

**REGULAR MEETING
NOVEMBER 26, 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 8:09 P.M.

**INVOCATION: Councilwoman Andre
SALUTE TO THE FLAG
ROLL CALL**

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

APPROVAL OF MINUTES:

Upon motion by Councilman Turner and a second by Councilman Lane, the minutes of the Regular and Executive Session Meetings held on October 15, 2013 were approved. Roll Call: Ayes: Andre, Dierkes, Lane, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Mortimer and a second by Councilman Turner, the minutes of the Work and Executive Session Meetings held on November 5, 2013 were approved. Roll Call: Ayes: Andre, Dierkes, Lane, Messler, Mortimer, Turner. Nays: 0.

RESOLUTIONS:

The following resolution was introduced by Councilman Lane and seconded by Councilman Mortimer.

RESOLUTION 129-2013

WHEREAS, at the Borough Tax Sale held on July 9, 2010, a lien was sold on 1581 Grouse Lane, also known as Block 3.N Lot 33 owned by Swingle, Fred A Jr & Mary M; and

WHEREAS, this lien known as Tax Sale Certificate 10-00067 was sold to Royal Tax Lien Services, LLC, for a premium of \$10,700.00; and

WHEREAS, Benedict V Aspero, Esq., on behalf of the property owner, Swingle, Fred A Jr. & Mary M, has requested redemption of this tax title lien 10-00067 and has paid the Borough of Mountainside all monies due including filed affidavits in amount of \$90,334.91; and

NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue a check to Royal Tax Lien Services, LLC, 115 West Avenue, Suite 300, Jenkintown, PA, 19046, in the amount of \$90,334.91 plus a premium of \$10,700.00, for the redemption and cancellation of Tax Title Lien Certificate #10-00067.

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

The following resolution was introduced by Councilman Turner and seconded by Councilman Mortimer.

RESOLUTION 130-2013

WHEREAS, Jenny Disko registered her son for basketball boot camp, and he later decided not to play; and

WHEREAS, it is recommended by the Recreation Director that Jenny Disko be refunded \$90.00.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the Finance Officer is hereby authorized to refund the amount of \$90.00 to Jenny Disko, 2 Westover Court, Mountainside, NJ 07092.

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

The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

RESOLUTION 131-2013

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 revenue in the budget for the year 2013 in the sum of \$142,080 and \$10,804 which item is now available as a revenue from:

Public & Private Revenues off-set with Appropriations;
NJ Hazard Mitigation Grant Program-Energy Allocation Initiative (\$142,080)
Watts Mountainside Community Foundation Grant (\$10,804)

SECTION 2

BE IT FURTHER RESOLVED, that a like sum of \$142,080 and \$10,804 be and the same is hereby appropriated under the caption of:

Public & Private Programs Offset By Revenues Excluded from "CAPS"
NJ Hazard Mitigation Grant Program-Energy Allocation Initiative (\$142,080)
Watts Mountainside Community Foundation Grant (\$10,804)

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

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

RESOLUTION 132-2013

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 Governing Body 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 a Municipal Alliance Committee; and

WHEREAS, the Borough of Mountainside was approved for a Municipal Alliance grant for the January 1, 2013 through December 31, 2013 grant term; and

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse has extended the 2013 grant term until June 30, 2014, in order to transition the grant to a fiscal year rather than calendar year cycle; and

WHEREAS, funding has been made available to the Mountainside Municipal Alliance in the amount of 50% of its approved 2013 grant total for the six-month extension period of January 1, 2014 to June 30, 2014, contingent upon meeting the 25% Cash Match and 75% In-Kind Match grant requirement for the extension funding.

NOW, THEREFORE, BE IT RESOLVED that the Governing Body does hereby authorize the submission of the grant extension for the Mountainside Municipal Alliance grant in the amount of:

DEDR	\$	<u>\$20,499</u>
Cash Match	\$	<u>\$ 5,125</u>
In-Kind	\$	<u>\$15,374</u>

The Governing Body acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

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

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

RESOLUTION 133-2013

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 \$3,285,000 BOND ANTICIPATION NOTE, DATED NOVEMBER 1, 2013 AND PAYABLE OCTOBER 30, 2014, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" 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 \$3,285,000 bond anticipation note, dated November 1, 2013 and payable October 30, 2014 (the "Note"); and

WHEREAS, the Borough desires to designate the Note as a "qualified tax-exempt obligation" 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 Note) 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 Note is hereby designated as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code.

SECTION 4. It is hereby determined and stated that (1) the Note is not a "private activity bond" 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 2013.

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 Note) during the calendar year 2013.

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 Note and to further provide such original purchaser with a certificate of obligations issued during the calendar year 2013 dated as of the date of delivery of the Note.

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

The foregoing resolution was adopted by the following roll call vote:

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

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

RESOLUTION 134-2013

WHEREAS, the Borough of Mountainside, County of Union, New Jersey, desires to amend the 2013 capital budget of said municipality, and

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

The 2013 Capital Budget of the Borough of Mountainside is hereby amended by the adoption of a schedule to read as follows:

Projects Schedule for 2013 – Method of Financing				
	<u>Est. Cost</u>	<u>Capital Imp. Fund</u>	<u>Debt Authorized</u>	
Road & Sewer Improvements				
FROM	300,000	15,000		285,000
TO	1,450,000	69,050		1,380,950
Purchase of Equipment/Vehicles				
FROM	50,000	2,500		47,500
TO	150,000	11,900		138,100
Improvements to Municipal Property				
FROM	200,000	10,000		190,000
TO	400,000	19,050		380,950

BE IT FURTHER RESOLVED, that the Borough Clerk be and is authorized and directed to file a certified copy of this resolution with the Division of Local Government Services, Department of Community Affairs, State of New Jersey within three days after the adoption this resolution.

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

ORDINANCE: Second Reading (Public Hearing)

ORDINANCE 1212-2013

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF A NEW AUTOMOTIVE VEHICLE, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF MOUNTAINSIDE, IN THE COUNTY OF UNION, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$2,000,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Borough Council of the Borough of Mountainside, in the County of Union, State of New Jersey, as follows:

Section 1. The Borough of Mountainside, in the County of Union, State of New Jersey (the "Borough") is hereby authorized to make various public improvements and to acquire a new automotive vehicle, including original apparatus and equipment, in, by and for said Borough, as more particularly described in Section 4 hereof. The cost of the improvements includes all work, materials and appurtenances necessary and suitable therefor.

Section 2. There is hereby appropriated to the payment of the cost of making the improvements described in Sections 1 and 4 hereof (hereinafter referred to as "purposes"), the respective amounts of money hereinafter stated as the appropriation for said respective purposes. Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that the making of such improvements is not a current expense of said Borough.

Section 4. The several purposes hereby authorized for the financing of which said obligations are to be issued are set forth in the following "Schedule of Improvements, Purposes and Amounts" which schedule also shows (1) the amount of the appropriation and the estimated cost of each such purpose, and (2) the amount of each sum which is to be provided by the down payment hereinafter appropriated to finance such purposes, and (3) the estimated maximum amount of bonds and notes to be issued for each such purpose, and (4) the period of usefulness of each such purpose, according to its reasonable life, computed from the date of said bonds:

SCHEDULE OF IMPROVEMENTS, PURPOSES AND AMOUNTS

A. Acquisition of a new automotive vehicle, including original apparatus and equipment, consisting of an ambulance for the use of the Volunteer Ambulance Corps.

Appropriation and Estimated Cost	\$ 150,000
Down Payment Appropriated	\$ 11,900
Bonds and Notes Authorized	\$ 138,100
Period of Usefulness	5 years

B. Undertaking of improvements to public buildings consisting of (i) installation of a generator at the Public Library, (ii) replacement of the air conditioning system at the Public Library and (iii) replacement of an air conditioning unit at the Municipal Building. It is hereby determined and stated that the public buildings being improved are of "Class B" or equivalent construction as defined in Section 22 of the

Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Appropriation and Estimated Cost	\$ 400,000
Down Payment Appropriated	\$ 19,050
Bonds and Notes Authorized	\$ 380,950
Period of Usefulness	15 years

C. Reconstruction or resurfacing of various roads in the Borough, including drainage improvements and curb construction or reconstruction, where necessary, as set forth on a list prepared by the Borough Engineer on file or to be placed on file with the Borough Clerk, and hereby approved as if set forth herein in full. Depending upon the contract price and other exigent circumstances, and upon approval by the Borough Council, there may be additions to or deletions from the aforesaid list. It is hereby determined and stated that said roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law.

Appropriation and Estimated Cost	\$1,450,000
Down Payment Appropriated	\$ 69,050
Bonds and Notes Authorized	\$1,380,950
Period of Usefulness	10 years

Aggregate Appropriation and Estimated Cost	\$2,000,000
Aggregate Down Payment Appropriated	\$ 100,000
Aggregate Amount of Bonds and Notes Authorized	\$1,900,000

Section 5. The cost of such purposes, as hereinbefore stated, includes the aggregate amount of \$158,000 which is estimated to be necessary to finance the cost of such purposes, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 6. It is hereby determined and stated that moneys exceeding \$100,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Borough, are now available to finance said purposes. The sum of \$100,000 is hereby appropriated from such moneys to the payment of the cost of said purposes.

Section 7. To finance said purposes, bonds of said Borough of an aggregate principal amount not exceeding \$1,900,000 are hereby authorized to be

issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 8. To finance said purposes, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$1,900,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 9. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 10. It is hereby determined and declared that the average period of usefulness of said purposes, according to their reasonable lives, taking into consideration the respective amounts of bonds or notes authorized for said purposes, is a period of 10.63 years computed from the date of said bonds.

Section 11. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$1,900,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 12. Any funds received from private parties, the County of Union, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purposes, shall be applied to the payment of the cost of such purposes, or, if bond anticipation notes have been issued,

to the payment of the bond anticipation notes, and the amount of bonds authorized for such purposes shall be reduced accordingly.

Section 13. The Borough intends to issue the bonds or notes to finance the cost of the improvements described in Sections 1 and 4 of this bond ordinance. If the Borough incurs such costs prior to the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 14. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 15. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 16. This ordinance shall take effect twenty days after the first publication thereof after final passage.

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 Mortimer 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, Messler, Mortimer, Turner. Nays: 0

MOTIONS:

The following motions were unanimously approved:

1. Approve raffle application from NJ Association of Twins Mothers Club, Inc. 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 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 26th day of November 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 \$1,953,467.29 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Mayor Mirabelli wished everyone a Happy Thanksgiving Day. Councilman Mortimer wished the residents a Happy Hanukkah.

AUDIENCE PARTICIPATION:

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

Upon motion by Councilman Mortimer 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 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 8:20 P.M.

The meeting was recalled to public session at 9:25 P.M.

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

Respectfully submitted,

Martha Lopez, Borough Clerk