

**REGULAR MEETING  
DECEMBER 17, 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 7:32 P.M.

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

**PRESENT:** Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Messler, Councilman Mortimer, Councilwoman Pater, Administrator Atkins and Attorney Post. Also present were Police Chief Joseph Giannuzzi and Public Works Director Matthew DeAnna. Council President Turner was absent.

**APPROVAL OF MINUTES:**

Upon motion by Councilman Mortimer a second by Councilwoman Andre, the minutes of the Regular & Executive Session Meetings held on November 26, 2019 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Pater. Nays: 0.

Upon motion by Councilman Mortimer a second by Councilwoman Pater, the minutes of the Work & Executive Session Meetings held on December 3, 2019 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Pater. Nays: 0.

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**RESOLUTIONS:**

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

**RESOLUTION 128-2019**

WHEREAS, the owners of real estate in the Borough of Mountainside paid their real estate and sewer taxes by way of a check in an incorrect amount; and

WHEREAS, in many of such instances the error involved amounts of \$5.00 and under.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the proper Borough Officials be and they hereby are authorized to cancel all such amounts on tax and sewer accounts, whether owed to the Borough or owed by the Borough, of \$5.00 and under for the year 2019.

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

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

**RESOLUTION 129 -2019**

WHEREAS, N.J.S.A. 40A:4-58 provides for transfers within certain appropriations within the Municipal Budget during the last two 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 2019 Municipal Budget exists, and

WHEREAS, this resolution authorizes the Chief Financial Officer to make these transfers,

NOW, THEREFORE, BE IT RESOLVED that the following budget transfers be ratified.

BE IT FURTHER RESOLVED that the Chief Financial Officer be and is hereby authorized to make any necessary transfers prior to year end and that these be ratified at the first regularly scheduled Governing Body meeting of 2020.

<u>CURRENT ACCOUNT</u>	<u>TO</u>	<u>FROM</u>
Police, O/E	27,000.00	
Planning Board, S/W	4,000.00	
Contribution to SS	4,000.00	
Public Work, S/W		20,000.00
Police, S/W		15,000.00

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

**RESOLUTION 130-2019**

WHEREAS, Resolution 10-2019 authorized a Professional Services Contract with John N. Post (a member of the firm Post Polak, P.A.) for Municipal Attorney Services; and

WHEREAS, the value of these services was not to exceed \$275,000 over the life of the contract; and

WHEREAS, the contract amount was exceeded due to pending litigation; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside that the Professional Services Contract for 2019 Municipal Attorney Services is hereby amended not to exceed \$305,000.

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

**RESOLUTION 131-2019**

WHEREAS, the Borough of Mountainside (“Borough”), desires to contract with a vendor to provide Animal Control Services; and

WHEREAS, pursuant to N.J.S.A.40A:11-4.1 et seq., the Borough may use competitive contracting in lieu of public bidding for the procurement of specialized goods and services, the price of which exceeds the bid threshold; and

WHEREAS, N.J.S.A.40A:11-4.1(b)(3) permits the use of competitive contracting for Animal Control Services; and

WHEREAS, N.J.S.A.40A:11-4.3(b) permits the Qualified Purchasing Agent to administer the process for the purchase pursuant to the rules governing the competitive contracting process; and

WHEREAS, under the competitive contracting process, the contract for the Animal Control Services will be awarded to that entity submitting a proposal that, when evaluated, most successfully meets the stated criteria and, therefore, achieves the highest ranking, rather than based solely on the lowest price; and

WHEREAS, the Borough desires to conduct the bidding process for the aforesaid goods and services pursuant to the competitive contracting process as set forth by N.J.S.A.40A:11-4.1 et seq.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside, County of Union State of New Jersey that the Qualified Purchasing Agent is hereby authorized to utilize and administer the competitive contracting process as set forth in N.J.S.A 40A:11-4.1 et seq., to procure a contract with a vendor to provide Animal Control Services, pursuant to the rules governing the competitive contracting process.

Roll Call: Andre, Dierkes, Messler, Mortimer, Pater. Nays: 0.  
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The following resolution was introduced by Councilwoman Andre and seconded by Councilwoman Pater.

**RESOLUTION 132-2019**

WHEREAS, the Borough Construction Official has requested a refund to the following individual; and

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

<u>Applicant</u>	<u>Permit</u>	<u>Amount</u>
ADT Security Services 19 Schoolhouse Road Somerset, NJ 08873	Fire/Burglar Alarm	\$93.60

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

**RESOLUTION 133-2019**

WHEREAS, the Borough has been engaged in Disciplinary Proceedings involving Officer Thomas Murphy of the Mountainside Police Department, and

WHEREAS, the Disciplinary Proceedings were scheduled for a hearing in December, 2019, and

WHEREAS, with the assistance of the Hearing Officer the attorneys representing the Borough and the attorney representing Officer Murphy worked out a settlement of the Disciplinary Proceedings that they have recommended to their respective clients, and

WHEREAS, in addition to the attorney who regularly represents the Borough of Mountainside in Police Disciplinary matters, the settlement has been recommended to the Governing Body by the Borough Attorney, and

WHEREAS, Officer Murphy has accepted the settlement, and

WHEREAS, the Governing Body of the Borough of Mountainside has concluded that the settlement represents a fair balancing of the competing and conflicting interests that are brought into focus in the Disciplinary Proceedings, which include the orderly and efficient operation of the Mountainside Police Department, and the need for both sides to avoid the vagaries and uncertainty of contested disciplinary litigation,

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 sign the Settlement Agreement between the Borough of Mountainside and Officer Thomas Murphy.

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

**RESOLUTION 134-2019**

WHEREAS, it has come to the attention of the Governing Body of the Borough of Mountainside that property known as 1329 Rt. 22 East in the Borough of Mountainside is for sale, and

WHEREAS, such property adjoins the property owned by the Borough where the Municipal Pool is located and such property is otherwise situated and configured to be particularly useful to the governance of the Borough, and

WHEREAS, the Governing Body is satisfied that it would be in the best interests of the Borough of Mountainside for the Borough to acquire such property,

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 sign a contract for the acquisition of the property known as 1329 Rt. 22 East in the Borough of Mountainside for a price of Three Hundred Fifty Six Thousand Five Hundred (\$356,500) Dollars.

Roll Call: Andre, Dierkes, Messler, Mortimer, Pater. Nays: 0.  
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**BILLS & CLAIMS:**

The following resolution was introduced by Councilman Mortimer and seconded by Councilwoman Pater:

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 26<sup>th</sup> day of November 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 \$157,627.11 (Copy of bill list attached).

Roll Call: Andre, Dierkes, Messler, Mortimer, Pater. Nays: 0  
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**COUNCIL COMMENTS:**

Councilman Mortimer provided a Library update.

Councilwoman Pater announced upcoming holiday events.

Councilman Dierkes thanked Councilman Mortimer for his years of service.

Councilman Messler announced the next recycling pickup.

Mayor Mirabelli thanked everyone who made the tree lighting a great success and congratulated Senior Coordinator Kim Moriak on the presentation given by the Mountainside Active Retirees.

Councilman Mortimer wished everyone a happy holiday.

Mayor Mirabelli invited residents to the reorganization meeting followed by refreshments at the Stage House.

**AUDIENCE PARTICIPATION:**

JD Bryden, 1036 Summit Lane, praised the Gingerbread event at the Hetfield House.

Hearing no one else wishing to speak, Mayor Mirabelli closed the meeting to the public.  
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Upon a motion by Councilman Mortimer and a second by Councilwoman Andre, the meeting was unanimously adjourned at 7:48 P.M.  
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Martha Lopez, RMC  
Borough Clerk