REGULAR MEETING
OCTOBER 18, 2022

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 7:32 P.M.

INVOCATION: Council President Andre
SALUTE TO THE FLAG
ROLL CALL

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

APPROVAL OF MINUTES:

Upon motion by Councilman Dierkes a second by Councilwoman Pacifico, the minutes of the Regular Session Meeting held on September 20, 2022 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

Upon motion by Councilwoman Pacifico a second by Councilwoman Andre, the minutes of the Work Session Meeting held on October 4, 2022 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

Mountainside Beautiful presented a Green Acres Grant check to the Borough for the Levi Cory Park.

OATHS OF OFFICE: Police Promotions: Sergeant Andrew Yasinski, Corporal James Urban, Corporal William Sforza, Corporal Jonathan Hagan, Corporal Kevin Pierre
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PROCLAMATION:

RED RIBBON WEEK

WHEREAS, October 23 through October 31, 2022 has been designated Red Ribbon Week; and

WHEREAS, Red Ribbon Week started in 1985 with a group of parents wearing red satin badges as a memorial to Enrique Camarena, a Federal Drug Enforcement Administration Agent who was killed while on duty; and

WHEREAS, as a result, in 1989 the red ribbon became a united symbol of commitment to create a drug-free America, showing a nation’s intolerance to alcohol and drug abuse; and

WHEREAS, the Municipal Alliance of the Borough of Mountainside, whose mandate includes spreading the message of drug and alcohol abuse prevention, has coordinated borough participation by sponsoring Red Ribbon Week.

THEREFORE, I, Paul N. Mirabelli, Mayor of the Borough of Mountainside do hereby proclaim October 23 through October 31, 2022 as RED RIBBON WEEK in the Borough of Mountainside and ask all residents to join in a personal commitment to a drug-free America by wearing and displaying red ribbons during Red Ribbon Week.

RESOLUTIONS:

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

RESOLUTION 130-2022

WHEREAS, the Borough of Mountainside advertised a public notice for and will conduct a public hearing on, October 18, 2022, to consider proposals for the Union County Year 49 Community Block Development Grant Program ("CDBG"); and

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Mountainside hereby expresses its support of the Union County Year 49 CDBG Program submission presented to the Governing Body as set forth in the grant application received, for the following program:

1. Senior Citizens Social Services Program

BE IT FURTHER RESOLVED that a copy of this Resolution be furnished to the County of Union along with all applications required for CDBG program submission; and

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 131-2022

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 Mountainside PTO as a donation in support of the PTO Fall Festival to be held on October 15, 2022 at Deerfield School.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 132-2022

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 Mountainside PTO as a donation in support of the PTO Trunk or Treat Event to be held at Deerfield School.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 133-2022

WHEREAS, the Borough of Mountainside, pursuant to N.J.S.A. 40A:11-12, may by resolution and without advertising for bids, purchase any goods or services under State Contract; and

WHEREAS, the Mountainside Police Department is in need of a utility vehicle and by utilizing State contracts the Borough can receive competitive pricing, on a timely basis, without the expense and time involved in undertaking independent competitive bidding; and

WHEREAS, the Borough of Mountainside intends to enter into a purchase contract with Winner Ford, Cherry Hill, NJ pursuant to state contract #20-FLEET-01189 for the acquisition of this vehicle; and

WHEREAS, the cost for one 2023 Ford Utility Interceptor with options is $38,012.00; and

WHEREAS, the Borough's Financial Officer has certified that the funds are available for this purchase.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside, County of Union State of New Jersey that the purchase of one 2023 Ford Utility Interceptor with options in the amount of $38,012.00 under terms and provisions of State Contract #20-FLEET-01189 be and hereby is approved.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

The following resolution was introduced by Councilwoman Andre and seconded by Councilwoman Pacifico.

RESOLUTION 134-2022

WHEREAS, the provisions of NJ Rev Stat § 2B:24-3, provide that the Governing Body of a municipality may employ an Attorney at Law as a Municipal Public Defender; and

WHEREAS, Robert Rowbotham, a New Jersey Attorney at Law, has agreed to serve as the Borough's Municipal Public Defender.

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Robert Rowbotham is hereby appointed as the Borough's Municipal Public Defender effective November 1, 2022.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 135-2022

BE IT RESOLVED that the Chief Financial Officer Jill Goode is hereby authorized to accept bids for a $5,968,000.00 Bond Anticipation Note.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 136-2022

BE IT RESOLVED that the Borough Clerk be and she hereby is authorized to advertise for bids for the new DPW Garage which bids are to conform to the specifications and requirements of the bid package as prepared by Heintz & Fiore, AIA.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

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

RESOLUTION 137-2022

RESOLUTION OPPOSING THE DEPARTMENT OF TRANSPORTATION'S PERMANENT CLOSURE OF THE FIRST WESTBOUND TO EASTBOUND U TURN AT THE INTERSECTION OF ROUTE 22 AND MOUNTAIN AVENUE

WHEREAS, the Department of Transportation ("DOT") is engaged in a project to replace the Route 22 Bridge over Echo Lake, and

WHEREAS, in connection with the work associated with such project the DOT has determined that it is going to permanently close the first of three Westbound to Eastbound U turns at the intersection of Rt. 22 and Mountain Avenue, and

WHEREAS, the Borough of Mountainside has consistently opposed such closure and requested that the DOT consider an alternative to such closure which would entail closing the second of such U turns and the leaving the first one open, and

WHEREAS, the DOT itself described the alternative proposed by the Borough as "requested roadway safety and operational improvements," and

WHEREAS, the DOT's position regarding the alternative proposed by the Borough was that it was "beyond the Scope of Work" associated with the project to replace the Route 22 Bridge over Echo Lake, and

WHEREAS, the decision to permanently close the first of three Westbound to Eastbound U turns at the intersection of Rt. 22 and Mountain Avenue as part of a Bridge replacement project appears to have been made without the DOT fully considering how roadway safety and operations for the remaining two U turns will be impacted.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that they do hereby request the State Commissioner of Transportation to:

1. Require changes in the design of the project to replace the Route 22 Bridge over Echo Lake that will eliminate the permanent closure of the first of three aforesaid Westbound to Eastbound U turns, and

2. Require the DOT to conduct a study that would determine the changes, if any, that would provide maximum roadway safety and operational improvements in the part of Route 22 and its intersecting roadways served by the three aforesaid Westbound to Eastbound U turns, and

3. Consult appropriately with the Borough of Mountainside in implementing the results of such study.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

ORDINANCES: Second Reading (Public Hearing)

ORDINANCE 1313-2022
ORDINANCE AMENDING THE 2021 REVISED AGREEMENT BETWEEN THE MEMBER MUNICIPALITIES OF THE RAHWAY VALLEY SEWERAGE AUTHORITY

Be it ordained by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey, as follows:

Section 1.
The Governing Body of the Borough of Mountainside hereby approves the amendments to the 2021 Agreement with regard to the establishment and operation of the Rahway Valley Sewerage Authority.

Section 2.

The amendments to the 2021 Agreement are set out in red-line and are attached as Appendix A ("Revisions to 2021 Agreement").

Section 3. Severability.
If any section, clause, paragraph, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to that section, so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

Section 4. Inconsistency.

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

Hearing no one wishing to speak, Councilman Matejek closed the meeting to the public.

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

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

Second Reading (TABLED)

ORDINANCE 1314-2022
AN ORDINANCE AMENDING CHAPTER III, HUNTING AND FIREARMS, OF THE BOROUGH CODE TO PROHIBIT FIREARMS IN PUBLIC BUILDINGS IN THE BOROUGH OF MOUNTAINSIDE

First Reading (Introduction)

ORDINANCE 1315-2022
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’ 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, including vehicular accidents and fires that occur and are responded to by the Fire Department.
2. Every person and/or utility that is provided with non-emergency, emergency, rescue and hazmat services shall be billed a user fee in accordance with this article.
3. The user fee for emergency services rendered shall be billed directly to the user of such services' insurance company. If the insurance company is not known, the user of services shall 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
2. party directly and take any legal action necessary to collect the fee(s), including negotiating a settlement.
3. The Borough of Mountainside and/or Fire Department may, at its discretion, write off the uncollected fee amounts as a bad debt, without prejudice to the responsible party.
4. 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 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.

It was moved by Councilman Dierkes and seconded by Councilwoman Andre that this ordinance be passed on first reading and advertised in full for a public hearing on November 22, 2022.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0.

First Reading (Introduction)

ORDINANCE 1316-2022
AN ORDINANCE AMENDING CHAPTER XXIII OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAINSIDE BY SETTING THE RANGE FOR MEMBERSHIP FEES FOR USE OF THE MOUNTAINSIDE COMMUNITY

BE IT ORDAINED by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, that Chapter XXIII of the Borough Code be, and the same is amended and restated as follows:

Pool Membership – Resident Fees

	NOT TO EXCEED	
Pool Membership Card replacement fee	$10.00	
Family Membership		
(a) Family Membership	$462.00	
(b) Each unmarried child over 21 living at home or parent living with the family	$180.00	
Single Membership 16 years of age or older	$237.00	
A Two Adult Membership: 18 years or older living in the same Mountainside Address	$445.00	
Senior Citizen Membership: 62 years of age or older	$180.00	
A child under the age of 16 joining as part of a family, single or senior citizen membership of a relative, if both the child and the membership are resident	$237.00	
A resident person age 14 or 15 employed by a family as a parent's helper joining that family's membership	$237.00	
Single Parent/Child	$409.00	
Au Pair/Nanny	$180.00	
Guest daily Fee	Weekends/Holidays	Weekdays
(a) Adult	$25	$25
(b) Under 18 years of age	$25	$25

House guest weekly fee (non-resident) eating and sleeping in member's home:	
(a) 18 years of age of younger	(a) $50
(b) Over 18 years of age	(b) $50
Individuals on active military duty who are residents	Free

A family membership composed of only two (2) persons shall be entitled to ten (10) complimentary guests.

A single membership shall be entitled to five (5) complimentary guests.

A senior citizen membership shall be entitled to two (2) complimentary guests.

A family or single membership shall receive two (2) complimentary guest passes if the membership fees are paid in full on or before April 15 of the membership year.

A two adult membership shall be entitled to five (5) complimentary guests.

Pool Membership – Nonresident Fees

	NOT TO EXCEED
(a) Family Membership	$754.00
(b) Each unmarried child over 21 living at home or parent living with the family	$180.00
Single Membership 16 years of age or older	$430.00
Senior Citizen Membership: 62 years of age or older	$327.00
A child under the age of 16 joining as part of a family, single or senior citizen membership of a relative, if both the child and the membership are nonresident	$430.00
A nonresident person age 14 or 15 employed by a family as a parent's helper joining that family's membership	$430.00

Guest daily Fee	Weekends/Holidays	Weekdays
(a) Adult	$25	$25
(b) Under 18 years of age	$25	$25

House guest weekly fee (non-resident eating and sleeping in member's home):	
(a) 18 years of age of younger	(a) $50
(b) Over 18 years of age	(b) $50
Nonresident registration fee payable for first year membership only:	
(a) Single Membership	(a) $50
(b) Family Membership	(b) $80

A family membership composed of only two persons shall be entitled to ten (10) complimentary guests.

A single membership shall be entitled to five (5) complimentary guests.

A senior citizen membership shall be entitled to two (2) complimentary guests.

A family or single membership shall receive two (2) complimentary guest passes if the membership fees are paid in full on or before April 15 of the membership year.

It was moved by Councilwoman Andre and seconded by Councilman Messler that this ordinance be passed on first reading and advertised in full for a public hearing on November 22, 2022.

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. 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 18th day of October 2022, 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 $331,432.88 (Copy of bill list attached).

Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico. Nays: 0

COUNCIL COMMENTS:

Councilman Matejek announced upcoming events.

Councilwoman Andre stated that the Spooky Trail was well attended and thanked those who came.

Mayor Mirabelli said the Fire Department Open House was a success. He thanked the Fire Department and Rescue Squad Volunteers.

AUDIENCE PARTICIPATION: None

Upon a motion by Councilwoman Andre and a second by Councilman Matejek, the meeting was unanimously adjourned at 8:11 P.M.

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Martha Lopez, RMC
Borough Clerk