

**REGULAR MEETING
MARCH 21, 2023**

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 7:30 P.M.

INVOCATION: Councilman Pacifico
SALUTE TO THE FLAG
ROLL CALL

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Matejek, Council President Messler, Councilwoman Pacifico, Administrator Mortimer and Attorney Post. Also present were Public Works Director Matthew DeAnna, Senior Coordinator Kim Moriak, Recreation Director Frank Masella and CFO Jill Goode. Councilwoman Pater was absent.

APPROVAL OF MINUTES:

Upon motion by Councilman Dierkes a second by Councilwoman Pacifico, the minutes of the Regular Meeting held on February 21, 2023 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

Upon motion by Councilman Dierkes a second by Councilman Matejek, the minutes of the Work Session Meeting held on March 7, 2023 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The Mountainside Elks presented monetary grants to the Rescue Squad, Police Department and PAL.

RESOLUTIONS:

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

RESOLUTION 45-2023

WHEREAS, one proposal was submitted and Recreation Director, Frank Masella recommends awarding to Clark Concession Operations, LLC in the sum of \$5,100; and

WHEREAS, Christopher Pandolfo, has extensive experience in the food industry and provided a successful season for our members last year.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the Pool Concession contract for the year 2023 be awarded to Clark Concession Operations, LLC, 75 Victoria Drive, Clark, NJ in the amount of \$5,100.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilwoman Andre.

RESOLUTION 46-2023

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 Payment Due to Bank

CoreLogic
Centralized Refunds
P. O. Box 9202
Coppell, TX 75019-9978

<u>Block</u>	<u>Lot</u>	<u>Amount</u>	
5.20	34	\$1,988.52	1140 Route 22

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Pacifico.

RESOLUTION 47-2023

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Reserve Municipal Budget during the first three 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 2022 Municipal Budget exists; and

WHEREAS, it is recommended that these budget transfers be made.

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be made in the 2022 Municipal Budget Reserves;

<u>CURRENT ACCOUNT</u>	<u>FROM</u>	<u>TO</u>
Group Insurance	50,000.00	
Police S/W	50,000.00	
Legal, OE	60,000.00	
Construction, S/W	40,000.00	
Tax Appeal Pending		200,000.00
TOTAL	\$200,000.00	\$200,000.00

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 48-2023

WHEREAS, N.J.S.A. 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.

NOW, THEREFORE, BE IT RESOLVED that the following additional temporary appropriations shall be made for the year 2023:

<u>APPROPRIATIONS</u>	<u>FROM</u>	<u>TO</u>
Rahway Valley Sewerage Auth	-0-	425,159.00
Contribution to PERS	-0-	318,732.32
Contribution to PFRS	-0-	751,249.00
CDBG – Covid Grant	-0-	76,500.00
Administration & Executive, O/E	50,000.00	75,000.00
Other Insurance	100,000.00	190,000.00
Maintenance of Free Public Library	190,000.00	300,000.00
Roads Repairs, O/E	60,000.00	70,000.00
Municipal Court, O/E	2,000.00	3,000.00
Construction Official, O/E	1,500.00	4,000.00
 Pool, O/E	 20,000.00	 40,000.00

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 49-2023

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2022-8 for “Resurfacing of Mill Lane and Rutgers Road”; and

WHEREAS, on February 9, 2023 the return date for the bids, nine bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt. #2
Midwest Construction	\$406,965.70	\$71,863.40	\$19,800.00
Riverview Paving	\$426,006.80	\$70,674.00	\$23,850.00
Denbar Construction	\$426,961.60	\$56,160.00	\$12,600.00
DLS Contracting	\$434,096.60	\$80,540.00	\$30,600.00
AJM Contractors	\$436,785.60	\$74,108.00	\$23,400.00
Top Line Construction	\$437,652.95	\$71,197.08	\$ 9,130.86
JA Alexander	\$457,947.67	\$77,850.00	\$27,000.00
Black Rock Enterprises	\$471,066.26	\$74,411.44	\$24,522.30
Reivax Contracting	\$486,909.20	\$73,043.24	\$24,084.00

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

WHEREAS, the lowest bidder is Midwest Construction Inc., and the Borough Engineer has recommended that Contract 2022-8 be awarded to Midwest Construction Inc., 19 Dead River Road, Warren Township, NJ 07059.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for “Resurfacing Mill Lane and Rutgers Road” be awarded to Midwest Construction Inc., in the amount of \$426,65.70, subject to NJDOT approval.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Pacifico.

RESOLUTION 50-2023

WHEREAS, there is a need for a PT Planning Board Secretary; and

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

WHEREAS, the Borough Administrator recommends that the Borough Council take action and hire Joanna Roberts.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that Joanna Roberts is hereby hired as PT Planning Board Secretary at an hourly rate of \$25.00, not to exceed 20 hours, effective March 21, 2023 with a six-month probationary period. At the conclusion of the probationary period the hourly rate will increase to \$27 per hour.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The following resolution was introduced by Councilwoman Pacifico and seconded by Councilman Messler.

RESOLUTION 51-2023

WHEREAS, there exists a need for a Pool Manager and Assistant Managers at the Community Pool for the 2023 season; and

WHEREAS, Recreation Director Frank Masella and the Recreation Committee has recommended that the following individuals be appointed to said positions:

John Tosato, Manager	\$13,486.34
Scott Laudati, Assistant Manager	\$ 8,763.89

WHEREAS, each of the above individuals shall be appointed as temporary employees for the 2023 season; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the recommendation of Recreation Director Frank Masella and the Recreation Committee be and hereby is accepted and approved pending completion of background checks.

BE IT FURTHER RESOLVED that the salaries for the above positions shall be set forth in the borough’s annual salary resolution.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 52-2023

A RESOLUTION OF THE BOROUGH OF MOUNTAINSIDE, RECOGNIZING NJ LOCAL GOVERNMENT WEEK, APRIL 16 THROUGH APRIL 22, AND ENCOURAGING ALL CITIZENS TO SUPPORT THIS CELEBRATION AND CORRESPONDING ACTIVITIES

WHEREAS, local government is the government closest to most citizens, and the one with the most direct impact upon its residents; and

WHEREAS, local government provides services and programs that enhance the quality of life for residents, making their municipality their home; and

WHEREAS, local government is administered for and by its citizens, and is dependent upon public commitment to and understanding of its many responsibilities; and

WHEREAS, local government officials and employees share the responsibility to pass along the understanding of public services and their benefits; and

WHEREAS, NJ Local Government Week offers an important opportunity for elected officials and local government staff to spread the word to all citizens of New Jersey that they can shape and influence this branch of government; and

WHEREAS, the NJ State League of Municipalities and its member municipalities have joined together to teach citizens about municipal government through a variety of activities.

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

Section 1. The Mayor and Council encourage all citizens, local government officials, and employees to participate in events that recognize and celebrate NJ Local Government Week.

Section 2. The Mayor and Council encourages educational partnerships between local government and schools, as well as civic groups and other organizations.

Section 3. The Mayor and Council supports and encourages all New Jersey local governments to actively promote and sponsor NJ Local Government Week.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 53-2023

RESOLUTION AUTHORIZING THE APPROPRIATE BOROUGH OFFICIALS TO SIGN AN AGREEMENT WITH OUR LADY OF LOURDES ROMAN CATHOLIC CHURCH WHEREBY THE BOROUGH ACQUIRES 4.4 ACRES OF CHURCH PROPERTY AND AN EASEMENT FOR ACCESS TO SUCH PROPERTY

WHEREAS the Borough of Mountainside has been engaged in negotiations with Our Lady of Lourdes Roman Catholic Church, Mountainside regarding the purchase of approximately 4.4 acres of Lot 6 in Block 11 on the Tax Map of the Borough of Mountainside; and

WHEREAS such 4.4 acres is the property behind the Church buildings that has been used in the past primarily as athletic fields; and

WHEREAS the Governing Body of the Borough has concluded that it is in the best interests of the Borough that the use of such 4.4 acres continue to be athletic fields and other recreational purposes; and

WHEREAS to continue to use such 4.4 acres will require that there be public access to the athletic fields; and

WHEREAS the negotiations that have been under way have resulted in an agreement regarding the terms on which the Borough would acquire such 4.4 acres from Our Lady of Lourdes Roman Catholic Church and an easement that would give the public access to such 4.4 acres.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the appropriate Borough Officials be and they hereby are authorized to sign an agreement with Our Lady of Lourdes Roman Catholic Church whereby the Borough will acquire 4.4 acres from Our Lady of Lourdes Roman Catholic Church for use as athletic fields and other recreational purposes and also acquire an easement that would give the public access to such 4.4 acres.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 54-2023

WHEREAS, the A&E Committee has recommended compensation adjustments for the following Municipal Employees which would result in the compensation adjustments set forth below:

Effective January 1, 2023 and not eligible for any additional annual increase that may be given during 2023:

Giovanna Mack – Violations Clerk \$4.40 per hour
Ben Scotti - Plumbing Inspector \$3.50 per hour
Michael Juzefyk – Electrical Inspector \$3.40 per hour
Keith Turner – OEM Director \$3,500 per annum

Effective January 1, 2023 and eligible for any additional annual increase that may be given during 2023 to full time Municipal Employees:

Richard Neri – DPW Laborer \$2,000 per annum
Oscar Cardona – DPW Laborer \$2,000 per annum
Horacio Collela – DPW Laborer \$3,500 per annum
Kim Moriak – Senior Citizens Coordinator \$6,000 per annum
Karen Bandics – Recreation Secretary - \$3,000 per annum
Martha Lopez – Clerk \$5,161 per annum
Jill Goode – CFO - \$5,000 per annum
Frank Masella – Recreation Director - \$10,000 per annum
Matthew DeAnna – DPW Director - \$10,000 per annum

Effective January 1, 2024 and are eligible for any additional annual increase that may be given during 2024 to full time Municipal Employees:

Kim Moriak – Senior Citizens Coordinator - \$6,000 per annum
Matthew DeAnna – DPW Director - \$10,000 per annum

NOW, THEREFORE, BE IT RESOLVED that the foregoing compensation adjustments be implemented as of the dates indicated.

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

ORDINANCE: Second Reading (Public Hearing)

ORDINANCE 1318-2023

AN ORDINANCE AMENDING CHAPTER XIII OF THE CODE OF THE BOROUGH OF MOUNTAINSIDE TO AMEND THE SECTION ENTITLED “FIRE PREVENTION AND PROTECTION” TO AUTHORIZE RECOVERY OF COSTS AND EXPENSES ASSOCIATED WITH PROVISION OF FIRE SERVICES

WHEREAS, the Borough of Mountainside Fire Department is a wholly volunteer fire department which is funded by the taxpayers of the Borough of Mountainside; and

WHEREAS, the Borough of Mountainside recognizes the Mountainside Fire Department’s need to bill for volunteer fire, rescue, hazmat, and other related services in order to continue their ability to provide a high level of quality emergency response services; and

WHEREAS, in consultation with the Mountainside Fire Department and Mountainside Fire Official, the fees and charges established within this proposed Ordinance are designed to defer the costs of services, rather than to raise revenue;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, that CHAPTER XIII, FIRE PREVENTION AND PROTECTION IS HEREBY AMENDED as follows:

CHAPTER XIII FIRE PREVENTION

Section I.

New Article 13-12 EMERGENCY SERVICES COST RECOVERY

13-12.1 Definitions.

As used in this article, the following terms shall have the meanings indicated:

- a. “Fire Department” shall mean Mountainside Fire Department.
- b. “Person” shall mean a natural person or persons, partnership, corporation, association, firm or other legal entity.
- c. “Responsible Party” shall mean the person having received emergency services provided by the Fire Department.

13-12.2 Purpose.

The purpose of this article is to provide authority, procedures and requirements to seek collection and reimbursement for the reasonable costs of non-emergency standby and responding to emergency incidents by the Fire Department for fire service calls, hazardous material incidents, environmental incidents, and safety and rescue incidents coordinated via Union County Dispatch and 911 responses, and those that use hazardous material abatement equipment and materials are also eligible for reimbursement.

13-12.3 Authorization to recover costs and expenses.

The Governing Body of the Borough of Mountainside authorizes the Mountainside Fire Department and/or the Borough of Mountainside to recover the real and reasonable costs incurred for firefighting materials or equipment used and expended; the costs of personnel and the use of fire trucks, fire engines, rescue equipment, and other vehicles; the costs of hazardous situation abatement materials involved in any fire, safety and rescue incident or operation, and hazardous abatement incident, including vehicular accidents or fires.

13-12.4 Policy for billing.

- a. The Borough of Mountainside recognizes the Fire Department's need to bill for fire, rescue and hazmat services to aid in the provision of emergency services.
- b. No person requiring emergency services shall be denied services due to lack of insurance or ability to pay.
- c. Rates for equipment used shall be derived from "FEMA's Schedule of Equipment Rates" as issued and amended from time to time by the United States Department of Homeland Security.
 1. Rates provided shall be billable per hour with any fractional hour rounded up to the next highest hour.
 2. Rates for equipment may be amended by resolution.
- d. Rates for manpower shall be billed at the initial rate of \$50.00 per firefighter per hour with any fractional hour rounded up to the next highest hour and this hourly rate may be amended by resolution.
- e. Any applicable charges for emergency services rendered shall be billed directly to the user of such services or the user's insurance company.
- f. The Borough of Mountainside and/or the Fire Department may, either directly or through any third-party billing agency with which it has contracted for billing and/or collections for volunteer fire, rescue and hazmat services, make arrangements with users of such services and/or their financially responsible party for the installment payment of bills.
- g. The Fire Department shall provide a financial reporting to the Borough of Mountainside's Chief Financial Officer on a semiannual basis of:
 1. The opening balance of funds on hand.
 2. Amount of billings issued.
 3. Amount of collections in satisfaction of billings issued.
 4. A detailed listing of any amounts disbursed, including the vendor and purpose of disbursement.
 5. The ending balance of funds on hand.

13-12.5 Procedure for billing.

- a. The Borough of Mountainside and/or the Fire Department is hereby authorized to enter into a contract with a third-party billing agency and/or collection agency for the performance of non-emergency, emergency, rescue and hazmat services billing and/or collection services, provided that the following standards for third-party billing are met:

1. The third-party billing service is to be provided at an amount consistent with the fair market value for the services rendered.
 2. Neither the billing agency nor any of its employees are subject to exclusion for any user fee.
 3. The billing agency is bonded and/or insured in amounts satisfactory to the Borough of Mountainside.
- b. The Borough of Mountainside and/or the Fire Department may, at its discretion, bill additionally for material and vehicle costs in the case of any malicious false call or alarm or for any major, extraordinary or unique incidents, including, but not limited to, hazardous material spills, fire emergency and rescue incidents that destroy or severely damage emergency services equipment.
- c. User fees.
1. Fire and rescue services shall initiate user fees for the delivery of emergency services, supplies and equipment to the scene of any hazardous material incident, environmental incident or safety and rescue incident or operation, related to vehicular accidents that occur and are responded to by the Fire Department.
 2. Persons and/or utilities that are provided with non-emergency, emergency, rescue and hazmat services may be billed a user fee in accordance with this article.
 3. The user fee for emergency services rendered may be billed directly to the user of such services' insurance company. If the insurance company is not known, the user of services may be billed directly, with instructions to forward the bill to his/her insurance provider.
 4. Any and all amounts collected as a result of this article shall be used exclusively for the replacement or maintenance of Fire Department emergency services materials, equipment and training and shall be held in trust by the Township's Chief Financial Officer for that purpose.
 5. The Borough of Mountainside may implement rules and/or regulations and/or revoke or amend existing rules and/or regulations as may be deemed necessary for the billing and/or collection and use of user fees pursuant to this article.
- d. Uncollectable accounts.
1. The user fee is anticipated to be paid by the user's insurance company. In the instance where the Borough of Mountainside and/or the Fire Department receives notification from the insurance carrier that it will not honor the invoice, the Borough of Mountainside and/or Fire Department is authorized to invoice the responsible party directly and take any legal action necessary to collect the fee(s), including negotiating a settlement.
 2. The Borough of Mountainside and/or Fire Department may, at its discretion, write off the uncollected fee amounts, without prejudice to the responsible party.
 3. Should the Borough of Mountainside and/or Fire Department determine that an insurance carrier has remitted the fee to the responsible party involved and that the party has failed to remit the fee, the Borough of Mountainside and/or Fire Department are authorized to pursue all legal means and appropriate action in order to collect the account.

13-12.6 Applicability.

The cost recovery provisions of this Ordinance shall apply to services rendered by emergency personnel for vehicular incidents in the Borough of Mountainside. The cost recovery provisions of this Ordinance shall not apply to residential and commercial residents of the Borough of Mountainside unless the necessity for the emergency services was a result of a violation of the

Uniform Fire Code, in which instance the Mountainside Fire Department may seek to recover the costs for responding to the emergency along with any penalties authorized by the Uniform Fire Code.

13-12.7 Saving Clause.

Nothing in this article shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby; nor shall any just or legal right or remedy or any character be lost, impaired or affected by this article.

Section II: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section III: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

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

Section V: On passage this ordinance shall be codified.

Hearing no one wishing to speak, Councilwoman Andre closed the meeting to the public.

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

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

MOTION:

The following motion was unanimously approved:

1. Approve raffle applications from PTA Salt Brook School for an on premise 50/50 & draw raffles

BILLS & CLAIMS:

The following resolution was introduced by Councilman Dierkes and seconded by Councilwoman Andre:

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 March 2023, 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 \$659,682.34 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0

COUNCIL COMMENTS: None

AUDIENCE PARTICIPATION:

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

Upon a motion by Councilwoman Andre and a second by Councilman Messler, the meeting was unanimously adjourned at 7:55 P.M.

Martha Lopez, RMC
Borough Clerk