

**REGULAR MEETING  
NOVEMBER 24, 2015**

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 7:35 P.M.

**INVOCATION: Mayor Paul N. Mirabelli  
SALUTE TO THE FLAG  
ROLL CALL**

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

**APPROVAL OF MINUTES:**

Upon motion by Councilman Turner and a second by Councilman Mortimer, the minutes of the Regular Session Meeting held on October 20, 2015 was approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Mortimer and a second by Councilwoman Andre, the minutes of the Work & Executive Session Meetings held on November 3, 2015 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0.

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**RESOLUTION OF COMMENDATION:**

WHEREAS, the Berkeley Heights Youth Soccer Club U12 Girls Galaxy brought home the State Championship Title of the New Jersey Youth Soccer President's Cup with a 2-1 victory over the Barrington Galaxy on Sunday, November 1<sup>st</sup> in Lawrenceville; and

WHEREAS, the Championship game between the Berkeley Heights Galaxy and the Barrington Galaxy came down to penalty kicks after both scoring one goal each in overtime; and

WHEREAS, Berkeley Heights would prevail outscoring Barrington Galaxy 4-1 in Penalty kicks; and

WHEREAS, the Berkeley Heights Galaxy team, which is made up of players from Mountainside and Berkeley Heights, opened up this tournament beating the Pasco Red Devils 1-0, and defeating both the Lawrence Hammett Leopards and the Rancocas Valley SC RV United Premier team in the final round 2-1

WHEREAS, Berkeley Heights Galaxy will advance to represent New Jersey Youth Soccer in Region 1, consisting of teams from Maine to West Virginia; and

WHEREAS, the team consists of Allie Post, Julia Meisner, Sarah Szalus, Lauren Paprocki, Victoria Cardiellos, Abby Pereira, Katie Paliwoda, Gianna Ciccimarra, Danielle Kang, Catherine Meisner, Reagan DeMarco, Gillian Ham and Coached by Jay Post, Kristen Ciccimara, Rick Ham, Ed Kang, and Jose Pereira; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that U12 Girls Galaxy is hereby commended for their achievements.

**RESOLUTIONS:**

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

**RESOLUTION 103-2015**

Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the 2015 Highway Safety Fund Project

**2015 HIGHWAY SAFETY FUND PROJECT**

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor, Council and Borough Clerk are hereby authorized to submit an electronic grant application identified as HSF-2015-Mountainside Borough-00012 to the New Jersey Department of Transportation on behalf of the Borough of Mountainside.

BE IT FURTHER SOLVED that the Mayor, Council and Borough Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Mountainside and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

**RESOLUTION 104-2015**

RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNTAINSIDE, IN THE COUNTY OF UNION, NEW JERSEY, COVENANTING TO COMPLY WITH THE PROVISIONS OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, APPLICABLE TO THE EXCLUSION FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES OF INTEREST ON OBLIGATIONS ISSUED BY THE BOROUGH OF MOUNTAINSIDE, AUTHORIZING THE MAYOR, BOROUGH CLERK, CHIEF FINANCIAL OFFICER AND OTHER BOROUGH OFFICIALS TO TAKE SUCH ACTION AS THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECT SUCH COMPLIANCE AND DESIGNATING A \$4,834,900 BOND ANTICIPATION NOTE, DATED OCTOBER 30, 2015 AND PAYABLE OCTOBER 28, 2016, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.  
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WHEREAS, the Borough of Mountainside, in the County of Union, New Jersey (the "Borough"), from time to time issues bonds, notes and other obligations, the interest on which is excluded from gross income for Federal income tax purposes, and desires to take such action as may be necessary or advisable to establish and maintain such exclusion; and

WHEREAS, the Internal Revenue Code of 1986, as amended (the "Code"), contains provisions with respect to the exclusion from gross income for Federal income tax purposes of interest on obligations, including provisions, among others, that require issuers of tax-exempt obligations, such as the Borough, to account for and rebate certain arbitrage earnings to the United States Treasury and to take such other action to establish and maintain such Federal tax exclusion; and

WHEREAS, the Borough intends to issue a \$4,834,900 bond anticipation note, dated October 30, 2015 and payable October 28, 2016 (the "Note"); and

WHEREAS, the Borough desires to designate the Note as a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Code;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mountainside, in the County of Union, New Jersey, as follows:

SECTION 1. The Borough Council hereby covenants on behalf of the Borough, to the extent permitted by the Constitution and the laws of the State of New Jersey, to do and perform all acts and things permitted by law and necessary to assure that interest paid on bonds, notes or other obligations of the Borough (including the Note) be and remain excluded from gross income of the owners thereof for Federal income tax purposes pursuant to Section 103 of the Code.

SECTION 2. The Mayor, Borough Clerk, Chief Financial Officer and other officials of the Borough are hereby authorized and directed to take such action, make such representations and give such assurances as they may deem necessary or advisable to effect compliance with the Code.

SECTION 3. The Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b) (3) of the Code.

SECTION 4. It is hereby determined and stated that (1) the Note is not a "private activity bond" as defined in the Code and (2) the Borough and its subordinate entities, if any, do not reasonably anticipate issuing in excess of \$10 million of new money tax-exempt obligations (other than private activity bonds) during the calendar year 2015.

SECTION 5. It is further determined and stated that the Borough has not, as of the date hereof, issued any tax-exempt obligations (other than the Note) during the calendar year 2015.

SECTION 6. The Borough will, to the best of its ability, attempt to comply with respect to the limitations on issuance of tax-exempt obligations pursuant to Section 265(b) (3) of the Code; however, the Borough does not covenant to do so, and hereby expressly states that a covenant is not made hereby.

SECTION 7. The issuing officers of the Borough are hereby authorized to deliver a certified copy of this resolution to the original purchaser of the Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2015 dated as of the date of delivery of the Note.

SECTION 8. This resolution shall take effect immediately upon its adoption.

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Messler and seconded by Councilwoman Andre.

### **RESOLUTION 105-2015**

WHEREAS, there is a need for the position of a PT Department of Public Works Employee; and

WHEREAS, Matthew DeAnna has been identified by Public Works Manager Ronald Romak as the individual with the requisite skills and experience to perform the duties of a PT Public Works Employee; and

WHEREAS, Administrator James Debbie Jr. has recommended that the Borough Council take action to hire Matthew DeAnna.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that Matthew DeAnna is hereby hired as a PT Public Works Employee, at an hourly rate of \$19.00, not to exceed 29 hours, effective October 22, 2015.

BE IT FURTHER RESOLVED, that Matthew DeAnna 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, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

### **RESOLUTION 106-2015**

WHEREAS, there is a vacancy in the position of PT Fire Sub Code Official; and

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

WHEREAS, Fire Prevention Official Joseph Popolo is experienced and licensed in performing the duties of PT Fire Sub Code Official; and

WHEREAS, Administrator Debbie has recommended that the Borough Council take action to hire Joseph Popolo as PT Fire Sub Code Official for a four-year term effective November 1, 2015;

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Fire Prevention Official Joseph Popolo is hereby hired as PT Fire Sub Code Official at an hourly rate of \$30.00, inspections not to exceed 20 hours per week.

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Turner and seconded by Councilman Mortimer.

**RESOLUTION 107-2015**

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2015-6 for "Television Inspection of Various Sanitary Sewers"; and

WHEREAS, on October 23, 2015 the return date for the bids, four bids were received as follows:

| Bidders:                     | Base Bid  | Alt. #1  | Alt. #2 |
|------------------------------|-----------|----------|---------|
| Oswald Enterprises, Inc.     | \$46,063  | \$4,815  | \$2,450 |
| National Water Main Cleaning | \$51,813  | \$5,965  | \$4,410 |
| North American Pipeline      | \$57,527* | \$6,700  | \$1,470 |
| Russel Reid Waste Hauling    | \$107,753 | \$12,631 | -----   |

\*= corrected amount

WHEREAS, the Borough Engineer recommends awarding the Base Bid, Alternate #1 and Alternate #2; and

WHEREAS, the lowest bidder is Oswald Enterprises Inc. and the Borough Engineer has recommended that Contract 2015-6 be awarded to Oswald Enterprises Inc., 161 East Road, Belford, New Jersey 07718.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Paving Improvements on Saddle Brook Road is awarded to Oswald Enterprises Inc., 161 East Road, Belford, New Jersey 07718 in the amount of \$53,328.00.

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Andre and seconded by Councilman Turner.

**RESOLUTION 108-2015**

WHEREAS, the Recreation Director Frank Masella has requested refunds to the following participants due to cancellations; and

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

| <u>Recipient</u>                      | <u>Program</u>       | <u>Amount</u> |
|---------------------------------------|----------------------|---------------|
| Suzanne Bakaletz<br>1521 Deer Path    | Basketball Boot Camp | \$95.00       |
| Suzanne Bakaletz<br>1521 Deer Path    | Girls Basketball (2) | \$176.00      |
| Patti Filiaci<br>1112 Saddle Brook Rd | Girls Basketball     | \$88.00       |
| Angela Gyftopoulos<br>190 Mill Lane   | Girls Basketball     | \$88.00       |
| Lisette Guzman<br>1492 Deer Path      | Girls Basketball     | \$88.00       |
| Sarah Post-Smith<br>320 Tanager Way   | Girls Basketball     | \$88.00       |
| Vivian Pupo<br>328 Darby Lane         | Boys Basketball      | \$78.00       |
| Alina Balmann<br>1520 Long Meadow     | Boys Basketball      | \$78.00       |

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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Attorney Post provided the history behind the redevelopment of the Barnes Tract.

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

**RESOLUTION 109-2015**

A RESOLUTION:

1. ADOPTING THE PLANNING BOARD DETERMINATION THAT BLOCK 14, LOT 14 IS AN AREA IN NEED OF REDEVELOPMENT; AND
2. REFERRING A PROPOSED REDEVELOPMENT PLAN TO THE PLANNING BOARD FOR REVIEW PURSUANT TO N.J.S.A. 40A:12A-7(e)

WHEREAS, on October 6, 2015, the Mayor and Council of the Borough of Mountainside adopted Resolution 97-2015 directing the Planning Board of the Borough of Mountainside, pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 of the Local Redevelopment and Housing Law (the "Redevelopment Law") to undertake a preliminary investigation to determine whether the property identified on the Borough's tax map as Block 14, Lot 14, which property is sometimes referred to as the Barnes Tract (hereinafter referred to as the "Study Area"), qualifies as an area in need of Non-Condensation Redevelopment; and

WHEREAS, in furtherance of this investigation, John T. Chadwick, IV, P.P. issued a report entitled "Preliminary Redevelopment Area Study - Barnes Tract (the "Chadwick Report"); and

WHEREAS, on October 16, 2015 and October 23, 2015, a public notice was published in the Newark Star Ledger indicating that the Planning Board would conduct a public hearing regarding the Study Area on November 5, 2015; and

WHEREAS, a public hearing was held on November 5, 2015 by the Planning Board regarding this investigation of the Study Area; and

WHEREAS, at this hearing and as part of this investigation of the Study Area, the Planning Board considered the Chadwick Report, witnesses, exhibits, testimony, opinion, and comments provided by witnesses and the public, as well as any statement of counsel; and

WHEREAS, on November 5, 2015, upon completion of the hearing, the Planning Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that the Study Area is an “area in need of redevelopment” under the Redevelopment Law and recommending to the Borough Council that the Study Area be determined to be an “area in need of redevelopment;” and

WHEREAS, the Planning Board has forwarded a copy of its Resolution; and

WHEREAS, the Mayor and the Borough Council have reviewed the Resolution and the recommendations contained therein and have determined that it is appropriate to accept these recommendations and to determine that the Study Area is an “area in need of redevelopment;” and

WHEREAS, at the request of the Mayor and Borough Council, John T. Chadwick, IV, P.P. created a proposed redevelopment plan entitled “Redevelopment Plan - Barnes Tract, Block 14, Lot 14;” and

WHEREAS, the Borough Council hereby wishes to refer the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 to the Planning Board, pursuant to N.J.S.A. 40A:12A-7(e), for a report and recommendation from the Planning Board concerning the proposed plan together with an identification of any provisions in the proposed plan that are inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Planning Board may deem appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL FOR THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY, THAT:

1. The Borough Council hereby finds and determines that (i) the Study Area is vacant and in poor condition with no prospect for use as a public facility or use; (ii) the Study Area has been owned by the Borough for decades and it has been determined that no public facility or use is warranted and portions of the Study Area are constrained by topographic conditions; and (iii) as a result of benign neglect, the deleterious condition of the Study Area renders it an ‘attractive nuisance’ and it is detrimental to the safety, health and welfare of the community. For all of the foregoing reasons, and for the reasons set forth within the Planning Board’s Resolution (whose findings are incorporated herein), substantial evidence exists under N.J.S.A. 40A:12A-5(a), 5(c) and 5(d) that the Study Area is an “area in need of redevelopment” under the Local Redevelopment and Housing Law. The Borough Council therefore finds and determines that the property located on its

tax map as Block 14, Lot 14, sometimes referred to as the Barnes Tract, is an “area in need of redevelopment” under Local Redevelopment and Housing Law.

2. A copy of this Resolution, the November 5, 2015 Planning Board Resolution, any exhibits thereto, and a copy of the map of the Study Area shall be filed with the Office of the Borough Clerk.
3. The Borough Clerk is hereby directed, forthwith, to transmit a copy of this Resolution to the Commissioner of the New Jersey Department of Community Affairs for review in accordance with N.J.S.A. 40A:12A-6(b)(5)(c).
4. The Borough Clerk is hereby directed to serve, within ten (10) days of the adoption of this Resolution, a copy of this Resolution upon all persons or entities that filed written objection regarding the Planning Board’s November 5, 2015 hearing and Resolution and stated, in or upon the written objection, an address to which notice of this determination may be sent.
5. The Borough Clerk is hereby directed, forthwith, to transmit a copy of Redevelopment Plan - Barnes Tract, Block 14, Lot 14 to the Planning Board for review in accordance with N.J.S.A. 40A:12A-7(e).
6. The Planning Board is hereby directed to consider Redevelopment Plan - Barnes Tract, Block 14, Lot 14 and, pursuant to N.J.S.A. 40A:12A-7(e), provide a report and recommendation together with an identification of any provisions in the proposed plan that are inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Planning Board may deem appropriate.

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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**ORDINANCE:** First Reading (Introduction)

**ORDINANCE 1240-2015**

**AN ORDINANCE ADOPTING THE  
REDEVELOPMENT PLAN - BARNES TRACT, BLOCK 14, LOT 14**

WHEREAS, on October 6, 2015, the Mayor and Council of the Borough of Mountainside adopted Resolution 97-2015 directing the Planning Board of the Borough of Mountainside, pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 of the Local Redevelopment and Housing Law to undertake a preliminary investigation to determine whether the property, identified on the Borough’s tax map as Block 14, Lot 14 (hereinafter referred to as the “Barnes Tract”), qualifies as an area in need of Non-Condemnation Redevelopment; and

WHEREAS, on November 5, 2015, the Planning Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that the Barnes Tract is an “area in need of redevelopment” under the Redevelopment Law and recommending to the Borough Council that the Barnes Tract be determined to be an “area in need of redevelopment;” and

WHEREAS, the Mayor and the Borough Council adopted Resolution 109-2015 accepting the recommendations of the Planning Board and determining the Barnes Tract to be an “area in need of redevelopment;” and

WHEREAS, at the request of the Mayor and Borough Council, John T. Chadwick, IV, P.P. created a proposed redevelopment plan entitled “Redevelopment Plan - Barnes Tract, Block 14, Lot 14;” and

WHEREAS, the Borough Council referred the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 to the Planning Board, pursuant to N.J.S.A. 40A:12A-7(e), for a report and recommendation from the Planning Board concerning the proposed plan, together with an identification of any provisions in the proposed plan that are inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Land Use Board may deem appropriate; and

WHEREAS, this Ordinance will not be effective until the Planning Board has recommended implementation of the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 and reported that said plan is consistent with the Borough Master Plan; and

WHEREAS, this Ordinance will not be effective until the Borough Council has determined that the inclusion of the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 does generally conform with the goals and objectives set forth in the Borough Master Plan and advances the objectives of the Borough Affordable Housing Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL FOR THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY, THAT:

Section 1

The Borough Council, after studying and deliberating the contents and substance of the “Redevelopment Plan - Barnes Tract, Block 14, Lot 14,” desires to adopt Redevelopment Plan - Barnes Tract, Block 14, Lot 14, which is attached as a part of this ordinance.

- a. This Redevelopment Plan promotes development of a vacant and neglected municipal property and advances the Borough’s Affordable Housing Plan.
- b. This Redevelopment Plan permits vacant, neglected and underutilized property to return to full productivity by creating new appropriate development regulations and opportunities.

Section 2

The attached “Redevelopment Plan - Barnes Tract, Block 14, Lot 14” shall regulate development within the affected area under Local Redevelopment and Housing Law.

Section 3

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

Section 4

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 December 29, 2015.

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

**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 24<sup>th</sup> day of November, 2015, 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 \$279,195.36 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0  
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**COUNCIL COMMENTS:**

Happy Thanksgiving.

Be safe during the Holiday Season.

Borough Engineer Mike Disko prepared a report regarding soil erosion at 1238 Poplar Avenue.

Tree Lighting scheduled for December 5<sup>th</sup>.

Register for the Santa Express.

Tickets available for the Mountainside PAL Breakfast with Santa.

Ginger Bread Open House scheduled for December 12<sup>th</sup> and 13<sup>th</sup>.  
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**AUDIENCE PARTICIPATION:**

Hearing no one desiring to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon a motion by Councilman Mortimer and a second by Councilman Turner, the meeting was unanimously adjourned.

Meeting adjourned at 8:20 PM.  
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Martha Lopez, RMC  
Borough Clerk