

**REGULAR MEETING
JANUARY 16, 2024**

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 7:34 P.M.

INVOCATION: Councilwoman Andre
SALUTE TO THE FLAG
ROLL CALL

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Matejek, Councilman Messler, Council President Pacifico, Councilman Rinaldo, Administrator Mortimer and Attorney Post. Also present was Public Works Director Matthew DeAnna, Police Chief Joseph Giannuzzi, Senior Coordinator Kim Moriak, Recreation Director Frank Masella and Captain Michael Jackson. Councilman Messler was absent.

CEREMONIAL OATH OF OFFICE: Councilman Donald Rinaldo by Assemblywoman Nancy Munoz

APPROVAL OF MINUTES:

Upon motion by Councilman Dierkes a second by Councilwoman Pacifico, the minutes of the Reorganization Meeting held on January 2, 2024 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Pacifico, Rinaldo. Nays: 0.

Upon motion by Councilwoman Pacifico a second by Councilman Dierkes, the minutes of the Special Meeting held on January 4, 2024 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Pacifico, Rinaldo. Nays: 0.

Upon motion by Councilman Dierkes a second by Councilman Matejek, the minutes of the Work Session Meeting held on January 9, 2024 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Pacifico, Rinaldo. Nays: 0.

RESOLUTIONS:

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

RESOLUTION 22-2024

BE IT RESOLVED, that the Borough Administrator is hereby appointed as Fund Commissioner to the Suburban Municipal Joint Insurance Fund for a term of one (1) year expiring December 31, 2024 at no additional salary.

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

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

RESOLUTION 23-2024

WHEREAS, the Union County Transportation Advisory Board has requested that the Borough of Mountainside appoint a representative and an alternate to serve on the Board for a one-year term; and

WHEREAS, the Governing Body is desirous of appointing a representative and alternate from the Borough of Mountainside;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that Councilman Robert W. Messler be appointed as representative and Michael Disko, Jr. be appointed as an alternate for a term to expire December 31, 2024.

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

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

RESOLUTION 24-2024

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, that John Tomaine is hereby appointed as the Borough's representative to the Rahway Valley Sewerage Authority for a five-year term effective February 1, 2024 and ending February 1, 2029.

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

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

RESOLUTION 25-2024

RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN CONTRACT FOR PROFESSIONAL SERVICES

WHEREAS, the Borough of Mountainside has a need to acquire professional services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and,

WHEREAS, the QPA has determined and certified in writing that the value of the acquisition will exceed \$17,500; and,

WHEREAS, the anticipated term of this contract is one year; and

WHEREAS, Arthur R. Thibault Jr., Esq. (a member of the firm of Apruzzese, McDermott, Mastro & Murphy PC) has submitted a proposal in December indicating they will provide Labor Attorney Services for the Borough at a cost not to exceed \$25,000; and

WHEREAS, Arthur R. Thibault Jr., Esq. (a member of the firm of Apruzzese, McDermott, Mastro & Murphy PC) has completed and submitted a Business Entity Disclosure Certification which certifies that Apruzzese, McDermott, Mastro & Murphy PC have not made any reportable contributions to a candidate committee in the Borough of Mountainside in the previous one year, and that the contract will prohibit Apruzzese, McDermott, Mastro & Murphy from making any reportable contributions through the term of the contract, and

WHEREAS, the Borough's Financial Officer has certified that the funds are available for this contract.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside authorizes borough officials to enter into a contract with Arthur R. Thibault Jr., Esq. (a member of the firm of Apruzzese, McDermott, Mastro & Murphy PC) as described herein; and,

BE IT FURTHER RESOLVED that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution and,

BE IT FURTHER RESOLVED that award of this contract will be published in the appropriate newspaper within ten days hereof.

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

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

RESOLUTION 26-2024

WHEREAS, a quote was received by the Borough of Mountainside for the July 4, 2024 Fireworks Celebration; and

WHEREAS, the quote was in the amount of \$20,000.00; and

WHEREAS, the Governing body has determined that Garden State Fireworks, Millington, New Jersey is the preferred vendor; and

WHEREAS, the Borough of Mountainside provides \$12,250.00, the Mountainside PAL provides \$2,500.00, the Mountainside Softball and Baseball League provides \$1,750.00 and the Mountainside Rescue Squad provides \$3,500 for the payment of the July 4th fireworks.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the proper Borough Officials are hereby authorized to enter into an agreement with Garden State Fireworks in the amount of \$20,000.00 for the 2024 July 4th Fireworks Celebration.

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

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

RESOLUTION 27 -2024

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 Resolution 140-2023 authorized the Chief Financial Officer to make any necessary transfers prior to year end and that these transfers be ratified at the first regularly scheduled Governing Body meeting of 2024; and

WHEREAS, the Chief Financial Officer has advised the Mayor and Council of the Borough of Mountainside that certain transfers were needed prior to year-end within the 2023 Municipal Budget; and

WHEREAS, it is recommended that these budget transfers be ratified;

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be ratified in the 2023 Municipal Budget.

<u>CURRENT ACCOUNT</u>	<u>FROM</u>	<u>TO</u>
Planning Board, S/W	5,000.00	
Dispatch, S/W	5,000.00	
A&E, O/E		5,000.00
Fire Department, O/E		5,000.00

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

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

RESOLUTION 28-2024

WHEREAS the Borough’s contract with Cleaning Services of Hudson Valley, Inc. for Janitorial Services expires on January 31, 2024; and

WHEREAS, under the terms of such contract the Borough has an option to renew the contract; and

WHEREAS, the Janitorial Contractor has agreed to a two-year extension at an annual sum of \$24,689.16; and

WHEREAS the Governing Body has determined that it would be in the best interests of the Borough to renew the term of the Agreement as it is entitled to do under the terms of the Agreement.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Mountainside does hereby authorize the appropriate Borough Officials to advise Cleaning Services of Hudson Valley, Inc. that the Borough is exercising the option to renew the contract for a two-year term, from the period of January 31, 2024 to January 31, 2026.

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

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

RESOLUTION 29-2024

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2023-1 for “Resurfacing of Constitution Plaza, Rolling Rock Road and section of Birch Hill Road”; and

WHEREAS, on December 14, 2023 the return date for the bids, eleven bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt. #2	Alt. #3
AJM Contractors	\$478,889.00	\$40,513.20	\$19,250.00	\$123,614.00
Denbar Construction	\$491,260.50	\$35,139.00	\$17,350.00	\$123,311.10
Topline Construction	\$472,247.69	\$41,774.07	\$11,986.27	\$133,561.97

Midwest Construction	\$543,580.22	\$43,407.00	\$19,000.00	\$141,784.06
Black Rock Enterprises	\$616,084.15	\$43,779.06	\$20,460.00*	\$148,463.70
DLS Contracting	\$470,058.00	\$46,507.50	\$24,500.00	\$121,607.10
Your Way Construction	\$551,465.72	\$164,533.20	\$15,100.00	\$123,605.26
PM Construction	\$771,041.15	\$82,680.00	\$43,500.00	\$204,861.10
Crossroads Paving	\$494,402.00	\$43,407.00	\$20,200.00	\$147,161.10
Reivax	\$578,034.00	\$48,574.50	\$23,500.00	\$139,674.10*
Riverview Paving	\$488,249.45	\$43,820.40	\$20,400.00	\$130,579.90

Corrected = *

WHEREAS, the Borough Engineer recommends awarding the Base Bid and Alternate #3; and

WHEREAS, the lowest bidder is DLS Contracting Inc., and the Borough Engineer has recommended that Contract 2023-1 be awarded to DLS Contracting Inc., 36 Montesano Road, Fairfield, NJ 07004.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for "Resurfacing of Constitution Plaza, Rolling Rock Road and section of Birch Hill Road" be awarded to DLS Contracting Inc., 36 Montesano Road, Fairfield, NJ in the amount of \$591,665.10 subject to Borough Attorney review and approval from the New Jersey Department of Transportation.

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

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

RESOLUTION 30-2024

WHEREAS, the Borough Engineer has requested a refund to the following individual; and

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

<u>Applicant</u>	<u>Permit</u>	<u>Amount</u>
Telly & Amanda Zachariades 151 Wild Hedge Lane Mountainside, NJ 07092	Road Opening Bond	\$40,000

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

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

N.J. Stat. § 55:13B-3; and

WHEREAS, the Borough Code at Chapter IV, Section 4.1.1 likewise requires that Boarding Houses be licensed in the Borough of Mountainside consistent with N.J.S.A. 55:13B-1 et seq.; and

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 an Article of the Land Use ordinance to clarify the definition of “Family” to be consistent with the definition contained in the Act and to reinforce the licensing requirements required by the Act and the Municipal Code.

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, that CHAPTER XXII OF THE CODE OF THE BOROUGH OF MOUNTAINSIDE, ARTICLE 221 ENTITLED “FAMILY” OF THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNTAINSIDE SHALL BE AMENDED AS FOLLOWS:

Section I.

ARTICLE 221: Family

Persons living privately together as a single housekeeping unit and using certain rooms and cooking facilities in common, but not including the residents of an apartment hotel, or of a boardinghouse or lodging house serving more than ONE (1) paying guest.

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.

It was moved by Councilman Matejek and seconded by Councilwoman Andre that this ordinance be passed on first reading and advertised in full for a public hearing on February 20, 2024.

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

BILLS & CLAIMS:

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

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 16th day of January 2024, 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 \$485,722.72 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Mayor Mirabelli welcomed Councilman Rinaldo and Coady Brown (Library Board).

AUDIENCE PARTICIPATION:

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

Upon a motion by Councilman Dierkes and a second by Councilwoman Pacifico, the meeting was
unanimously adjourned at 7:51 P.M.

Martha Lopez, RMC
Borough Clerk