

**REGULAR MEETING  
AUGUST 20, 2013**

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 8:05 P.M.

**INVOCATION:** Mayor Mirabelli  
**SALUTE TO THE FLAG**  
**ROLL CALL**

**PRESENT:** Mayor Paul N. Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Lane, Councilman Mortimer, Council President Turner, Administrator Debbie and Attorney Post. Also present were Borough Engineer Michael Disko, Public Works Manager Ronald Romak and Recreation Director Frank Masella. Councilman Messler was absent.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Turner and a second by Councilman Lane, the minutes of the Regular Session Meeting held on July 16, 2013 were approved. Roll Call: Ayes: Andre, Dierkes, Lane, Turner. Nays: 0. Abstained: Mortimer.

Upon motion by Councilman Turner and a second by Councilman Lane, the minutes of the Work & Executive Session Meetings held on August 6, 2013 were approved. Roll Call: Ayes: Andre, Dierkes, Lane, Turner. Nays: 0. Abstained: Mortimer.

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**RESOLUTIONS:**

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

**RESOLUTION 100-2013**

BE IT RESOLVED by the Governing Body that the Members of the Council be assigned to the following Committees & Board Liaisons for the year 2013:

**COMMITTEE CHAIRPERSON**

**MEMBERS**

Fire	Councilman William R. Lane	Councilman Glenn W. Mortimer Councilman Rene Dierkes
Administrative and Executive	Councilman Glenn W. Mortimer	Councilman Rene Dierkes Councilman Robert W. Messler
Public Works and Facilities	Councilman Robert W. Messler	Councilman Glenn W. Mortimer Councilwoman Rene Dierkes

Police	Councilman Keith C.Turner	Councilman Robert W. Messler Councilman Glenn W. Mortimer
Solid Waste and Recycling	Councilman Glenn W. Mortimer	Councilman Rene Dierkes Councilman Robert W. Messler
Recreation	Councilman Keith C.Turner	Councilwoman Deanna Andre Councilman William R. Lane
Media and Information	Councilman Glenn W. Mortimer	Councilwoman Deanna Andre Councilman Rene Dierkes

**LIAISONS:**

Planning Board	Glenn W. Mortimer
Board of Health	Rene Dierkes
Board of Education	William R. Lane
Library	Glenn W. Mortimer
Rescue Squad	Deanna Andre
Board of Tax Appeals	Rene Dierkes
Emergency Management	Keith C. Turner
Senior Citizen Services	Deanna Andre
Board of Tax Assessors	Rene Dierkes
Construction Board of Appeals	Robert W. Messler
Shade Tree	Rene Dierkes
Historic Preservation Committee	Deanna Andre
Children's Specialized Hospital	Glenn W. Mortimer

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Andre and seconded by Councilman Dierkes.

**RESOLUTION 101-2013**

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that authorization is granted for the Finance Officer to issue a check in the amount of \$500 to the Deerfield School PTA as a donation in support of the PTA Fall Festival to be held on October 19, 2013 at Deerfield School. The contribution is split between the Borough of Mountainside and the Municipal Drug Alliance.

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

**RESOLUTION 102-2013**

WHEREAS, the Recreation Director Frank Masella has requested refunds to the following pool members due to medical reasons; and

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

<u>Recipient</u>	<u>Amount</u>
Caryl Greene 2 Village Park Court Scotch Plains, NJ 07076	\$230.00
Janet Dermody 15 Village Park Court Scotch Plains, NJ 07076	\$230.00

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Mortimer and seconded by Councilman Dierkes.

**RESOLUTION 103-2013**

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 refunds, for the following reasons:

Duplicate Payments Due to Banks

CoreLogic  
1 CoreLogic Way  
Refund Units: DFW 4-3  
Westlake, TX 76262

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
3.J	21.A	\$2,705.00
4.D	8	\$4,116.00

Wells Fargo Real Estate Tax Service, LLC  
Attn: Financial Support Unit-Region 1  
1 Home Campus, MAC X2302-04D  
Des Moines, IA 50328-0001

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
4.D	3	\$1,928.06

Valley National Bank  
1720 Route 23, North  
Wayne, NJ 07470

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
24.J	3	\$10,436.72

Duplicate Payments Due to Homeowner

Peng, Zhi Wei & Min Li  
1123 Peachtree Lane

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
5.R	18	\$671.78

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilman Lane and seconded by Councilwoman Andre.

**RESOLUTION 104-2013**

WHEREAS, the Borough of Mountainside has received numerous County Board Judgments which resulted in an overpayment.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue the following refunds for Year 2013:

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>OWNER</u>
3.K 51	\$ 1,090.35	Potter, Dine 387 Ackerman Avenue Mountainside, NJ 07092
5.A 11.A	\$147.30	Elsammak, Ibrahim & Wei-Foung Lee 471 Summit Road Mountainside, NJ 07092

6.B	1.A	\$ 1,182.61	Gruszecki, Eric & Diane 1098 Prospect Avenue Mountainside, NJ 07092
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Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Andre and seconded by Councilman Dierkes.

**RESOLUTION 105-2013  
AMENDING RESOLUTION 99-2013 DUE TO POSTPONEMENT**

WHEREAS, the Borough of Mountainside has granted permission to close New Providence Road from Mountain Avenue to Birch Hill Road on Saturday, October 5, 2013 from 7:00 to 12:00 PM for the purpose of moving the Historic Levi Cory House; and

WHEREAS, the rain date is scheduled for Saturday, October 12, 2013; and

WHEREAS, this resolution will request permission from the Union County Freeholders to close these county roads.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that approval is granted to the Borough of Mountainside for a street closing and request the same from the County of Union.

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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**ORDINANCE:** Second Reading (Public Hearing)

**ORDINANCE 1211-2013**

**AN ORDINANCE AMENDING ARTICLE 10, SECTION 1005(b) OF THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNTAINSIDE REGARDING ALTERATION, EXTENSION OR ENLARGEMENT OF NONCONFORMING USES AND STRUCTURES**

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 Section 1005(b) of the Land Use Ordinance to reinstate the previous sections as pertains to Alteration, Extension or Enlargement of Nonconforming Uses or Structures.

WHEREAS, by Ordinance No. 1204-2012 and 1197-2012, the Borough previously amended such sections.

WHEREAS, upon further recommendation by the Borough Planner, the Mayor and Council have determined that it is in the interest of the Borough to amend Section 1005(b).

NOW THEREFORE BE IT ORDAINED by the Mayor and Council as follows: Article 10, Section 1005(b) of the Borough Code be and the same is hereby deleted and that there be substituted the following new Section 1005(b):

(b) Alteration, Extension or Enlargement of Nonconforming Uses or Structures. Nonconforming uses or structures in all zoning districts shall conform to the following requirements:

(1) Any structure or use of land which is nonconforming because of use shall not be enlarged or extended in any manner whatsoever.

(2) There shall be no structural alterations or enlargement made to any nonconforming building or structure that is nonconforming because of use. Structural alterations or enlargements may be made in a building which is nonconforming because it fails to comply with height, area, yard, off-street parking or other like requirements of this Ordinance, so long as the structural alteration or enlargement does not further violate said height, area, yard, off-street parking or other like requirements, and provided that all other provisions of this Ordinance are complied with.

(3) A nonconforming use changed or altered to a conforming use may not thereafter be changed back to a nonconforming use, but nothing hereinbefore stated shall prevent the strengthening or restoring to a safe and lawful condition of any part of any building declared unsafe by the Construction Official, the Chief of the Borough Fire Department or the Borough Engineer. A nonconforming use changed or altered to a different nonconforming use shall be deemed abandoned immediately and the new nonconforming use shall not be considered to be lawfully existing.

(4) In the event that there shall be a cessation of operation of any nonconforming use for a period of twelve (12) consecutive calendar months, the same shall be presumed an abandonment of such nonconforming use. Any subsequent attempt to rely upon, exercise or reinstate such abandoned nonconforming use (the provisions of 1005(a) of this Ordinance notwithstanding) shall be deemed a violation of the terms of this Ordinance.

(5) Nothing in this Ordinance shall require any change in plans, construction or designated use of a structure or building for which a building permit has been heretofore validly issued or if a variance has been authorized by the Board of Adjustment or if construction has been legally started and diligently prosecuted at the time of the adoption of this Ordinance.

(6) Nothing in this Ordinance shall be construed as authorization for or approval of the continuance of the use of a building, structure or premises in violation of any zoning ordinances, rules or regulations in effect immediately preceding the time of the

effective date of this Ordinance unless made conforming by the enactment of this Ordinance.

(7) Restoration of Existing Buildings or Structures Which Are Nonconforming Because of Use. Nothing in this Ordinance shall prevent the restoration or continuance of a nonconforming building or structure which is nonconforming because of its use and which is partially destroyed by fire, explosion, act of God, or of any public enemy, or the like, if the extent of the destruction be not more than fifty per cent (50%) of said value of the whole building or structure at the time of such destruction, then the same may only be reconstructed and thereafter used in such a manner as to conform to all the requirements, terms and conditions of this Ordinance.

(8) Restoration of Existing Buildings Which Are Nonconforming Because of Reasons Other Than Use. Nothing in this Ordinance shall prevent the restoration or continuance of a nonconforming building or structure which is nonconforming because it fails to comply with any height, area, yard, off-street parking or other like requirements of this Ordinance, and which is partially destroyed by fire, explosion, act of god, or of any public enemy, or the like; provided, however, that any restoration of any such building or structure shall not enlarge the previously existing nonconformance.

(9) Any nonconforming lot existing at the time of the adoption of this Ordinance that fails to comply with the minimum lot area and lot width requirements of this Ordinance may be used for any use not otherwise prohibited in the zoning district in which it lies, provided said lot is not in common ownership as defined in Section 211 of this Ordinance, and further provided all other requirements of this Ordinance are complied with.

(10) Ordinance Section 1014(e)(1) is deleted.

AND BE IT FURTHER ORDAINED THAT all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This ordinance shall take effect immediately upon final adoption and publication and in the manner provided by law.

Mayor Mirabelli opened the meeting to the public for anyone wishing to speak on this ordinance and this ordinance only.

Hearing no one wishing to speak, Council President Turner closed the meeting to the public.

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

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0

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**MOTIONS:**

The following motions were unanimously approved:

1. Approve raffle application from NJ Association of Twins Mothers Club for a 50/50 on premise draw raffle
2. Approve raffle applications from MS Education Foundation for a casino night, on premise draw raffle and 50/50 on premise draw raffle

**BILLS & CLAIMS:**

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Dierkes:

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 20<sup>th</sup> day of August 2013, 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 \$1,432,169.60 (Copy of bill list attached.)

Roll Call: Andre, Dierkes, Lane, Mortimer, Turner. Nays: 0  
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**COUNCIL COMMENTS:**

Councilwoman Andre invited residents to attend the Drug Alliance Prevention Night on August 26<sup>th</sup>. The annual plant sale at the Hetfield House will run from September 19<sup>th</sup> to September 22<sup>nd</sup>.

**AUDIENCE PARTICIPATION:**

Hearing no one desiring to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon motion by Councilman Turner and a second by Councilman Lane, the following resolution to adjourn to closed session was unanimously adopted:

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 contracts 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 8:17 P.M.

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The meeting was recalled to public session at 9:17 P.M.

Upon motion by Councilman Mortimer and a second by Councilman Turner, the meeting was unanimously adjourned.

Respectfully submitted,

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Martha Lopez, Borough Clerk