan for the Property by the City of Millville Planning Board (both conditions being essential material terms of this MOU). In the event right of reversion is exercised and the DeSantis Group or its designee has not breached the terms of this Memorandum of Settlement Agreement, then the DeSantis Group or its designee shall be entitled to reimbursement of the purchase price of the Property and the fair market value of the cost demolition to the extent it has been completed on the Property by the DeSantis Group or its designee. In the event the right of reversion is exercised and the DeSantis Group or its designee has breached the terms of this Memorandum of Settlement Agreement, then (a) the DeSantis Group or its designee shall not be entitled to reimbursement of the purchase price of the Property nor to the fair market value of the cost of the demolition to the extent it has been completed on the Property by the DeSantis Group or its designee and (b) the City of Millville shall be entitled to seek any damages it may be entitled to in accord with the provisions set forth below in Paragraph 9.

6. The DeSantis Group, or their designee, no later than June 1, 2022 will engage professional engineers to prepare a Site Plan for the Property, shall submit the executed letter of engagement to the City by that date; and, the DeSantis Group or its designee shall submit a Site Plan for the Property to the City of Millville Planning Board for its review and approval no later than July 15, 2022, this term being material and essential to this MOU. If necessary, the DeSantis Group may request an extension of 30 days to submit the Site Plan to the City of Millville. In this event, the closing date referenced in Paragraph 5 will also be moved back a like amount of time.
7. As part of the closing for the purchase of the Property by the DeSantis Group or its designee, as set forth above in Paragraph 5, the Parties shall provide mutual releases at the closing that would resolve all claims that are pending in the current lawsuit, including the Third-Party claims.
8. The City of Millville shall, not later than July 15, 2022, adopt all resolutions and/or ordinances required for the amendment of the redevelopment plan previously submitted by the DeSantis Group and approved by the City of Millville; with such amendments including (1) the removal of any condition of there being Site Plan approval before the Property will be conveyed to the DeSantis Group or its designee, (2) the inclusion of Block 260, Lot 5 as covered by the redevelopment plan (although it is expressly understood that inclusion

of Block 260, Lot 5 in the redevelopment plan does not necessarily mean that the DeSantis Group is in any way obligated to the demolition of any buildings on Block 260, Lot (5) and (3) providing that cannabis is a permitted use under the redevelopment plan; and the City of Millville shall execute the documentation required to provide for a Long Term Tax Abatement for the Property for a period of 15 years, which shall be included in the Amended Redevelopment Agreement. There shall be a PILOT payment during the duration of the tax abatement which shall be equal to 50% of the ad valorem property tax on the assessed value of the improvements as determined by the City of Millville Tax Assessor.

9. In the event the parties have any disputes under the agreements and arrangements set forth above, they agree to first attempt to mediate such disputes with former Judge Steven P. Perskie or, in the event Judge Perskie is unavailable, a mutually agreed upon mediator. In the event that such a mediation does not fully resolve all disputes between the Parties, the Parties agree that they will submit their dispute(s) to binding arbitration under the rules of the American Arbitration Association (AAA) for such matters.
10. The DeSantis Group acknowledges the receipt from the City of all environmental records in its possession. However, the City agrees to sign such authorizations as may be necessary for the DeSantis Group or its designee to assist it in obtaining such documents directly from Rio Tinto.
11. The Parties agree that the original terms of the Purchase and Sale Agreement, dated February 4, 2020, including without limitation the provisions pertaining to the environmental remediation and condition of the Property, are amended by this Memorandum of Settlement Agreement but otherwise will remain in full force and effect.

Dated: May __, 2022


CITY OF MILLVILLE

A. Michael Barker, Esq.

Brock Russell, Esq.

Joseph Sooy

THE DESANTIS GROUP/THIRD PARTY PLAINTIFFS



Joseph N. Froehlich, Esq. *As counsel*



Gregory V. Casamento, Esq. *As Counsel*

Anthony DeSantis
Anthony DeSantis

Gary Peral
Gary Peral

Concezio DeSantis
Concezio DeSantis