

**REGULAR MEETING
NOVEMBER 21, 2017**

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 7:29 P.M.

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

PRESENT: Mayor 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, Recreation Director Frank Masella and Public Works Manager Ronald Romak.

APPROVAL OF MINUTES:

Upon motion by Councilman Turner and a second by Councilwoman Andre, the minutes of the Regular Session Meeting held on October 17, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0. Abstained: Fech-Caccamo.

Upon motion by Councilman Turner a second by Councilman Mortimer, the minutes of the Work Session and Executive Session Meetings held on November 7, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

RESOLUTIONS:

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

RESOLUTION 114-2017

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 \$5,546,877 BOND ANTICIPATION NOTE, DATED OCTOBER 27, 2017 AND PAYABLE MAY 1, 2018, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

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 \$5,546,877 bond anticipation note, dated October 27, 2017 and payable May 1, 2018 (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 2017.

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 2017.

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 2017 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, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

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

RESOLUTION 115-2017

WHEREAS, the Borough Engineer has 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>
Environmental Strategies & Applications, Inc. 495 Union Avenue, Suite 1D Middlesex, NJ 08846	Road Opening	\$1,000.00
John Countryman 450 Summit Road Mountainside, NJ 07092	Alteration Permit	\$384.80

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

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

RESOLUTION 116-2017

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 2017 Municipal Budget exists, and

WHEREAS, this resolution authorizes the Chief Financial Officer to make these transfers,

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

<u>CURRENT ACCOUNT</u>	<u>TO</u>	<u>FROM</u>
Public Works O/E	10,000.00	
Buildings & Grounds O/E	5,000.00	
Legal	30,000.00	
Gasoline & Diesel Fuel		40,000.00
Planning Board O/E		5,000.00

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 117-2017

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 refund, for the following reason:

Duplicate payments Due to Banks
CoreLogic
Centralized Refunds
P. O. Box 9202
Coppell, TX 75019-9978

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
4.03	18.11	\$4,062.25
5.17	1	\$2,799.25
16.08	10	\$2,803.07

Wells Fargo Bank
Attn: Refunds/Financial Support
P. O. Box 14506
Des Moines, IA 50328

5.04	9	\$2,915.80
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Duplicate payment due Previous Homeowner

16.09	2	\$1,586.83
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Olivia Lung
297 Timberline Road
Mountainside, NJ 07092

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

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

RESOLUTION 118-2017

SUPPORTING THE SUBMISSION OF APPLICATIONS TO THE COUNTY OF UNION FOR THE YEAR 44 COMMUNITY DEVELOPMENT BLOCK GRANT (“CDBG”) PROGRAM

WHEREAS, the Borough of Mountainside advertised a public notice for and will conduct a public hearing on, November 21, 2017, to consider proposals for the Union County Year 44 Community Block Development Grant Program (“CDBG”); and

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Mountainside hereby expresses its support of the Union County Year 44 CDBG Program submissions presented to the Borough Council as set forth in the grant applications received, for the following programs:

1. Senior Citizens Social Services Program
 - a. Senior Transportation Program
 - b. Senior Services Program
2. Senior Citizen Handyman Program

BE IT FURTHER RESOLVED that a copy of this Resolution be furnished to the County of Union along with all applications required for CDBG program submission; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

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

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

RESOLUTION 119-2017

RESOLUTION EXPRESSING OPPOSITION TO LEGISLATIVE PROPOSALS REGARDING THE OPEN PUBLIC MEETINGS ACT AND OPEN PUBLIC RECORDS ACT

WHEREAS, the New Jersey Senate Budget and Appropriations Committee took action on Senate Bill Nos. 1045 and 1046, which amend the Open Public Meetings Act and Open Public Records Act, respectively, on June 29, 2017; and

WHEREAS, the Committee released the bills to the full Senate without recommendation because the bills are unnecessary, unpopular with the public, and would result in significant financial and administrative burdens on municipalities; and

WHEREAS, the bills fail to adequately protect taxpayers, municipalities and, especially, municipal clerks from abusive, harassing, and purposefully confrontational individuals who submit voluminous requests for no legitimate reason; and

WHEREAS, the legislation would expand the Open Public Meeting Act to create impractical and burdensome requirements with respect to subcommittees and working groups established by the entire governing body, which would effectively limit the ability of small groups of local officials discussing issues of public concern for the purposes of informing the governing body; and

WHEREAS, under the bills, the responsibilities of municipal clerks, who the Legislature has already loaded with responsibilities beyond the scope of their office, would be stretched even further than current law requires without a single dollar of additional resources provided to, or authorized to be collected by, municipalities; and

WHEREAS, the bills would impose a financial burden on municipalities that would not be offset by a revenue source other than the property tax, making the bills unfunded mandates prohibited by the New Jersey Constitution; and

WHEREAS, some municipalities are more equipped than others to meet the burdens that would be imposed by Senate Bill Nos. 1045 and 1046, however, without assistance of any kind from the States or the courts, every municipality would be on its own to meet the myriad new requirements of the law.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside, that the Legislature is strongly urged to reject Senate Bill Nos. 1045 and 1046 and draft new legislation to modernize OPRA and OPMA while providing municipalities and clerks with the resources to effectuate these changes for the benefit of the public.

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 0-2017

WHEREAS, the Union County Board of Chosen Freeholders established the “Level the Playing Field” Grant Program designed to fund Recreational opportunities for our County’s children; and

WHEREAS, the Borough of Mountainside School District wishes to apply to Union County Trust Fund through the “Level the Playing Field” Grant Program.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, that the proper Borough of Mountainside School District officials are hereby authorized to file an application with the County of Union for the “Level the Playing Field” Grant Program.

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 121-2017

WHEREAS, the Borough of Mountainside and Metro PCS were involved in a dispute over the termination by Metro PCS of its lease with the Borough of Mountainside; and

WHEREAS, the dispute was amicably resolved, and

WHEREAS, one of the terms of the Agreement whereby such dispute was amicably resolved was that Metro PCS would pay rent pursuant to the lease through May 31, 2017; and would also make a lump sum payment to the Borough of \$100,000, and

WHEREAS, in addition to paying rent through May 31, 2017 and making the lump sum payment to the Borough of \$100,000, Metro PCS mistakenly paid the Borough rent for the month of June, 2017, and

WHEREAS, Metro PCS is entitled to a refund of the rent it paid for the month of June, 2017.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside, in the County of Union, and State of New Jersey, that the appropriate Borough Officials be and they hereby are authorized and directed to make a refund to Metro PCS in the amount of \$3,406.63, representing the rent for the month of June, 2017, that was mistakenly paid by Metro PCS.

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

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

RESOLUTION 122-2017

WHEREAS, the Borough of Mountainside and Gene M. Lord and Audrey Lord have been involved in a dispute over an application fee that was posted by the Lords in connection with a land use application regarding Block 18, Lots 11,12,13,14 and 15 as shown on the tax map of the Borough of Mountainside; and

WHEREAS, the land use application was withdrawn before being heard by the Borough Land Use Board; and

WHEREAS, the Lords contend through their attorney that they are entitled to a complete refund of their application fee by reason of such withdrawal; and

WHEREAS, at the time they filed their application the Lords also posted an escrow fund to cover the cost of any engineering and other fees incurred by the Borough in processing the aforesaid land use application, and

WHEREAS, the unused part of such escrow fund has been returned to the Borough but the Borough has been fully reimbursed from such escrow fund for the cost of any engineering and other fees incurred by the Borough in processing the aforesaid land use application, and

WHEREAS, the Borough and the Lords have come to a settlement agreement regarding a partial refund of the aforesaid application fee in the amount of \$11,950 which is designed to entirely resolve the aforesaid dispute and spare both parties the expense of litigation.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside, in the County of Union, and State of New Jersey, that the appropriate Borough Officials be and they hereby are authorized and directed to make a partial refund of the application fee that was posted by Gene M. Lord and Audrey Lord in connection with a land use application regarding Block 18, Lots 11,12,13,14 and 15 as shown on the tax map of the Borough of Mountainside.

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

Resolution 123-2017 was tabled.

ORDINANCE: First Reading (Introduction)

**ORDINANCE 1261-2017
AN ORDINANCE AMENDING ORDINANCE 1240-2015 THAT ADOPTED THE REDEVELOPMENT
PLAN - BARNES TRACT, BLOCK 14, LOT 14, TO INCLUDE BLOCK 14, LOT 13 IN SUCH
REDEVELOPMENT PLAN**

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, the Planning Board 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, 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, and

WHEREAS, on December 29, 2015 the Borough Council adopted Ordinance 1240-2015 that adopted the Redevelopment Plan for the Barnes Tract, Block 14, Lot 14, and

WHEREAS, in the course of implementing the aforesaid Redevelopment Plan for the Barnes Tract it came to the attention of the Governing Body that such Plan might be improved if Block 14, Lots 13 and 17 were also included in the aforesaid Redevelopment Plan, and

WHEREAS, on June 20, 2017 the Mayor and Council of the Borough of Mountainside adopted Resolution 78-2017 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 properties identified on the Borough's tax map as Block 14, Lots 13 and 17 qualify as properties in need of Non-Condensation Redevelopment; and

WHEREAS, a public hearing was held on August 22, 2017 by the Planning Board to determine whether the properties identified on the Borough's tax map as Block 14, Lots 13 and 17 qualify as properties in need of Non-Condensation Redevelopment; and

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

WHEREAS, on August 22, 2017, upon completion of the hearing, at which separate votes were taken regarding Lot 13 and Lot 17, the Planning Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that Lots Block 14, Lots 13 and 17 are "areas in need of redevelopment" under the Redevelopment Law and recommended to the Borough Council that the both Lots be determined to be an "area in need of redevelopment;" and

WHEREAS, the Planning Board forwarded a copy of its Resolution to the Mayor and Borough Council; and

WHEREAS, by Resolution 108-2017 the Borough Council determined to partially accept these recommendations and determined that Block 14, Lot 13 is an "area in need of redevelopment;" and

WHEREAS, by Resolution 108-2017 the Borough Council referred the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 back to the Planning Board, pursuant to N.J.S.A. 4QA:12A-7(e), for a report and recommendation from the Planning Board concerning inclusion of Block 14, Lot 13 in the proposed plan together with an identification of any provisions in the proposed plan that would be inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Planning Board may deem appropriate.

WHEREAS, this Ordinance will not be effective until the Planning Board has recommended implementation of the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 as amended by the inclusion of Block 14, Lot 13 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, as amended by the inclusion of Block 14, Lot 13 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, as amended by the inclusion of Block 14, Lot 13," desires to adopt Redevelopment Plan - Barnes Tract, Block 14, Lot 14, as amended by the inclusion of Block 14, Lot 13 which is attached as a part of this ordinance.

- a. This Redevelopment Plan as amended promotes development of a vacant and neglected municipal property and advances the Borough's Affordable Housing Plan.
- b. This Redevelopment Plan as amended 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, as amended by the inclusion of Block 14, Lot 13" 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 Turner and seconded by Councilman Dierkes that this ordinance be passed on first reading and advertised in full for a public hearing on December 19, 2017.

Roll Call: Andre, Dierkes, Fech-Caccamo, 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 21st day of November 2017, 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 \$513,880.75 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Councilman Turner wished everyone a Happy Thanksgiving.

AUDIENCE PARTICIPATION:

The following residents were concerned after receiving an anonymous letter regarding a proposed soccer field and playground at the Beechwood School. The residents asked for clarification regarding the 2017 Kids Recreation Grant application and funding distribution.

Darren Tietsworth, 1532 Long Meadow. Nitesh Kadakia, 228 Beechwood Court. Hanlon Harris, 220 Beechwood Court. Ann Marie Basile, 7 Little Court, Dana Guidici Pietro, 1650 Nottingham Way.

Mayor Mirabelli thanked everyone for attending. The Mayor explained a recent work session meeting that addressed the 2017 Kids Recreation Grant and how the grant monies would be dispersed. The school district applied for \$30,000 for a playground project and the borough applied for \$60,000 for a potential soccer field and only received \$50,000. The Board of Education would have to approve the proposed soccer field and also mentioned was the grant application process.

Hearing no one else wishing to speak, Mayor Mirabelli wished everyone a Happy Thanksgiving and closed the meeting to the public.

Upon motion by Councilman Mortimer and a second by Councilman Turner, the meeting was unanimously adjourned at 7:54 PM.

Martha Lopez, RMC
Borough Clerk