

**REGULAR MEETING
AUGUST 19, 2014**

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 8:02 P.M.

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

PRESENT: Mayor Paul N. Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Mortimer, Council President Turner, Administrator Debbie and Attorney Post. Also present were Lt. Allan Attanasio, Recreation Director Frank Masella, and Public Works Manager Ronald Romak. Councilman Lane and Councilman Messler were absent.

APPROVAL OF MINUTES:

Upon motion by Councilman Moritmer and a second by Councilman Turner, the minutes of the Work and Executive Session Meetings held on July 1, 2014 were approved. Roll Call: Ayes: Andre, Dierkes, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Dierkes and a second by Councilman Mortimer, the minutes of the Regular Session Meeting held on June 15, 2014 were approved. Roll Call: Ayes: Andre, Dierkes, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Dierkes and a second by Councilman Turner, the minutes of the Work Session and Executive Session Meetings held on August 5, 2014 were approved. Roll Call: Ayes: Dierkes, Turner, Mirabelli. Abstained: Andre, Mortimer. Nays: 0.

RESOLUTIONS:

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

RESOLUTION 78-2014

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that authorization is granted for the Finance Officer to issue a check in the amount of \$500 to the Deerfield School PTA as a donation in support of the PTA Fall Festival to be held on October 18, 2014 at Deerfield School. The contribution is split between the Borough of Mountainside and the Municipal Drug Alliance.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 79-2014

WHEREAS, the year 2014 will mark the 350th anniversary of the charter conveying all the lands between the Connecticut River and the east side of the Delaware River from Charles II to James, Duke of York; and

WHEREAS, the year 2014 will also mark the 350th anniversary of the execution of deeds of release by the said James, Duke of York, to John Lord Berkeley, Baron of Stratton and Sir George Carteret of Saltrum, of these lands, which said tract of land is hereafter to be called by the name or names of Nova Caesarea or New Jersey: and the right of Government therein; and

WHEREAS, the year 2014 will also be the 350th anniversary of the signing and publication by John Lord Berkeley and Sir George Carteret of “The Concessions and Agreements of the Lords Proprietors of the Province of New Caesarea or New Jersey to and with all the Adventurors and all such as shall settle or plant here” a declaration of the organic law of the Colony and truly “The Magna Carta of New Jersey”; and

WHEREAS, the foregoing events mark the beginning of the separate history of New Jersey as a Colony; and

WHEREAS, it is fitting and desirable that we commemorate these beginnings of our State together with its subsequent history and its present and future role in the family of the United States for the benefit of all the people of New Jersey and the Nation, with particular focus on the Core Values that have shaped our State, County and Borough of Mountainside.

THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside:

1. The Borough of Mountainside celebrates the 350th anniversary of the establishment of New Jersey as a colony
2. The Borough of Mountainside authorizes the appointment of a committee to develop a plan for this commemoration that will promote the maximum involvement of our residents, neighborhoods, businesses, schools and civic organizations and institutions in the celebrations.
3. The Borough of Mountainside further urges all its citizens to reflect upon the significance of this event and the role that our State and its citizens have played in the history and development of our nation and to participate in this important commemoration.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 80-2014

WHEREAS, there is a vacancy in the position of Communication Officer; and

WHEREAS, the Governing Body of the Borough of Mountainside is desirous of filling subject vacancy; and

WHEREAS, the Police Committee has recommended that the Borough Council take action to hire Kenneth Mirabelli; and

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Kenneth Mirabelli is hereby appointed as Communication Officer at a starting annual salary of \$36,835.13, effective August 24, 2014; and

BE IT FURTHER RESOLVED, that Kenneth Mirabelli be hired as a probationary employee for a period of ninety (90) days in accordance with the Borough of Mountainside Personnel Policy & Procedures Manual.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 81-2014

WHEREAS, the A&E Committee has recommended a compensation adjustment to the Chief Finance Officer Jill Goode; and

WHEREAS, the Mayor and Council agree to increase the Chief Finance Officer's salary by \$10,000; and

NOW, THEREFORE, BE IT RESOLVED, that this compensation becomes effective on August 1, 2014.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 82-2014

WHEREAS, the A&E Committee has recommended a compensation adjustment to the Part Time Administrator James Debbie Jr.; and

WHEREAS, the Mayor and Council agree to increase the annual salary of the Part Time Administrator to \$40,000; and

NOW, THEREFORE, BE IT RESOLVED, that this compensation becomes effective on August 1, 2014.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 83-2014

WHEREAS, the Recreation Director Frank Masella has requested refunds to the following pool members due to medical reasons; and

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

<u>Recipient</u>	<u>Amount</u>
Patricia and Peter Kalellis 247 Old Tote Road	\$220.00

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 84-2014

BE IT RESOLVED, that this resolution amends Resolution 19-2014, dated January 7, 2014;

BE IT RESOLVED, that any two of the following Borough Officials are hereby authorized to sign checks and drafts of the Borough of Mountainside:

1. Paul N. Mirabelli, Mayor
2. Keith C. Turner, Council President
3. Jill Goode, CFO/Treasurer
4. James Debbie, Jr., Administrator

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

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

RESOLUTION 85-2014

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2014-7 for “Paving Improvements on Darby Lane”; and

WHEREAS, on August 7, 2014 the return date for the bids, three bids were received as follows:

Bidders:	Base Bid	Alt. #1
Midwest Const.	\$257,546.06	\$17,027.50
Topline Const.	\$300,090.40	\$14,956.40
Z Brothers	\$362,992.00	\$19,599.00

WHEREAS, the Borough Engineer recommends awarding the Base Bid and Alternate #1; and

WHEREAS, the lowest bidder is Midwest Construction Inc. and the Borough Engineer has recommended that Contract 2014-7 be awarded to Midwest Construction Inc., 23 Dead River Road, New Jersey 07059.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Paving Improvements on Darby Lane is awarded to Midwest Construction Inc., 23 Dead River Road, New Jersey 07059 in the amount of \$274,573.56.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

ORDINANCES: Second Reading (Public Hearing)

ORDINANCE 1224-2014

AN ORDINANCE TO APPROPRIATE THE SUM OF THIRTY THOUSAND DOLLARS (\$30,000.00) FROM THE CAPITAL IMPROVEMENT FUND FOR REPLACEMENT OF THE BOILER

WHEREAS, the Governing Body of the Borough of Mountainside is desirous to replace the boiler of the Municipal Building, and

WHEREAS, funds up to the amount of \$30,000.00 may be needed for this project;
and

WHEREAS, the Governing Body of the Borough of Mountainside concurs that the purchase to be necessary;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that the sum of \$30,000.00 be and is hereby appropriated from the Capital Improvement Fund for the replacement of the boiler of the municipal building.

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 Mortimer and seconded by Councilman Turner that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

Second Reading (Public Hearing)

ORDINANCE 1225-2014

AN ORDINANCE REGULATING POLITICAL CONTRIBUTIONS IN THE BOROUGH OF MOUNTAINSIDE

WHEREAS, it is in the public interest and in furtherance of the policy of the Borough of Mountainside that, in addition to insuring full compliance with the New Jersey Campaign Contributions and Expenditures Act, P.L. 2005 C.271 which authorizes a municipality to enact an Ordinance to limit political campaign contributions to Borough elected officials and candidates for Borough elective office by professional business entities who may benefit from a business relation with the Borough.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY AS FOLLOWS:

Section 1. No professional business entity that submits a bid or enters into negotiations for, or agrees to any agreement or contract with the Borough for professional services, banking or insurance coverage services or any other consulting services shall make a monetary or in-kind campaign contribution in excess of \$300.00 for a primary election and \$300.00 for a general election to a candidate for or the holder of a Borough elective office or the campaign committee or political action committee of a candidate for or the holder of a Borough elective office or County of Union party committee or political municipal committee supporting such candidate or holder of a Borough elective office between one year before the start of negotiations or submittal of the bid relative to such an agreement or contract, whichever is earlier, and the termination of negotiations or the completion of the agreement or contract, whichever is

later. Any group of individuals forming a professional business entity under this section, including such principals, partners, officers, their spouse and any child, parent, or sibling living in the same home of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Borough candidates and Borough office holders, and all Borough political parties and political action committees of all Borough candidates and Borough office holders combined.

Section 2. No individual or professional business entity doing business with the Borough, included banking and insurance coverage services on any other consulting services, or any principal, partner or member of any such entity, shall make a monetary or in kind contribution in excess of \$300.00 for a primary election and \$300.00 for a general election to a candidate for or the holder of a Borough elective office or the campaign committee or political action committee of a candidate for or the holder of a Borough elective office or Union County party committee or political municipal committee supporting such candidate or holder of a Borough elective office. Any group of individuals forming a professional business entity under this section, including such principals, partners, officers, their spouse and any child, parent, or sibling living in the same home of the entity in the aggregate, may not annually contribute for any purpose in excess of \$2,500 to all Borough candidates and office holders, and all Borough political parties and political action committees of all Borough candidates and Borough office holders combined.

Section 3. An individual or professional business entity may cure a violation of Sections 1 or 2 if no later than 30 days following the day of the primary election or general election next following the date of which the contribution is made, the individual or professional business seeks and receives reimbursement of the prohibited contribution.

Section 4. An individual or professional business entity found to knowingly fail to reveal or misrepresent a monetary or in kind campaign contribution in excess of \$300.00 for a primary election and \$300.00 for a general election or a professional business entity in excess of \$2,500.00 for a primary election or for a general election, given to a candidate for or the holder of a Borough elective office or the campaign committee or political action committee of a candidate for or the holder of a Borough elective office or Union County party committee supporting such candidate or holder of a Borough elective office shall be considered to be in breach of the terms of any agreement or contract between that professional business entity and the Borough then in effect and shall be subject to the penalties prescribed in Section 5 and any other penalties prescribed by law.

Section 5. An individual or professional business entity found to be in violation of Sections 1, 2, 3, or 4 will be disqualified from eligibility for future contracts, agreements or development applications with the Borough for a period of four (4) calendar years from the date of the determination of the violation by the Borough Council and in addition shall have any contract or agreement with the Borough then in effect terminated immediately.

Section 6. All monetary or in kind contributions made by any individual or professional business entity as defined under this ordinance shall be deemed a violation of this ordinance if that contribution was made before the effective date of this ordinance. Any individual or professional business entity as defined in Sections 1 or 2

shall provide a sworn statement to the governing body that a political contribution has not been made in violation of the provisions of this ordinance and this shall be a continuing obligation during the duration of the contract or development application as appropriate.

Section 7. The Borough Clerk shall provide a candidate for elective office with a copy of this ordinance at the time such candidate requests a petition for said office.

Section 8. All ordinances or parts of this ordinance inconsistent with the provisions of this ordinance shall be the same are hereby repealed.

Section 9. If any section, paragraph, subdivision or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 10. This ordinance shall take effect upon final passage and publication as provided by law.

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 Mortimer and seconded by Councilman Turner that this ordinance be passed on second and final reading and advertised by title only.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

ORDINANCE 1226-2014

AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY

Be it Ordained by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey ("Municipality") as follows:

Section 1. Purpose of the Ordinance

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

Section 2. Definitions

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

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

Section 3. Statement of Findings

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

Section 4. Duration of Franchise

The non-exclusive Municipal Consent granted herein shall expire 15 years from the date of expiration of the previous Certificate of Approval issued by the Board.

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

Section 5. Franchise Fee

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

Section 6. Franchise Territory

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

Section 7. Extension of Service

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. The Company's Line Extension Policy, as set forth in the Company's Application, shall govern any extension of plant beyond the Primary Service Area.

Section 8. Construction Requirements

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

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon

reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

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

Section 9. Customer Service

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the municipality upon written request of the Municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit for outages, the reporting of same to regulatory agencies and notification of same to customers
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.
- c. The Company shall use every reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is permitted under law.

Section 10. Municipal Complaint Officer

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

Section 11. Local Office

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the

purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00 A.M. to 5:00 P.M., Monday through Friday.

Section 12. Performance Bonds

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

Section 13. Subscriber Rates

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

Section 14. Public, Educational and Governmental Access

a. The Company shall continue to provide residents with a system-wide public access channel maintained by the Company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Company's published public access rules.

b. The Company shall continue to provide a system-wide leased access channel maintained by the Company for the purpose of cablecasting commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.

c. The Company shall continue to provide a dedicated local access channel maintained by the Company for the purpose of cablecasting non-commercial access programming in conformance with the Company's guidelines and applicable state and federal statutes and regulations. The Company shall continue to maintain the two existing returns lines for the access channel (located at the Mountainside Municipal facility and at the Deerfield School). The Company shall also continue to maintain the access interconnection with Governor Livingston High School in Berkeley Heights, NJ.

d. The Company shall take any steps that are necessary to ensure that the signals originated on the access channels are carried without material degradation, and with a signal whose quality is equal to that of the other standard channels that the Company transmits.

e. The Communications Act of 1934, as amended (47 U.S.C. §543(b)(4)), allows the Company to itemize and/or identify the amount on the monthly bill assessed to satisfy any requirements imposed on the Company by the cable

franchise to support public, educational, and governmental channels, or the use of such channels or any other services required under the franchise. The company reserves its external cost, pass-through rights to the extent permitted by law.

Section 15. Commitments by Company

a. The Company shall provide standard installation and basic cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges shall be waived on all additional outlets except for equipment.

b. The Company shall provide standard installation and basic cable television service at no cost on one (1) outlet to each police, fire, emergency management facility, public library in the Borough and including Borough Hall and municipal pool facilities, provided the facility is located within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the Municipality. Monthly service charges shall be waived on all additional outlets except for equipment.

c. The Company shall continue to provide free basic Internet service, via high-speed cable modem, to one non-networked outlet in each school in the Borough, public and private, elementary, intermediate and secondary, at no charge, provided the school is within 200 feet of active cable distribution plant.

d. Within six (6) months of the issuance of a renewal Certificate of Approval (COA) by the Board, the Company shall provide to the municipality a one-time access-related technology grant in the amount of ten thousand dollars (\$10,000).

Section 16. Emergency Uses

The Company will comply with the Emergency Alert System (“EAS”) rules in accordance with applicable state and federal statutes and regulations.

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

Section 17. Liability Insurance

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and

operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$5,000,000.

Section 18. Incorporation of Application

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

Section 19. Competitive Equity

Should the Municipality grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

Section 20. Separability

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

Section 21. Third Party Beneficiaries

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

Section 22. Effective Date

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

Section 23. Inconsistency

All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

It was moved by Councilwoman Andre and seconded by Councilman Turner that this ordinance be passed on first reading and advertised in full for a public hearing on September 16, 2014.

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

MOTIONS:

1. Approve the following raffle applications:

Our House Foundation Inc.	50/50 on premise draw raffle
Mountainside PTA	On premise draw raffle
Our Lady of Lourdes Church	50/50 off premise draw raffle
Community Access Unlimited	50/50 off premise draw raffle
	On premise draw raffle
Arc of Union County Inc.	50/50 on premise draw raffle
	On premise draw raffle

2. Tabled - Approve appointment of Thomas McGowan as Volunteer Firefighter

BILLS & CLAIMS:

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

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 19th day of August 2014, 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 \$275,291.74 (Copy of bill list attached.)

Roll Call: Andre, Dierkes, Mortimer, Turner. Nays: 0

COUNCIL COMMENTS:

Council President Turner welcomed newly appointed Communication Officer Kenneth Mirabelli.

Mayor Mirabelli asked residents to support the PTA Fall Festival and PAL Cop Trot on October 18, 2014.

AUDIENCE PARTICIPATION:

Frances Ehman Bellak, 1238 Poplar Avenue, at the July meeting advised Council that there was a serious soil erosion problem due to water run-off in her neighborhood. Several years ago, the Borough Engineer discussed some options including the installation of riprap. Unfortunately, the riprap washed away and the situation has not improved. The Borough Administrator mentioned that the Borough Engineer inspected the property again and is awaiting his official report.

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

WHEREAS, the Open Public Meetings Act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS, the Mayor and Council desire to discuss personnel which are matters where the exclusion of the public is permitted; and

WHEREAS, public disclosure of the results of this discussion will be made as soon as the matters discussed have been resolved by the Governing Body of the Borough of Mountainside;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the aforesaid matters shall be discussed in closed session upon adoption of this resolution.

Meeting adjourned to closed session at 8:25 P.M.

The meeting was recalled to public session at 9:00 P.M.

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

Respectfully submitted,

Martha Lopez, Borough Clerk