

**REGULAR MEETING  
FEBRUARY 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.

Acting Mayor Robert Messler called the meeting to order at 7:31 P.M.

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

**PRESENT:** Councilman Dierkes (by phone), Councilman Matejek, Council President Messler, Councilwoman Pacifico, Councilwoman Pater, Administrator Mortimer and Attorney Post. Also present were Public Works Director Matthew DeAnna, Senior Coordinator Kim Moriak, Recreation Director Frank Masella and Police Chief Joseph Giannuzzi. Mayor Mirabelli and Councilwoman Andre were absent.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Matejek a second by Councilwoman Pacifico, the minutes of the Regular Meeting held on January 17, 2023 were approved. Roll Call: Ayes: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.

Upon motion by Councilwoman Pacifico a second by Councilman Matejek, the minutes of the Work & Executive Session Meetings held on February 7, 2023 were approved. Roll Call: Ayes: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.

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**PRESENTATIONS:**

Police Awards were presented to the following:

Officer Brendan Carlos  
Officer Daniel Cosentino  
Sgt. Christopher Feighner  
Officer Eric Pastore  
Corporal James Urban

5<sup>th</sup> Work Anniversary: Officer Ryan Carr  
25<sup>th</sup> Work Anniversary: Captain Michael Jackson

**RESOLUTIONS:**

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

**RESOLUTION 37-2023**

WHEREAS the Borough's contract with Animal Control Solutions, LLC for Animal Control Services expires on February 29, 2023; and

WHEREAS, under the terms of such contract the Borough has an option to extend the contract for two (2) one (1) year extensions; and

WHEREAS, Animal Control Solutions, LLC has agreed to a one-year extension at an annual sum of \$15,480 with a fee increase for Kenneling and Veterinary Services as per Appendix B and C which is attached hereto; and

WHEREAS, 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 Animal Control Solutions, LLC that the Borough is exercising the option to renew the contract for a one-year term, from the period of March 1, 2023 to February 29, 2024.

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilwoman Pater and seconded by Councilwoman Pacifico.

**RESOLUTION 38-2023**

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Mountainside Council of the Borough of Mountainside, County of Union, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, the Mountainside Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and

WHEREAS, the Mountainside Borough Council has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Union.

NOW, THEREFORE, BE IT RESOLVED by the Borough of Mountainside, County of Union, State of New Jersey hereby recognizes the following:

1. The Mountainside Borough Council does hereby authorize submission of a strategic plan for the Mountainside Municipal Alliance grant for fiscal year July 1, 2020 – June 30, 2025 in the amount of:

DEDR	\$ 8,939.00
Cash Match	\$ 2,235.00
In-Kind	\$ 6,704.00

2. The Mountainside Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilman Matejek and seconded by Councilwoman Pater.

**RESOLUTION 39-2023**

WHEREAS, the Borough Engineer has requested an escrow 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>
Betsy Lee Styskal Trust Dane W. Lee Christopher Lee Styskal 1456 Whipporwill Way Mountainside, NJ 07092	Road Opening	\$7,500

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilman Messler and seconded by Councilwoman Pater.

**RESOLUTION 40-2023**

WHEREAS, there is a need for a P/T Assistant Tax Collector in the Finance Department; and

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

WHEREAS, Debra Varnerin is qualified to perform the duties of P/T Assistant Tax Collector; and

WHEREAS, the Borough Administrator recommends that the Borough Council take action and hire Debra Varnerin.

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Debra Varnerin is hereby hired as P/T Assistant Tax Collector in the Finance Department at an hourly rate of \$25.00, not to exceed 24 hours per week unless approved in advance, effective January 24, 2023 with a six-month probationary period. Upon completion of the probationary period the hourly rate shall increase to \$28.00.

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilwoman Pater and seconded by Councilman Matejek.

**RESOLUTION 41-2023**

WHEREAS, there exists a vacancy in the position of P/T Senior Citizen Handyman; and

WHEREAS, Borough Administrator Glenn Mortimer has recommended that the Borough Council take action to hire Darren Tietsworth, to fill this position.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Mountainside that Darren Tietsworth be appointed as a P/T Senior Citizen Handyman at a rate of \$20.00 per hour, effective January 30, 2023.

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilwoman Pacifico and seconded by Councilman Matejek.

**RESOLUTION 42-2023**

WHEREAS, the Recreation Committee has determined the need to increase the Mountainside Pool membership rates for the 2023 season.

NOW, THEREFORE, BE IT RESOLVED, the Mountainside Pool membership rates for 2023 are established as follows:

RESIDENT	2023 Rates
Family	\$387
Unmarried Child	\$139
2 Adults	\$369
Single	\$199
Senior Citizen	\$139
Children under 16 joining	\$199
Single Parent/Child	\$330
Au Pair/ Nanny	\$139
Parent's Helper	\$199

NON-RESIDENT	2023 Rates
Family	\$679
Unmarried Child	\$139
Single	\$343
Senior Citizen	\$286
Child under 16 Joining	\$199
Parent's Helper	\$343

INITIATION FEE     \$65/family  
                             \$35/single

GUEST FEES         Adults (\$12 weekdays & \$14 weekends/holidays)  
                             Children (\$10 weekdays & \$12 weekends/holidays)

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilwoman Pacifico.

**RESOLUTION 43-2023**

WHEREAS the Mountainside PTO traditionally sponsors a party at the Mountainside Municipal Pool for the students graduating from the 8<sup>th</sup> Grade of the Mountainside School District; and

WHEREAS the Mountainside PTO has requested that the Borough waive the \$400 fee which would otherwise be charged in order to defray the expenses associated with keeping the pool open for the party; and

WHEREAS the Governing Body has, in the past, waived such fee in order to enable the organization to use those funds towards other expenses.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the pool fee of \$400, which would be payable by the Mountainside PTO for the use of the Mountainside Municipal Pool to hold their pool party, be and the same is hereby waived.

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.  
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**ORDINANCE:** First Reading (Introduction)

**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.

It was moved by Councilman Dierkes and seconded by Councilwoman Pater that this ordinance be passed on first reading and advertised in full for a public hearing on March 21, 2023.

Roll Call: Dierkes, Matejek, Messler, Pater. Nays: Pacifico.

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**MOTIONS:**

The following motions were unanimously approved:

1. Authorization to appoint Dylan Koch as a Volunteer Firefighter
2. Approve raffle application from Highlander Booster Club for an off premise 50/50 draw raffle

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**BILLS & CLAIMS:**

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

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 21<sup>st</sup> day of February 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 \$176,876.54 (Copy of bill list attached).

Roll Call: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0  
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**COUNCIL COMMENTS:**

Councilwoman Pater announced the Village Shop hours and Veteran Banners.  
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**AUDIENCE PARTICIPATION:**

Hearing no one wishing to speak, Acting Mayor Messler closed the meeting to the public.  
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Upon a motion by Councilman Matejek and a second by Councilwoman Pater, the meeting was unanimously adjourned at 7:50 P.M.  
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Martha Lopez, RMC  
Borough Clerk