

**WORK SESSION
NOVEMBER 10, 2020**

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 7:36 P.M. via Zoom.

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilman Messler, Councilwoman Pacifico, Councilwoman Pater, Council President Turner, Attorney Post and Administrator Mortimer. Also present were Recreation Director Frank Masella, CFO Jill Goode, DPW Director Matthew DeAnna and Police Chief Joseph Giannuzzi.

Discussion was held regarding 2020 reorganization board appointments. Most of the board member positions will be re-appointed for another term except for vacancies on the board of health, library board and local ethics board. The council should consider recommendations to fill these positions.

Discussion was held regarding a request from the Finance Officer for year-end budget transfers. In accordance with state statute, transfers can be made within certain budget appropriations during the last two months of the fiscal year. The proper budget transfer resolution will be prepared for the meeting of November 17, 2020.

Discussion was held regarding a request from the Tax Collector to authorize refunds for tax overpayments due to duplicate payments. The proper resolution will be prepared for the meeting of November 17, 2020.

Discussion was held regarding the release of a performance guarantee/escrows for Bovella's 22 LLC site plan improvements at 1085 Route 22. Borough Engineer Mike Disko confirms all requirements have been met and has no exception to the return of the performance guarantee/escrows. The proper resolution will be prepared for the November 17, 2020 meeting.

Discussion was held regarding a purchase to maintain the police body worn cameras. The maintenance for the police body worn cameras was purchased in August under a state contract (T0106) with Axon Enterprise. Axon provided notice that they could not proceed with this state contract. The purchase can instead be made through Sourcewell Cooperative Contract #010720-AXN at the same annual cost of \$14,238.60 for a 5-year term. The proper resolutions will be prepared for the meeting of November 17, 2020.

Items of discussion regarding appointments of FT DPW Laborer, CDL Driver Stipend and FT Senior Citizen Coordinator were moved to executive session

Discussion was held regarding water connections to the Levi Cory House. The utility company needs to determine which water line to connect to in order to provide service to the house. The project will need to be coordinated with the repaving of the Library parking lot.

Discussion was held regarding this year's Christmas tree lighting. Due to the pandemic, planning the tree lighting ceremony needs to comply with the Governor's restrictions. Suggestions of a virtual ceremony were discussed, also prohibiting the sale of any goods and whether Santa should appear on the fire truck. The Council will inquire whether the Girl Scouts are interested in caroling and the Fire Department's plans for the holiday. If the Scouts agree to participate, the Council will re-consider including the public at the tree lighting ceremony while still adhering to the Governor's restrictions.

Discussion was held regarding a declaring a special emergency. CFO Jill Goode explained the need for a special emergency due to an operating deficit related to COVID. The pool's anticipated revenue was \$261,000 for membership fees of which \$71,168 was collected and miscellaneous fees anticipated revenue was \$32,00 of which \$2,055 was collected. The special emergency would allow the borough to spread the pool deficit over a 5-year period beginning in 2022 rather than raise the deficit in full in next year's municipal operating budget. The proper ordinance and resolutions will be prepared for the November 17, 2020 meeting.

Discussion was held regarding a bid recommendation for janitorial services. Four bids were received on October 27th. The lowest bidder was Cleaning Services of Hudson Valley, Inc. with an annual cost \$21,600 for a three-year term. The bid was reviewed and in compliance by the Borough Attorney. The contract would commence on February 1, 2021. The Mayor requested reference checks and COVID cleaning protocols.

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

RESOLUTION 123-2020

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 2020 for the below amount sums of which item is now available as a revenue from:

Public & Private Revenues off-set with Appropriations:
Additional CARES Act Funding (\$77,000.00)

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"
Additional CARES Act Funding (\$77,000.00)

Roll call: Ayes: Andre, Dierkes, Messler, Pacifico, Pater, Turner. Nays: 0.

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

RESOLUTION 124-2020

WHEREAS, Patrolmen's Benevolent Association Local 126 ("PBA") representing the members of the Borough of Mountainside ("Borough") Police Department has filed a grievance against the Borough; and

WHEREAS, the grievance was based on allegations that certain members of the Police Department had performed duties and discharged responsibilities that were commensurate with ranks in the Department table of organization that are higher than the rank such members actually held; and

WHEREAS, it was the position of the PBA that such members should have been paid the salary fixed by the Collective Negotiations Agreement currently in effect for the rank in which they were performing rather than the salary for the rank they actually held; and

WHEREAS, it appears to the Police Committee that over the last year the exigencies of the Department, and specifically vacancies in the Superior Officer ranks have required that several Corporals perform the duties of a Sergeant and that a Sergeant perform the duties of a Lieutenant; and

WHEREAS, the grievance was scheduled for a hearing before an Arbitrator assigned by the Public Employment Relations Commission ("PERC"); and

WHEREAS, the attorneys representing the Borough have advised the Borough that notwithstanding the likelihood that the Borough would prevail on the retroactive salary claims, the Borough would be left with the need to fill Superior Officer ranks by going through a promotional process that would be lengthy and expensive; and

WHEREAS, the cost to the Borough of engaging in a grievance hearing before a PERC Arbitrator would also be lengthy and expensive; and

WHEREAS, the Borough and the PBA have engaged in negotiations that would promote some of the Corporals who have been performing as Sergeants to the rank of Sergeant and the Sergeant who has been performing as a Lieutenant to the rank of Lieutenant; and

WHEREAS, the PBA has requested in those negotiations that some of such individuals who would be promoted would also receive retroactive pay for one year at the rank where they were actually performing; and

WHEREAS, the Police Committee of the Borough Council has recommended a settlement of the grievance that would incorporate such terms on the basis that such a settlement would be less costly to the Borough than participating in a grievance hearing before PERC that would then be followed by a promotional process which would likely result in the same individuals being promoted; and

WHEREAS, by its terms paragraph 7 of the Settlement Agreement provides that the Agreement shall not be precedential nor be considered a past practice related to out of title pay or promotions, and that the Agreement shall not be evidential or admissible in any future dispute between the PBA and the Borough.

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

1. The Borough Administrator be and he hereby is authorized to sign a settlement agreement between the PBA and the Borough settling the aforesaid grievance.
2. The promotions set forth in the aforesaid settlement agreement be effective on the date the police officers being promoted are sworn in to their new rank.

Roll call: Ayes: Andre, Messler, Pacifico, Turner. Nays: Dierkes, Pater.

Discussion was held regarding the a COVID-Safe Community Pledge. The Mayor shared a pledge recently introduced in Princeton. If the community takes the actions suggested in the pledge it should help combat the spread of this virus. A motion to approve the pledge will take place at the meeting of November 17, 2020.

Mayor Mirabelli provided an update on Mountainside COVID cases. Executive session minutes of the Stinner lawsuit will be approved by calling the votes of only the Council members who were present at those meetings. COVID expansion of premise permits were approved for Arirang and Echo Tap and Grill.

Councilwoman Pater announced the time capsule drop off and an upcoming Levi Cory event.

BILL & 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 10th day of November 2020, 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 \$337,410.11 (Copy of bill list attached).

Roll call: Ayes: Andre, Dierkes, Messler, Pacifico, Pater, Turner. Nays: 0.

AUDIENCE PARTICIPATION:

No public comments.

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

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 personnel and 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 8:14 P.M.

The meeting was recalled to public session at 9:14 P.M.

Attendance remained the same with the inclusion of Senior Citizen Coordinator Kim Moriak.

Councilwoman Pater was present via telephone and shortly disconnected.

Councilwoman Pater asked why Kim Moriak was present during this section. Attorney Post explained Ms. Moriak had the option of either being discussed in executive session without her being present or being present during the discussion in public. Kim elected to be present in public.

Discussion was held regarding the position of part-time senior citizen coordinator to full-time status. Councilman Messler explained why the A&E Committee recommends the position become full-time. For the past 6 months, Kim has worked full-time hours coordinating and assisting with the senior meal's program, wellness checks and outdoor programs. The extra hours have been paid for by the UC Cares Act Grant funding. Moving forward, Kim would like to implement new programs for seniors. Additional stipend positions will be included into the new salary such as implementing the Community Development Block Grant and Municipal Drug Alliance Coordinator. Attorney Post weighed into the discussion and spoke highly of Kim's service to the community. Councilwoman Andre and Councilwoman Pacifico suggested that due to COVID, they should re-evaluate the need for a full-time senior citizen coordinator after January. Mayor Mirabelli read letters of praise for Kim from our senior residents. A resolution will be presented at the next meeting for council approval.

Upon a motion by Councilman Messler and a second by Councilman Turner, the meeting was unanimously adjourned at 9:47 P.M.

Martha Lopez, RMC
Borough Clerk