

**REGULAR MEETING
FEBRUARY 16, 2016**

In compliance with Chapter 231, OPEN PUBLIC MEETINGS ACT of the State of New Jersey, adequate notice has been given to all members of the Governing Body, the "Local Source" and the "Westfield Leader" the two newspapers designated to receive such notice. The notice is posted on the Borough Hall bulletin board.

Mayor Paul N. Mirabelli called the meeting to order at 7:32 P.M.

**INVOCATION: Councilman Dierkes
SALUTE TO THE FLAG
ROLL CALL**

PRESENT: Mayor Paul N. Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilwoman Fech-Caccamo, Councilman Messler, Councilman Mortimer, Council President Turner, Administrator Debbie and Attorney Post. Also present were Police Chief Allan Attanasio and Recreation Director Frank Masella.

APPROVAL OF MINUTES:

Upon motion by Councilman Turner and a second by Councilman Mortimer, the minutes of the Regular Session Meeting held on January 19, 2016 was approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Turner and a second by Councilman Mortimer, the minutes of the Work & Executive Session Meetings held on February 2, 2016 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

PROCLAMATIONS:

WHEREAS, on January 22nd and 23rd, the State of New Jersey was hit with one of the worse storms in recent history, receiving nearly 3 feet of snow; and

WHEREAS, the Mountainside Volunteer Fire Department fearlessly answered the calls of help through treacherous road conditions; and

WHEREAS, the hard work and dedication of the Mountainside Volunteer Fire Department helped ensure the safety and care of citizens in need; and

WHEREAS, special thanks should be given to the brave firefighters who stayed overnight at the firehouse to assist our residents in the recovery efforts; and

WHEREAS, through their actions and deeds, Casey Olohan, Victor Pereira, Dan Steadman, Roman Sawycky, Edwin Lima and Pat Klebaur, have proven themselves to be selfless individuals who have brought pride and honor to their families and community.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Mountainside extends its heartfelt gratitude and thanks to the members of the Mountainside Volunteer Fire Department for all of its hard work during the unprecedented snow storm, thanks to the Mountainside residents for its exemplary dedication to each other, and joins the community in wishing for an early Spring.

WHEREAS, art education contributes powerful educational benefits to all elementary, middle and secondary students including the following:

- Art education develops students' creative problem-solving and critical thinking abilities;
- Art education teaches sensitivity to beauty, order and other expressive qualities;
- Art education gives students a deeper understanding of multi-cultural values and beliefs;
- Art education reinforces and brings to life what students learn in other subjects; and
- Art education interrelates student learning in art production, art history, art criticism and aesthetics; and

WHEREAS, our national leaders acknowledged the necessity of including arts experiences in all students' education;

AND WHEREAS, March is officially recognized as YOUTH ART MONTH, I endorse the observance of YOUTH ART MONTH and encourage the support of quality school art programs for children and youth.

NOW, THEREFORE, I Mayor Paul N. Mirabelli do endorse March 2016 as YOUTH ART MONTH.

RESOLUTIONS:

The following resolution was introduced by Councilwoman Fech-Caccamo and seconded by Councilman Mortimer.

RESOLUTION 32-2016

WHEREAS, the students of the 2016 Graduating Class of Governor Livingston High School have determined to have an Alcohol and Drug Free Graduation Party during the hours immediately following graduation until the following morning to be held at Rutgers; and

WHEREAS, the Governing Body of the Borough of Mountainside wishes to support this decision to have a graduation celebration free from the serving of alcohol and thereby assuring that there will be no students who have attended this graduation party driving under the influence of liquor or drugs; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside that \$300.00 shall be given to the Fund Raising Committee of "PROJECT GRADUATION" toward the expenses incurred for the 2016 Alcohol Free Graduation Party of Governor Livingston High School.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

RESOLUTION 33-2016

WHEREAS, at the Borough Tax Sale held on July 26, 2012, a lien was sold on 1132 Springfield Avenue, also known as Block 24.D, Lot 6.G, Qualifier C0007, owned by Maria R. Cozzini; and

WHEREAS, this lien known as Tax Sale Certificate #12-00078 was sold to FWDSL & Associates, LP, for a premium of \$11,000.00; and

WHEREAS, Duane Morris LLP, on behalf of the mortgage holder, TD Bank N.A., has requested redemption of this tax title lien 12-00078 and has paid the Borough of Mountainside all monies due including filed affidavits in amount of \$31,404.71 plus \$1,432.80 for 1st quarter 2016 taxes; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue a check to FWDSL & Associates LP, 17 W Cliff Street, Somerville, NJ 08876, in the amount of \$31,404.70 plus a premium of \$11,000, for the redemption and cancellation of Tax Title Lien Certificate #12-00078.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

The following resolution was introduced by Councilman Messler and seconded by Councilman Turner.

RESOLUTION 34-2016

WHEREAS, the Borough Engineer and Construction Official have requested refunds to the following individuals; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refunds:

<u>Applicant</u>	<u>Permit</u>	<u>Amount</u>
Scenic Paving 550 Route 22 Hillside, NJ 07205	Road Opening 1352 Wood Valley Rd	\$250.00
Steven Kowitski 375 Park Slope Mountainside, NJ 07092	Permit Cancellation (sump pump)	\$50.00

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

The following resolution was introduced by Councilwoman Andre and seconded by Councilman Turner.

RESOLUTION 35-2016

BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside, County Union, State of New Jersey, hereby authorizes the Mayor and Borough Administrator to sign the contract to provide professional animal control services to the Borough of Mountainside:

WITH: Animal Control Solutions, LLC
2 Marshall Drive
Flemington, NJ 08822

COST: \$13,320.00 (Annually)

TERM: 2 year contract
March 1, 2016 to March 1, 2018

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

The following resolution was introduced by Councilman Turner and seconded by Councilman Mortimer.

RESOLUTION 36-2016

WHEREAS, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 2010-33-005-005, heretofore issued to L’Affaire 22 Inc. for premises located at 1099 Route 22 East, Mountainside, New Jersey; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the license business.

NOW, THEREFORE BE IT RESOLVED that the Governing Body does hereby approve, effective February 16, 2016 the Person to Person transfer of the aforesaid Plenary Retail Consumption License to Stage House Tavern 3, LLC from its former owner L’Affaire 22 Inc., (L’Affaire Fine Catering) and does hereby direct the Borough Clerk to endorse the license certificate to the new ownership as follows: “This license, subject to all its terms and conditions is hereby transferred to Stage House Tavern 3, LLC., effective February 16, 2016.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

RESOLUTION 37-2016

WHEREAS, the Borough of Mountainside is engaged in the development of the Barnes Tract in the Borough of Mountainside as part of the Housing Element and Fair Share Plan adopted by the Borough to guide changes and improvements for meeting the Borough’s affordable housing obligation, and

WHEREAS, the Borough has prepared a Request for Qualifications to be provided to persons interested in being selected as the purchaser and developer of the Barnes Tract, who shall then complete such Requests for Qualifications to the Borough for review and evaluation,

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that Martha Lopez, Borough Clerk, distribute to such persons as may be desire to be selected as the purchaser and developer of the Barnes Tract a copy of the Request for Qualifications prepared by the Borough to assist in the selection of the purchaser and developer of the Barnes Tract.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

ORDINANCES: Second Reading (Public Hearing)

ORDINANCE 1241-2016

WHEREAS, N.J.S.A. 52:27D-127 provides that there shall be a Construction Board of Appeals for each county to hear appeals from decisions by the Uniform Construction Code Enforcing Agency which shall hear appeals from decisions of the Municipal Uniform Construction Code Enforcing Agency; and

WHEREAS, said statute provides that a municipality may establish its own Construction Board of Appeals to hear appeals from decisions by the municipal enforcing agency; and

WHEREAS, the Mayor and Council of the Borough of Mountainside has determined that the Construction Board of Appeals established by Chapter IX of the Code of the Borough of Mountainside is no longer necessary and that any appeals from decisions of the local enforcing agency may be heard by the Union County Construction Board of Appeals.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside as follows:

SECTION 1. Chapter IX Building and Housing Section 9-1.2 of the Code of the Borough of Mountainside is hereby repealed and the Mountainside Construction Board of Appeals is hereby abolished.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 3. If any portion of this ordinance shall be determined to be invalid, such determination shall not affect the validity of the remaining portions of said ordinance.

SECTION 4. This ordinance shall take effect upon final passage and publication in accordance with law.

SECTION 5. The Municipal Clerk is hereby directed to file a copy of this ordinance with the Office of Regulatory Affairs of the Division of Codes and Standards in the Department of Community Affairs, the Union County Board of Construction Appeals, and the Union County Board of Chosen Freeholders.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilman Messler and seconded by Councilman Turner that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

ORDINANCE 1242-2016
AN ORDINANCE AMENDING CHAPTER X, SECTION 1.14, SECTION a. AND b., OF THE CODE OF THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY REGARDING MEMBERSHIP FEES FOR USE OF THE MOUNTAINSIDE COMMUNITY POOL

BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, that Chapter X, Section 1.14-a. and Section 1.14-b. of the Borough Code be, and the same is amended and restated as follows:

- 10-1.14 Fees Established:
- a. The resident and full time employee membership fees and guest fees shall be as follows:
1. Family Membership:
 - (I) Family Membership \$327.00
 - (ii) Each unmarried child over 21 living at home or parent living with the family 115.00
 2. Single Membership 16 years of age or older 167.00
 3. Senior Citizen Membership: 62 years of age or older 115.00
 4. A child under the age of 16 joining as part of a family, single or senior citizen membership of a relative, if both the child and the membership are resident 167.00
 5. A resident person age 14 or 15 employed by a family as a parent's helper joining that family's membership 167.00
 6. Single Parent/Child 279.00
 7. Au Pair/Nanny 115.00
 8. Guest daily fee:

	Weekend/ Holidays	Weekdays
(I) Adult	10.00	8.00
(ii) Under 18 years of age	8.00	7.00
 9. House guest weekly fee (non-resident eating and sleeping in member's home):
 - (I) 18 years of age or younger 25.00
 - (ii) Over 18 years of age 30.00

10. Individuals on active military duty who are residents shall be admitted free.
11. A family membership composed of only two persons shall be entitled to ten complimentary guests.
12. A single membership shall be entitled to five complimentary guests.
13. A senior citizen membership shall be entitled to two complimentary guests.
14. A family, senior citizen or single membership shall receive two complimentary guest passes if the membership fees paid in full on or before April 15th of the membership year.

b. Non resident membership fees and guest fees shall be as follows:

1. Family Membership:

(I) Family membership	\$608.00
(ii) Each unmarried child over 21 living at home parent living with family	115.00
2. Single Membership: 16 years of age or older 305.00
3. Senior Citizen membership: 62 years of age or older 257.00
4. A child under the age of 16 joining as part of a family, single or senior citizen membership of a relative, if both the child and membership are non-resident 305.00
5. A non-resident person age 14 or 15 employed by a family as a parent's helper joining that family's membership 305.00
6. Guest daily fee:

	Weekend/ Holidays	Weekdays
(I) Adult	10.00	8.00
(ii) Under 18 years of age	8.00	7.00
7. House guest weekly fee:

(I) 18 Years of age or younger	25.00
(ii) over 18 years of age	30.00
8. Registration fee payable for first year membership only:

(I) Single Membership	35.00
(ii) Family Membership	65.00
9. A family membership composed of only two persons shall be entitled to ten complimentary guests.
10. A single membership shall be entitled to five complimentary guests.

11. A senior citizen membership shall be entitled to two complimentary guests.

BE IT FURTHER ORDAINED that if any fees set by this ordinance or otherwise collected by the Recreation Department are paid by credit card, an additional charge equal to the percentage of such fees charged the Borough by the credit card issuer shall be applied.

BE IT FURTHER ORDAINED, that all other sections of Chapter X shall remain unchanged.

This ordinance shall take effect twenty days after the first publication hereof after final passage.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Councilman Turner closed the meeting to the public.

It was moved by Councilwoman Fech-Caccamo and seconded by Councilman Turner that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

First Reading (Introduction)

ORDINANCE 1243-2016
AN ORDINANCE AMENDING SECTION 2-68 OF THE REVISED GENERAL ORDINANCES OF
THE BOROUGH OF MOUNTAINSIDE TO INCLUDE A POLICY FOR CONDUCTING
BACKGROUND CHECKS ON ALL CURRENT AND PROSPECTIVE EMPLOYEES AND
VOLUNTEERS OF THE DEPARTMENT OF RECREATION

WHEREAS, N.J.S.A. 15A:3A-3 sets forth the categories of crimes and offenses which may serve as the basis for disqualifying persons who are convicted of such crimes and offenses from serving as an employee or volunteer in a nonprofit youth serving organization, and authorizes nonprofit youth serving organizations to conduct a criminal history background check on prospective employees or volunteers; and

WHEREAS, the Mayor and Council of the Borough of Mountainside have determined that the Borough's Department of Recreation should obtain criminal background checks on current and prospective employees and volunteers; and

WHEREAS, N.J.S.A. 15A:3A-3 is not mandatory, but rather permits individuals who would otherwise be disqualified to appeal such disqualification; and

WHEREAS the Mayor and Council have determined to adopt a procedure and policy to provide for such appeals.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows: Section 2-68 of the Revised General Ordinances of the Borough is hereby amended as follows:

2-68.6 Department of Recreation Criminal Background Check Policy

All current and prospective employees and volunteers of the Department of Recreation must submit to a criminal record background check. No employee or volunteer shall be permitted to serve in the Department of Recreation if their criminal record background check reveals a record of conviction of a crime or offense cognizable under N.J.S.A. 15A:3A-3 unless authorized by the Mountainside Review Committee as set forth below. The criminal background check process and the appeal process will be conducted in accordance with the following procedures:

a. All criminal background checks will be conducted by the Department of Recreation and will be paid for with funds collected by the Department of Recreation that shall be derived from an additional \$5 fee assessed by each related association on every registration.

b. The Department of Recreation will notify any person whose background check disqualifies them from being employed or volunteering as soon as is practicable under the circumstances and no later than would be necessary for them to file an appeal.

c. Any person that receives notice that he/she has been disqualified from serving the Department of Recreation as a result of their background check has 20 days from the date such notice is received to file an appeal with the Recreation Director.

d. Once an appeal is filed with the Recreation Director the appellant's submission shall be reviewed by a four (4) member Review Committee composed of the Recreation Director, the Police Chief or his or her designee, the Borough Administrator or his or her designee and the School Resource Officer.

e. In reviewing an appeal the Mountainside Review Committee shall consider the appellant's entire submission, the circumstances surrounding the criminal record, any statements or information provided by the appellant and any other relevant circumstances including, but not necessarily limited to:

1. The nature and responsibility of the position which the appellant is seeking.
2. The nature and seriousness of the offense that disqualified the appellant initially.
3. The date of the offense.
4. The age of the appellant when the offense was committed.
5. Whether the offense was an isolated or repeated incident.
6. Any social conditions which may have contributed to the offense.
7. Any evidence of rehabilitation, including evidence of good conduct, a positive reputation or mental health treatment.

f. The final determination as to whether an appellant will be permitted to serve in the Department of Recreation lies exclusively with the Mountainside Review Committee which can overturn a disqualification only by unanimous vote.

g. In all instances of such an appeal the final determination will be issued by the Mountainside Review Committee within forty-five (45) days of the date the appeal was filed. Once a final decision has been made the Mountainside Review Committee shall promptly advise the appellant whether he or she is qualified to serve.

BE IT FURTHER ORDAINED THAT all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

Prior to roll call, changes were made to include prospective employees and assigning a designee.

It was moved by Councilwoman Andre and seconded by Councilman Mortimer that this ordinance be passed on first reading and advertised in full for a public hearing on February 16, 2016.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

ORDINANCE 1244-2016
AN ORDINANCE AMENDING ARTICLE 9 OF THE REVISED GENERAL ORDINANCES OF THE
BOROUGH OF MOUNTAINSIDE BY ADDING A NEW SECTION 2-95.8 ENTITLED FEE FOR
REVIEW OF REQUEST FOR QUALIFICATIONS

WHEREAS, the Mayor and Council of the Borough of Mountainside are engaged in the process of developing an approximately 5.04 acre of land owned by the Borough that is known as the Barnes Tract, and

WHEREAS, the development process will include the issuance of a Development Request for Qualifications to be completed and submitted by persons interested in being chosen by the Borough to purchase and develop the Barnes Tract, and

WHEREAS, the Borough will incur substantial expenses for professionals such as the Borough Attorney, the Borough Engineer and the Borough Municipal Planning Consultant to review and evaluate the Request for Qualifications that are submitted,

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows:

There is hereby added to Article 9 of the Revised General Ordinances of the Borough of Mountainside a new section 2-95.8 as follows:

There shall be a one thousand dollar (\$1,000) review fee paid by each person who responds to a Request for Qualifications to defray the cost of reviewing and evaluating such response.

This ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

It was moved by Councilman Mortimer and seconded by Councilman Turner that this ordinance be passed on first reading and advertised in full for a public hearing on February 16, 2016.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

MOTION:

The following motion was unanimously approved:

1. Approve raffle application from Mountainside Restoration Committee for an off premise draw raffle

BILLS & CLAIMS:

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner:

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following bills of the persons named and for the amounts stated below, having been duly audited and found to be correct this 16th day of February, 2016, the same be paid after Council's review, if and when funds are available and that the Mayor, Council President, Administrator and Treasurer are hereby authorized and directed to sign and deliver warrants for same in the amount of \$238,967.96 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

COUNCIL COMMENTS:

Mayor Mirabelli presented a public works blizzard report.

The Mayor invited residents to attend the Mountainside PAL Skate Night on February 20th.

AUDIENCE PARTICIPATION:

Stewart Jurczak, Sunrise Parkway, described parking issues and concerns at the Echo Tap & Grille. Police Chief Attanasio will investigate and report back to the Council.

Gary Whyte, Old Tote Road, announced an upcoming FOP Awareness Fundraiser.

Hearing no one else desiring to speak, Mayor Mirabelli closed the meeting to the public.

Upon a motion by Councilman Mortimer and a second by Councilman Turner, the meeting was unanimously adjourned.

Meeting adjourned at 8:07 PM.

Martha Lopez, RMC
Borough Clerk