

**REGULAR MEETING  
AUGUST 15, 2017**

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 7:29 P.M.

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

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilwoman Fech-Caccamo, Councilman Messler, Council President Turner, Administrator Debbie and Attorney Post. Also present were Police Chief Allan Attanasio, Recreation Director Frank Masella and Fire Chief Anthony Pecorelli. Councilman Mortimer was absent.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Turner and a second by Councilwoman Andre, the minutes of the Regular Session Meeting held on July 18, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0.

Upon motion by Councilman Turner a second by Councilman Dierkes, the minutes of the Work Session and Executive Session Meetings held on August 1, 2017 were approved. Roll Call: Ayes: Dierkes, Messler, Turner. Nays: 0. Abstained: Andre, Fech-Caccamo.

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**RESOLUTIONS:**

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

**RESOLUTION 90-2017**

WHEREAS, the Recreation Director Frank Masella requested the following refund; and

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

<u>Applicant</u>	<u>Program</u>	<u>Amount</u>
Josh Jancourtz 349 Ackerman Avenue Mountainside, NJ 07092	Ski Trip	\$192.00

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Fech-Caccamo and seconded by Councilman Turner

**RESOLUTION 91-2017**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of any item of appropriation for equal amount;

**SECTION 1**

NOW, THEREFORE, BE IT RESOLVED, that the Borough of Mountainside hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget for the year 2017 for the below amount sums of which item is now available as a revenue from:

- Public & Private Revenues off-set with Appropriations;
- Mountainside 2016 Safe Corridor Grant (\$15,161.17)
- Volunteer Fire Assistance Grant (\$3,500.00)
- Watts Mountainside Community Foundation (Sr. Activities) (\$3,000)

**SECTION 2**

BE IT FURTHER RESOLVED, that a like sum be and the same is hereby appropriated under the caption of:

- Public & Private Programs Offset By Revenues Excluded from "CAPS"
- Mountainside 2016 Safe Corridor Grant (\$15,161.17)
- Volunteer Fire Assistance Grant (\$3,500.00)
- Watts Mountainside Community Foundation (Sr. Activities) (\$3,000)

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0

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

**RESOLUTION 92-2017**

WHEREAS, Resolution 30-2017 approved a compensation increase for the Court Administrator Cindy West on January 17, 2017; and

WHEREAS, the effective date of January 17, 2017 was incorrect; and

WHEREAS, this resolution will amend the effective date to January 1, 2017.

NOW, THEREFORE, BE IT RESOLVED, that the compensation becomes retroactive to January 1, 2017.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilman Messler and seconded by Councilman Turner.

**RESOLUTION 93-2017**

WHEREAS, at the Borough Tax Sale held on December 7, 2016, a lien was sold on 1536 Long Meadow, also known as Block 3.24, Lot 11.01, owned by Frank & Rita Marzulla; and

WHEREAS, this lien known as Tax Sale Certificate #15-00001 was sold to US Bank Cust BV002 Trst&Crdrts, for a premium of \$50,100.00; and

WHEREAS, Frank Marzulla, owner, has requested redemption of this tax title lien 15-00001 and has paid the Borough of Mountainside all monies due including filed affidavits in amount of \$30,630.42; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue a check to US Bank Cust BV002 Trust & Creditors, 50 So. 16th Street, Suite 2050, Philadelphia, PA 19102, in the amount of \$30,630.42 plus a premium of \$50,100, for the redemption and cancellation of Tax Title Lien Certificate #15-00001.

1099 = \$3,271.29

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilwoman Fech-Caccamo and seconded by Councilman Turner.

**RESOLUTION 94-2017**

WHEREAS, Kevin Y. Lau and Violet Lau are the owners of the property designated as 1402 Chapel Hill, Block 4, Lot 17.23, on the current tax map of the Borough of Mountainside, previously known as Block 4.C, Lot 17.W, and took an appeal from their 2015 and 2016 real estate tax assessments; and

WHEREAS, Michael Frangella, the Borough's Tax Assessor, has recommended that such appeals be settled upon the terms set forth below; and

WHEREAS, the Borough Attorney concurs with such recommendations; and

WHEREAS, the Governing Body has concluded that such settlement is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing tax appeal be settled as follows:

- (a) The appeal of the 2015 assessed valuation of Block 4, Lot 17.23, then known as Block 4.C, Lot 17.W, otherwise known as 1402 Chapel Hill, shall be withdrawn and the 2015 assessed value shall remain the same.

(b) The 2016 assessed valuation for Block 4, Lot 17.23, otherwise known as 1402 Chapel Hill, shall be reduced to \$237,100.

(c) The provisions of N.J.S.A. 54:51A-8, the Freeze Act, shall not apply to the settlement set forth herein.

(d) The 2017 assessed valuation for Block 4, Lot 17.23, otherwise known as 1402 Chapel Hill, shall be set to \$227,100.

Upon receipt of the New Jersey State Tax Court Judgment reflecting the above referenced assessment values and when the method for generating the refund payment has been fully and finally approved, the appropriate Borough officials are authorized and directed to refund \$1,825.75, for the 2016 tax year. Such refunds are to be paid by way of check made payable to "Kevin Y. Lau and Violet Lau, and Maria Cozzini, Esq., and forwarded to Maria R. Cozzini, Esq., 1199 US Route 22 East, Mountainside, New Jersey, 07092.

The taxpayer shall waive all interest on all tax overpayments.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

#### **RESOLUTION 95-2017**

WHEREAS, Eberhard Schweizer is the owner of the property designated as 1099 Prospect Avenue, Block 5.01, Lot 2, on the current tax map of the Borough of Mountainside, previously known as Block 5.A, Lot 2, and took an appeal from his 2014, 2015, and 2016 real estate tax assessments; and

WHEREAS, Michael Frangella, the Borough's Tax Assessor, has recommended that such appeals be settled upon the terms set forth below; and

WHEREAS, the Borough Attorney concurs with such recommendations; and

WHEREAS, the Governing Body has concluded that such settlement is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing tax appeal be settled as follows:

(a) The appeal of the 2014 assessed valuation of Block 5.01, Lot 2, then known as Block 5.A Lot 2, otherwise known as 1099 Prospect Avenue, shall be withdrawn and the 2014 assessed value shall remain the same.

(b) The 2015 assessed valuation for Block 5.01, Lot 2, otherwise known as 1099 Prospect Avenue, shall be reduced to \$220,200.

(c) The 2016 assessed valuation for Block 5.01, Lot 2, otherwise known as 1099 Prospect Avenue, shall be reduced to \$220,200.

(d) The 2017 assessed valuation for Block 5.01, Lot 2, otherwise known as 1099 Prospect Avenue, shall be set to \$205,000.

(e) The provisions of N.J.S.A. 54:51A-8, the Freeze Act, shall apply to the settlement set forth herein.

Upon receipt of the New Jersey State Tax Court Judgment reflecting the above referenced assessment values and when the method for generating the refund payment has been fully and finally approved, the appropriate Borough officials are authorized and directed to refund \$7,522.20 for the 2015 tax year and \$7,668.15 for the 2016 tax year, or \$15,190.35 collectively. Such refunds are to be paid by way of check made payable to “Eberhard Schweizer and Blau & Blau, Attorneys at Law”, and forwarded to Daniel R. Kanoff, Esq., Blau & Blau, Attorneys at Law, 223-B Mountain Avenue, Springfield, New Jersey, 07081.

The taxpayer shall waive all interest on all tax overpayments.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

#### **RESOLUTION 96-2017**

WHEREAS, Guiseppe Ripolino is the owner of the property designated as 359 Short Drive, Block 5.03, Lot 28, on the current tax map of the Borough of Mountainside, previously known as Block 5.C, Lot 28, and took an appeal from his 2014, 2015, and 2016 real estate tax assessments; and

WHEREAS, Michael Frangella, the Borough’s Tax Assessor, has recommended that such appeals be settled upon the terms set forth below; and

WHEREAS, the Borough Attorney concurs with such recommendations; and

WHEREAS, the Governing Body has concluded that such settlement is appropriate.

NOW, THEREFORE, BE IT RESOLVED, that the foregoing tax appeal be settled as follows:

(a) The appeal of the 2014 assessed valuation of Block 5.03, Lot 28, then known as Block 5.C, Lot 28, otherwise known as 359 Short Drive, shall be withdrawn and the 2014 assessed value shall remain the same.

(b) The 2015 assessed valuation for Block 5.03, Lot 28, otherwise known as 359 Short Drive, shall be reduced to \$222,800.

(c) The 2016 assessed valuation for Block 5.03, Lot 28, otherwise known as 359 Short Drive, shall be reduced to \$207,800.

(d) The provisions of N.J.S.A. 54:51A-8, the Freeze Act, shall apply to the settlement set forth herein.

Upon receipt of the New Jersey State Tax Court Judgment reflecting the above referenced assessment values and when the method for generating the refund payment has been fully and finally approved, the appropriate Borough officials are authorized and directed to refund \$1,432.80 for the 2015 tax year and \$2,556.05 for the 2016 tax year, or \$3,988.85 collectively. Such refunds

are to be paid by way of check made payable to “Guisepppe Ripolino and Maria Cozzini, Esq.”, and forwarded to Maria R. Cozzini, Esq., 1199 US Route 22 East, Mountainside, New Jersey, 07092.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilman Messler and seconded by Councilwoman Andre.

**RESOLUTION 97-2017**

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2017-6 for “Paving Improvements on Upland Road”; and

WHEREAS, on August 10, 2017 the return date for the bids, one bid was received as follows:

Contractor:	Base Bid	Alt. #1	Alt. #2
Denbar Construction	\$209,064.86*	\$13,000.00*	\$16,000.00

\*= corrected bid amount

WHEREAS, the Borough Engineer recommends awarding the Base Bid only; and

WHEREAS, the only bidder is Denbar Construction, Inc. and the Borough Engineer has recommended that Contract 2017-6 be awarded to Denbar Construction, Inc., 625-B North Michigan Avenue, Kenilworth, New Jersey 07033.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Paving Improvements on Upland Road is awarded to Denbar Construction, Inc., 625-B North Michigan Avenue, Kenilworth, New Jersey 07033 in the amount of \$209,064.86 pending attorney review.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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The following resolution was introduced by Councilman Dierkes and seconded by Councilman Turner.

**RESOLUTION 98-2017**

WHEREAS, the Governing body of the Borough of Mountainside is aware that Friday, September 15, 2017 has been declared as “POW/MIA Remembrance Day”; and

WHEREAS, all Americans everywhere owe a special debt of gratitude and a responsibility for remembering and honoring those who have given so much to make all of us free and secure in this, our national homeland, and a recognition day is a fitting testament and remembrance for all of us, for the sacrifices of our POW/MIA Veterans.

NOW, THEREFORE, BE IT RESOLVED the Mayor and Council of the Borough of Mountainside that it hereby declares, Friday, September 15, 2017 as:

**“POW/MIA REMEMBRANCE DAY”**

in the Borough of Mountainside and urges all citizens of the Borough of Mountainside to make a special effort to give thanks to and remember the sacrifices rendered to us by all these noble sons and daughters of America.

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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**ORDINANCE:**            Second Reading (Public Hearing)

**ORDINANCE 1260-2017**

**AN ORDINANCE TO AMEND THE CODE OF THE BOROUGH OF MOUNTAINSIDE,  
SCHEDULE IV, SUBSECTION 7-3.6 WITH RESPECT TO LIMITED STREET PARKING ON  
HICKORY LANE**

BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, County of Union State of New Jersey that Schedule IV of subsection 7-3.6 of the Borough Code be and is hereby amended to include the following:

Section 1:

<u>NAME OF STREET</u>	<u>SIDES</u>	<u>TIME LIMIT</u>	<u>HOURS/DAYS</u>	<u>LOCATION</u>
Hickory Lane	Both	4 hours	8:00 a.m. to 6:00 p.m. Monday through Friday	From intersection with Birch Hill Road to the intersection with Garrett Road

Section 2:

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 3:

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 4:

This ordinance shall take effect immediately upon its passage and adoption according to 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, Councilman Turner closed the meeting to the public.

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

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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**BILLS & CLAIMS:**

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

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 15<sup>th</sup> day of August 2017, 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 \$326,908.23 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Fech-Caccamo, Messler, Turner. Nays: 0  
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**COUNCIL COMMENTS:**

The Mayor reiterated the Barnes Tract and the Mount Laurel Doctrine and encouraged residents interested in the expansion of the redevelopment zone to attend the next Planning Board meeting.

**AUDIENCE PARTICIPATION:**

Hearing no one wishing to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon a motion by Councilman Turner and a second by Councilman Dierkes 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 litigation 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 7:58 P.M.  
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The meeting was recalled to public session at 9:05 P.M.

Upon motion by Councilman Dierkes and a second by Councilwoman Andre, the meeting was unanimously adjourned.

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Martha Lopez, RMC  
Borough Clerk