REGULAR MEETING
MAY 21, 2019

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 7:31 P.M.

INVOCATION: Councilwoman Pater
SALUTE TO THE FLAG
ROLL CALL

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Messler, Councilwoman Pater, Administrator Debbie and Attorney Post. Also present were Lt. Joseph Giannuzzi, Recreation Director Frank Masella, Zoning Official Ronald Romak and Public Works Manager Matthew DeAnna. Councilman Mortimer and Council President Turner were absent.

APPROVAL OF MINUTES:

Upon motion by Councilman Dierkes a second by Councilwoman Andre, the minutes of the Regular Session Meeting held on April 23, 2019 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Pater. Nays: 0.

Upon motion by Councilman Dierkes a second by Councilman Messler, the minutes of the Work Session Meeting held on May 7, 2019 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Pater. Nays: 0.

PROCLAMATION:

This proclamation declares the first Friday in June to be National Gun Violence Awareness Day in the Borough of Mountainside to honor and remember all victims and survivors of gun violence and to declare that we as a country must do more to reduce gun violence.

WHEREAS, every day, 100 Americans are killed by gun violence and on average there are nearly 13,000 gun homicides every year; and

WHEREAS, Americans are 25 times more likely to be killed with guns than people in other high-income countries; and

WHEREAS, protecting public safety in the communities they serve is mayors’ highest responsibility; and

WHEREAS, support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories; and

WHEREAS, mayors and law enforcement officers know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, in January 2013, Hadiya Pendleton, a teenager who marched in President Obama’s second inaugural parade and was tragically shot and killed just weeks later, should be now celebrating her 22nd birthday; and

WHEREAS, to help honor Hadiya – and the 100 Americans whose lives are cut short and the countless survivors who are injured by shootings every day – a national coalition of organizations has designated June 7, 2019, the first Friday in June, as the 5th National Gun Violence Awareness Day; and

WHEREAS, the idea was inspired by a group of Hadiya's friends, who asked their classmates to commemorate her life by wearing orange; they chose this color because hunters wear orange to announce themselves to other hunters when out in the woods and orange is a color that symbolizes the value of human life; and

WHEREAS, anyone can join this campaign by pledging to Wear Orange on June 7th, the first Friday in June in 2019, to help raise awareness about gun violence; and

WHEREAS, by wearing orange on June 7, 2019 Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the wrong hands, and encourage responsible gun ownership to help keep our children safe.

NOW, THEREFORE BE IT RESOLVED, that Mayor Paul N. Mirabelli of the Borough of Mountainside declares the first Friday in June, June 7, 2019, to be National Gun Violence Awareness Day. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

RESOLUTIONS:

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

RESOLUTION 58-2019

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 $5,054,921 BOND ANTICIPATION NOTE AND A $160,000 SPECIAL EMERGENCY NOTE, BOTH ISSUES DATED MAY 1, 2019 AND PAYABLE MAY 1, 2020, AS "QUALIFIED TAX-EXEMPT OBLIGATIONS" 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 $5,054,921 bond anticipation note and $160,000 special emergency note, both issues dated May 1, 2019 and payable May 1, 2020 (collectively, the "Notes"); and

WHEREAS, the Borough desires to designate the Notes as "qualified tax-exempt obligations" 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 Notes) 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 Notes are hereby designated as "qualified tax-exempt obligations" for the purpose of Section 265(b) (3) of the Code.

SECTION 4. It is hereby determined and stated that (1) the Notes are not a "private activity bonds" 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 2019.

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 Notes) during the calendar year 2019.

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 Notes and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2019 dated as of the date of delivery of the Notes.

SECTION 8. This resolution shall take effect immediately upon its adoption.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 59-2019

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2019-3 for "Television Inspection of Various Sanitary Sewers"; and

WHEREAS, on April 11, 2019 the return date for the bids, three bids were received as follows:

Bidders:	Base Bid	Alt. #1	Total
Oswald Enterprises, Inc.	$34,975.50	$6,170.48	$41,145.98
North American Pipeline	$39,290.90	$7,021.48	$46,312.38
National Water Main	$41,380.50	$8,488.48	$49,868.98

WHEREAS, the Borough Engineer recommends awarding the Base Bid and Alternate #1; and

WHEREAS, the lowest bidder is Oswald Enterprises, Inc., and the Borough Engineer has recommended that Contract 2019-3 be awarded to Oswald Enterprises Inc., 161 East Road, Belford, NJ 07718.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that Contract 2019-3 be awarded to Oswald Enterprises, Inc., Belford, NJ in the amount of $41,145.98.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 60-2019

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2019-4 for "Manhole Rehabilitation at Various Locations"; and

WHEREAS, on April 11, 2019 the return date for the bids, seven bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt. #2
Denbar Construction	$35,082.40	$9,425.00	$5,400.00
PIM Corporation	$45,301.40	$5,174.00	$18,750.00
Advanced Rehabilitation	$47,682.40	$6,500.00	$18,000.00
North American Pipeline	$52,482.40	$6,500.00	$19,500.00
National Water Main	$59,877.40	$7,605.00	$4,235.00
Standard Pipe Services	$72,007.40	$14,300.00	$24,000.00
Cifelli & Son General	$149,732.40	$39,000.00	$30,000.00

WHEREAS, the Borough Engineer recommends awarding the Base Bid, Alternate #1 and Alternate #2; and

WHEREAS, the lowest bidder is Denbar Construction Inc., and the Borough Engineer has recommended that Contract 2019-4 be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ 07033.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Manhole Rehabilitation at Various Locations be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ in the amount of $49,907.40.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 61-2019

WHEREAS, in accordance with Chapter 72, P.L. 1994, the Borough of Mountainside has the authority to prepare and issue estimated tax bills; and

WHEREAS, in order for the Borough of Mountainside to meet our financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expenses on borrowing it would be in our best interest to do so; and

WHEREAS, the Tax Collector and the Chief Financial Officer have reviewed and computed an estimated levy in accordance with N.J.S.A. 54:4-66.3.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside on this 21st day of May, 2019, as follows:

1. The Borough of Mountainside Tax Collector is hereby authorized and directed to prepare and issue estimated bill for the Borough of Mountainside for the third quarter of 2019 taxes, in accordance with the provisions of N.J.S.A. 54:4-66.2 et seq. in the event a tax rate is not certified timely

2. The entire estimated tax levy for 2019 is hereby set at $36,317,861.08

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 62-2019

WHEREAS, pursuant to N.J.S.A. 40A:19-146 et seq. a municipality shall have a Tax Assessor with a term of office of four (4) years; and

WHEREAS, Michael Frangella has served as the Mountainside Tax Assessor since January 31, 2011; and

WHEREAS, pursuant to N.J.S.A. 40A:9-148, as of July 1, 2015 Michael Frangella has been reappointed as Tax Assessor in the Borough of Mountainside and therefore granted tenure.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Mountainside that Michael Frangella is hereby reappointed and tenured as Tax Assessor.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 63-2019

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 2018 Municipal Budget exists; and

WHEREAS, it is recommended that these budget transfers be made retroactive back to March 31, 2019;

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be made in the 2018 Municipal Budget Reserves retroactive back to March 31, 2019.

CURRENT ACCOUNT	FROM	TO
Police S&W	$20,000	
Police O&E		$20,000
TOTAL	$20,000	$20,000

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 64-2019

BE IT RESOLVED by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey that the revised Personnel Manual dated April 2019 be, and is hereby adopted.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 65-2019

RESOLUTION AUTHORIZING THE SALE OF property shown on the Borough Tax Maps as Block 14, Lot 14, and is also known as 937 Mountain Avenue, Mountainside, New Jersey (the "Property") pursuant to the terms of N.J.S.A. 14A:12-13;

WHEREAS, on December 29, 2015, the Borough Council adopted Ordinance 1240-2015 that adopted a Redevelopment Plan entitled "Redevelopment Plan - Barnes Tract, Block 14, Lot 14" (hereinafter referred to as the "Redevelopment Plan");

WHEREAS, by Resolution, the Borough designated The Garnico Group, LLC. (the "Redeveloper") to undertake and implement an inclusionary residential development project (the "Project") consisting of new construction and operation of thirty-two (32) residential housing units, comprised of (i) six (6) affordable family rental housing units and (ii) twenty-six (26) market rate townhome units on Block 14, Lot 14 owned by the Borough and adjacent property (Block 14, Lot 13) currently owned the Redeveloper, all in accordance with the Redevelopment Plan and the Borough's Housing Element and Fair Share Plan (the "Fair Share Plan") dated October 4, 2013 and revised December 9, 2013; and

WHEREAS, the Borough is the fee simple owner of the Property; and

WHEREAS, in order to implement the Redevelopment Plan and Fair Share Plan, the Borough entered into a Redevelopment Agreement dated July 23, 2018 with the Redeveloper and designated the Redeveloper as redeveloper of the Property, by which, inter alia, the Borough agreed to sell the Property to the Redeveloper for a purchase price of $3,100,000; and

WHEREAS, the Borough has determined that the Redeveloper appears to possess the proper qualifications, financial resources, and capacity to implement and complete the redevelopment of the Property in accordance with all applicable laws, rules and regulations; and

WHEREAS, the Borough believes the Project to be in the vital and best interests of the Borough, and that it promotes the health, safety, and welfare of the Borough's residents;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council that:

1. The Borough Council hereby approves and ratifies the Redevelopment Agreement dated July 23, 2018 entered into with the Redeveloper.

2. The Mayor and Clerk are hereby directed, authorized and empowered to execute, acknowledge and deliver a Deed of conveyance and such documents, instruments and papers and perform such acts as may be legally, properly and reasonably required or necessary to transfer title to certain real estate known as Block 14, Lot 14, 937 Mountain Avenue, in the Borough of Mountainside, Union County, New Jersey and to do such other things and execute such other documents as they deem necessary in order to effectuate the foregoing to the Redeveloper.

3. The Borough's Legal Counsel Post Polak, P.A of 425 Eagle Rock Avenue, Suite 200, Roseland, NJ is hereby authorized to attend a real estate closing of the sale of the Property. The Legal Counsel is authorized to make the necessary and usual closing adjustments for and to arrange for any escrow connected with the closing.
We further authorize the Legal Counsel to execute in our name a Closing Disclosure and any other document that may be necessary to effect the transfer of title.

4. This Resolution shall take effect immediately.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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

RESOLUTION 66-2019

WHEREAS, a subdivision map entitled "Birch Hill-Section C" was filed on April 18, 1949 as Map No. 328-A in the Union County Clerk's Office which depicts a ditch and storm drainage right of way located on Lot 6, Block 15.06 in the Borough of Mountainside; and

WHEREAS, in or about November 1961, an addition was added to the dwelling and an as-built survey was submitted to the Borough of Mountainside illustrating the location of a ditch and storm drainage right of way on Lot 6, Block 15.06 which building addition did not encroach on the storm drainage right of way as depicted on the filed Map No. 328-A; and

WHEREAS, the Borough tax assessor and engineering records do not contain a metes and bounds legal description for the storm drainage right away, thereby leaving an ambiguity as to whether the building addition encroached onto the storm drainage right of way; and

WHEREAS, the property owners desire to enter into an easement agreement with the Borough dispelling any such ambiguity.

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 enter into an Easement Agreement regarding the ditch and storm drainage right of way located on Lot 6, Block 15.06 in the Borough of Mountainside after such Easement Agreement has been approved by the Borough Attorney.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

ORDINANCE: First Reading (Introduction)

ORDINANCE 1275-2019
AN ORDINANCE TO APPROPRIATE THE SUM OF TWO HUNDRED EIGHTY THOUSAND ($280,000.00) FOR THE RESURFACING OF CREEK BED ROAD

WHEREAS, the Governing Body of the Borough of Mountainside have decided to resurface Creek Bed Road; and

WHEREAS, a grant award is now available from NJDOT in the amount of $280,000.00; and

WHEREAS, the Governing Body of the Borough of Mountainside concurs that this resurfacing is necessary; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside that the sum of $280,000.00 be and is hereby appropriated for the resurfacing of Creek Bed Road.

BE IT FURTHER ORDAINED that the Borough of Mountainside shall be reimbursed by the State of New Jersey, Department of Transportation in the amount of $280,000.00.

It was moved by Councilwoman Andre and seconded by Councilman Dierkes that this ordinance be passed on first reading and advertised in full for a public hearing on June 18, 2019.

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0.

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 May 2019, 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 $178,739.61 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Messler, Pater. Nays: 0

COUNCIL COMMENTS:

Councilwoman Pater provided upcoming senior events.

Councilman Dierkes announced National Trails Day.

Councilwoman Andre invited residents to the Rescue Squad Open House to celebrate EMS Appreciation Day.

Councilman Messler mentioned the upcoming Memorial Day Parade and invited commuters to apply to become members of the Port Authority Bus Terminal Advisory Board. He also thanked Beautiful Mountainside for cleaning up and planting at the triangle on Route 22.

Mayor Mirabelli highlighted events sponsored by Friends of the Library.

AUDIENCE PARTICIPATION:

Liz Truman, 355 Cherry Hill Road, questioned the newly adopted budget specifically, the legal and health insurance appropriations.

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

The following resolution was introduced by Councilman Dierkes and seconded by Councilman M Messler.

WHEREAS, the Open Public Meetings Act of the State of New Jersey permits the public to be excluded from certain matters to be discussed by the Governing Body; and

WHEREAS, the Mayor and Council desire to discuss personnel which are matters where the exclusion of the public is permitted; and

WHEREAS, public disclosure of the results of this discussion will be made as soon as the matters discussed have been resolved by the Governing Body of the Borough of Mountainside;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the aforesaid matters shall be discussed in closed session upon adoption of this resolution.

Meeting adjourned to closed session at 8:07 P.M.

The meeting was recalled to public session.

Upon a motion by Councilwoman Andre and a second by Councilman Messler, the meeting was unanimously adjourned at 8:17 P.M.

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Martha Lopez, RMC
Borough Clerk