

**REGULAR MEETING  
NOVEMBER 22, 2016**

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 7:33 P.M.

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

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

**APPROVAL OF MINUTES:**

Upon motion by Councilman Turner and a second by Councilman Mortimer, the minutes of the Regular Session Meeting held on October 18, 2016 were approved. Roll Call: Ayes: Dierkes, Fech-Caccamo, Messler, Mortimer, Turner.

Upon motion by Councilman Mortimer a second by Councilman Turner, the minutes of the Work and Executive Session Meetings held on November 1, 2016 were approved. Roll Call: Ayes: Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

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**RESOLUTIONS:**

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

**RESOLUTION 100-2016**

WHEREAS, there is a vacancy in the position of a Deputy Court Administrator; and

WHEREAS, the Governing Body of the Borough of Mountainside is desirous of filling subject vacancy; and

WHEREAS, Denise Buoye is experienced in performing the duties of Deputy Court Administrator; and

WHEREAS, the Mountainside Court Interview Panel and Assignment Judge Cassidy have recommended that the Borough Council take action and hire Denise Buoye.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that Denise Buoye is hereby hired as Deputy Court Administrator at an annual salary of \$47,000.00, effective October 24, 2016.

BE IT FURTHER RESOLVED, that Denise Buoye be hired as a probationary employee for a period of ninety (90) days in accordance with the Borough of Mountainside Personnel Policy & Procedures Manual.

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

**RESOLUTION 101-2016**

WHEREAS, there is a need for the position of an Assistant Pool Technician; and

WHEREAS, the Governing Body of the Borough of Mountainside is desirous of filling this position; and

WHEREAS, Michael Butrico is experienced in performing the duties of an Assistant Pool Technician; and

WHEREAS, the Administrator recommends that the Borough Council take action and appoint Michael Butrico,

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Michael Butrico is hereby appointed as an Assistant Pool Technician at an annual salary of \$2,750.00, effective November 22, 2016.

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

**RESOLUTION 102-2016**

WHEREAS, the Borough Engineer Mike Disko requested the following refund; and

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

<u>Applicant</u>		<u>Amount</u>
Thrilos Realty LLC 1079 Route 22 East Mountainside, NJ 07092	Performance Guarantee	\$18,867

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

**RESOLUTION 103-2016**

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>Amount</u>
Will Ford 376 New Providence Rd Mountainside, NJ 07092	Basketball/Bootcamp	\$178.00

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

#### **RESOLUTION 104-2016**

WHEREAS, the Senior Citizen Coordinator Kim Moriak requested the following refund; and  
NOW, THEREFORE, BE IT RESOLVED that the Treasurer be authorized to issue the following refund:

<u>Applicant</u>		<u>Amount</u>
Dorothy Collins 1433 Fernwood Road Mountainside, NJ 07092	Watercolor Class	\$20.00

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

#### **RESOLUTION 105-2016**

WHEREAS, permission is required from the Division of Local Government Services for the approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimate in advance; and

WHEREAS, N.J.S.A. 40A:5-29 provides that the Director of the Division of Local Government Services may approve expenditures or money by dedication of rider.

NOW, THEREFORE, BE IT RESOLVED, that the Governing Body of the Borough of Mountainside as follows:

1. The Borough Council does hereby request permission of the Director of the Division of Local Government Services to pay expenditures under the provisions of N.J.S.A. 40A:5-29, for Police Donations Acceptance of Bequests/Gifts.
2. The Municipal Clerk is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

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

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

**RESOLUTION 106-2016**

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>
4.03	17.32	\$3,988.91
7.08	9	\$2,736.79
7.12	13	\$2,787.02
12	1	\$2,589.81
16	54	<u>\$1,538.63</u>
		\$13,641.16

Overpayment due to Appeal

Maria Cozzini and Silvio & Nadine Quaglia  
1199 Route 22  
Mountainside, NJ 07092

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
4.03	27.04	\$6,052.71

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

**RESOLUTION 107-2016**

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 \$5,265,400 BOND ANTICIPATION NOTE, DATED OCTOBER 27, 2016 AND PAYABLE OCTOBER 27, 2017, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

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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 \$5,265,400 bond anticipation note, dated October 27, 2016 and payable October 27, 2017 (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 2016.

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 2016.

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 2016 dated as of the date of delivery of the Note.

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

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

**RESOLUTION 108-2016**

WHEREAS, the New Jersey Forest Fire Protection Agency provides funding to organize, train and equip fire departments in rural communities through the Volunteer Fire Assistance Grant Program (VFA); and

WHEREAS, the Borough of Mountainside desires to apply for the Volunteer Fire Assistance Grant; and

WHEREAS, the Fire Chief will prepare the application for the VFA grant.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Borough of Mountainside formally approves the grant application.

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

**RESOLUTION 109-2016**

WHEREAS, under N.J.S.A. 40A:14-118 the Police Committee serves as the appropriate authority of the Mountainside Police Department; and

WHEREAS, N.J.S.A. 40A:14-147 and N.J.S.A. 40A:14-147 provide for appropriate authorities to act as hearing officer to hear and decide disciplinary charges brought against members of a police department; and

WHEREAS, the Police Committee has determined it appropriate to delegate its authority to hearing and decide the charges to a third-party for the purposes stated herein; and

WHEREAS, the Borough of Mountainside has reviewed the background of Robert Verry, Retired Chief of Police to provide this service and has determined that hiring Chief Verry is in the best interests of the Borough;

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

1. The Borough hereby appoints retired Police Chief Robert Verry, whose address is P.O. Box 47, South Bound Brook, New Jersey, 08880, as hearing officer to conduct a disciplinary hearing regarding police officer Francis Michael Pasquale.

2. Chief Verry shall be compensated at the rate of \$120.00 per hour, plus expenses, for the conduct of the hearing and time expended related thereto.

This Resolution shall be effective immediately.

Roll Call: Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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**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 22<sup>nd</sup> day of November 2016, 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 \$485,601.49 (Copy of bill list attached).

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

Mayor Mirabelli invited the community to upcoming holiday events and wished them a Happy Thanksgiving.  
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**AUDIENCE PARTICIPATION:**

Alex Duswalt attended the council meeting to earn his merit badge to obtain his Eagle Scout rank.

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 Councilman Messler, 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.  
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Meeting adjourned to closed session at 7:45 P.M.  
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The meeting was recalled to public session at 8:10 P.M.  
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The following resolution was introduced by Councilman Mortimer and seconded by Councilman Turner.

**RESOLUTION 110-2016**

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Mountainside that they do hereby approve the Barnes Tract Redevelopment Committee's recommendation to award the contract of Redevelopment of the Barnes Tract to fulfill the Affordable Housing Compliance Plan to Pop Realty Corporation, 275 Route 22, Springfield, NJ 07081 subject to authorizing the appropriate Borough Officials to negotiate a redevelopment contract.

Roll Call: Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0  
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Upon motion by Councilman Mortimer and a second by Councilman Turner, the meeting was unanimously adjourned.

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Martha Lopez, RMC  
Borough Clerk