

**REGULAR MEETING  
DECEMBER 16, 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 8:04 P.M.

**INVOCATION: Council President Turner  
SALUTE TO THE FLAG  
ROLL CALL**

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

**APPROVAL OF MINUTES:**

Upon motion by Councilman Mortimer and a second by Councilman Turner, the minutes of the Regular Session Meeting held on November 25, 2014 were approved. Roll Call: Ayes: Andre, Dierkes, Mortimer, Turner. Nays: 0. Abstained: Lane.

Upon motion by Councilman Lane and a second by Councilman Turner, the minutes of the Work & Executive Session Meetings held on December 2, 2014 were approved. Roll Call: Ayes: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0.

-----  
**RESOLUTIONS:**

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

**RESOLUTION 107-2014**

WHEREAS, Resolution 13-2014 authorized a Professional Services Contract with M. Disko Associates for Engineering Services; and

WHEREAS, the value of these services was not to exceed \$125,000 over the life of the contract; and

WHEREAS, the contract amount was exceeded due to a large-scale road project involving Elizabethtown Gas Company; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside that the Professional Services Contract for 2014 Engineering Services is hereby amended not to exceed \$225,000.

Regular Meeting

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

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

**RESOLUTION 108-2014**

WHEREAS, the following businesses deposited funds in escrow in the amount of \$100.00 for a temporary sign permit; and

WHEREAS, there remained a balance due for \$100.00; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the Finance Officer is hereby authorized to refund the amount of \$100.00 to the below businesses as recommended by the Borough Engineer.

Uncle Bob's Self Storage, Block 23.C, Lot 2.02  
AmeriCare Physical Therapy, Block 23.C, Lot 17  
Olympika Gymnastics, Block 7.M, Lot 26  
Alphagraphics, Block 23.C, Lot 17

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

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

**RESOLUTION 109-2014**

WHEREAS, the Recreation Director Frank Masella has requested refunds to the following participants due to cancellation; 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>
Sue Gallagher 1126 Ridge Drive	Basketball	\$65.00
Stephen LaRock 575 Woodland Avenue	Basketball	\$85.00
Jeannie McIntyre 1101 Sylvan Lane	Basketball	\$85.00

Fatima Tavares 314 Rolling Rock Road	Basketball	\$85.00
Patti Filiaci 1112 Saddlebrook Road	Basketball	\$85.00
Ellen Schneider 1116 Saddlebrook Road	Basketball	\$85.00
Tracy Monteiro 1309 Summit Lane	Basketball	\$85.00

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

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

#### **RESOLUTION 110-2014**

WHEREAS, the owners of real estate in the Borough of Mountainside paid their real estate and sewer taxes by way of a check in an incorrect amount; and

WHEREAS, in many of such instances the error involved amounts of \$5.00 and under;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the proper Borough Officials be and they hereby are authorized to cancel all such amounts on tax and sewer accounts, whether owed to the Borough or owed by the Borough, of \$5.00 and under for the year 2014.

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

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

#### **RESOLUTION 111-2014**

WHEREAS, NJSA 40A:4-19 of the Local Budget Act provides that temporary appropriations shall be made for the purposes and amounts required in the manner and time therein provided; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mountainside of the necessity to provide for Temporary Debt Budget before January 1, 2015;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following appropriations for Temporary Debt Budget be made for the year 2015:

<u>APPROPRIATIONS</u>	<u>AMOUNTS</u>
State of New Jersey Loan-Principal	\$45,777.93
State of New Jersey Loan-Interest	350.96
TOTAL TEMPORARY DEBT BUDGET	\$46,128.89

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

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

#### **RESOLUTION 112-2014**

WHEREAS, certain General Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances,

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the following unexpended and dedicated balances of General Capital Appropriations be cancelled:

<u>Ord. No.</u>	<u>Project Description</u>	<u>Funded Amount Cancelled</u>
1222-2014	Boiler-Borough Hall	\$24,758.58

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

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

#### **RESOLUTION 113-2014**

WHEREAS, the Borough of Mountainside needs to refund monies to interested parties for overpayment of current year taxes,

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

Steven J Kowitzki, Jr  
375 Park Slope  
Mountainside, NJ 07092

<u>Block</u>	<u>Lot</u>	<u>Amount</u>	
4.C	21.A	\$250.00	Veteran Deduction Allowed

Corelogic Inc  
Attn: Refund Department  
PO Box 961250  
Forst Worth, TX 76161-0250

<u>Block</u>	<u>Lot</u>	<u>Amount</u>	
10.E	13	\$4,974.43	Duplicate Payment
16.A	3	\$2,534.67	Duplicate Payment

Wells Fargo Real Estate Tax Services  
Financial Support-Region 1  
1 Home Campus MAC X2302-04D  
Des Moines, IA 50328-0001

<u>Block</u>	<u>Lot</u>	<u>Amount</u>	
16.N	1	\$199.73	Duplicate Payment

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

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

#### **RESOLUTION 114-2014**

WHEREAS, Valley National Bank is the owner of the property designated as 882 Mountain Avenue, Block 21, Lot 24.A, and 907 Woodland Avenue, Block 21, Lot 24 on the tax map of the Borough of Mountainside, took an appeal from its 2011, 2012, 2013 and 2014 real estate tax assessments; and

WHEREAS, Michael Frangella, the Borough's Tax Assessor, after conferring with appraisers engaged by the Borough to appraise the true value of the aforesaid property, has recommended that such appeal be settled upon the terms set forth below; and

WHEREAS, the Borough Attorney concurs with such recommendations; and

WHEREAS, the Governing Body has concluded that such settlement is appropriate; and

WHEREAS, this resolution is necessary to formalize the Governing Body's decision.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing tax appeals be settled as follows:

- (a) The assessed valuation for Block 21, Lot 24, otherwise known as 907 Woodland Avenue, will remain unchanged for all tax years.
- (b) The 2011 assessed valuation for Block 21 Lot 24.A, otherwise known 882 Mountain Avenue shall remain unchanged at \$474,100.
- (c) The 2012 assessed valuation for Block 21 Lot 24.A, otherwise known 882 Mountain Avenue shall be reduced to \$424,100.
- (d) The 2013 assessed valuation for Block 21 Lot 24.A, otherwise known 882 Mountain Avenue shall be reduced to \$374,100.
- (e) The 2014 assessed valuation for Block 21 Lot 24.A, otherwise known 882 Mountain Avenue shall be reduced to \$324,100.

Upon receipt of the New Jersey State Tax Court Judgment reflecting the above referenced 2011, 2012, 2013, and 2014 assessment reduction, and when the method for generating the refund payment has been fully and finally approved, the appropriate Borough officials are authorized and directed to refund \$3,088.00 for the 2012 tax year, \$6,443.00 for the 2013 tax year, and \$10,104.00 for the 2014 tax year, for a total refund of \$19,623.00, to the taxpayer by way of check made payable to "Brach Eichler L.L.C. and Valley National Bank" c/o Daniel Pollak, Esq., Brach Eichler LLC, 101 Eisenhower Parkway, Roseland, New Jersey 07068.

The taxpayer shall waive all interest on tax overpayments provided payment is made within sixty (60) days of the date of entry of Final Judgment in this action.

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

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

**RESOLUTION 115-2014**

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two months of the fiscal year; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mountainside that the need for certain transfers within the 2014 Municipal Budget exists, and  
Regular Meeting

WHEREAS, Resolution 115-2014 authorized the Chief Financial Officer to make these transfers,

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be ratified.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and is hereby authorized to make any necessary transfers prior to year end and that these be ratified at the first regularly scheduled Governing Body meeting of 2015.

<u>CURRENT ACCOUNT</u>	<u>TO</u>	<u>FROM</u>
Police, O/E	5,000.00	
Fire, O/E	6,000.00	
Contribution to Social Security		11,000.00

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

-----

**ORDINANCE:** Second Reading (Public Hearing)

**ORDINANCE 1230-2014**

**AN ORDINANCE AMENDING ARTICLE 10, SECTIONS 1003(u)(1) AND 1006(a) OF THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNTAINSIDE**

WHEREAS, the Mayor and Council of the Borough of Mountainside, County of Union, and State of New Jersey have determined that there is a need to amend sections of the Land Use ordinance to address certain circumstances for when a zoning permit is necessary in the Borough; and

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows: Article 10, Section 1003(u)(1) of the Borough Code be and the same is hereby is deleted and replaced by a new section (u)(1):

(u) Fences, Retaining Walls, Driveways, Walkways, Patios

(1) A zoning permit in a form approved by the Zoning Official is required for the construction of any fence 6 feet or less in height. A zoning permit is required for the construction of any retaining wall 4 feet or less in height including multiple stepped walls totaling 4 feet or less in combined height. No fence or wall shall exceed 6 feet in height in a residential zone nor 8 feet in height in nonresidential zones. No fence or wall shall be constructed within 6 inches of a property line or street side line. A zoning permit shall be required for any increase in size above the originally existing and Borough approved footprint, regardless of materials used, for driveways, walkways, and ground level patios.

AND BE IT FURTHER ORDAINED THAT Subsection 1006(a) of the Borough Code be and the same is hereby amended and with the addition of the following new sentence at the end of the subsection as follows:

- (a) For the construction of sheds or similar structures totaling 100 square feet or less in size and 10 feet or less in height, a zoning permit shall be required in a form approved by the Zoning Official.

AND BE IT FURTHER ORDAINED THAT the proposed zoning permit application is hereby approved in substantially the same form as the version attached hereto.

AND BE IT FURTHER ORDAINED THAT the application fee for a zoning permit shall be \$50.00.

AND 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.

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, Council President Turner closed the meeting to the public.

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

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

**MOTION:**

The following motion was unanimously approved:

1. Approve raffle applications from Lions Eye Bank of NJ for an on premise draw raffle and 50/50 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 16<sup>th</sup> day of December 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 \$352,998.91 (Copy of bill list attached).

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

**COUNCIL COMMENTS:**

Councilwoman Andre announced ways to access all of Mountainside's programming at any time.

Councilman Lane suggested changing the meeting start time from 8:00 PM to 7:30 PM. Approval to change the time will be determined at the Reorganization Meeting in January.

Council wished everyone a Happy Holiday.

Mayor Mirabelli invited all to attend the 2015 Reorganization Meeting on January 6<sup>th</sup>.

Councilman Turner announced the recent appointment of Patrolman Andrew Yazinski to the Police Department.  
-----

**AUDIENCE PARTICIPATION:**

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

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

Meeting adjourned at 8:17 PM.  
-----

Respectfully submitted,

\_\_\_\_\_  
Martha Lopez, Borough Clerk