

**REGULAR MEETING
SEPTEMBER 19, 2017**

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 7:29 P.M.

**INVOCATION: Councilwoman Fech-Caccamo
SALUTE TO THE FLAG
ROLL CALL**

PRESENT: Mayor Mirabelli, Councilwoman Andre, Councilman Dierkes, Councilwoman Fech-Caccamo, Councilman Messler, Councilman Mortimer, Council President Turner, Administrator Debbie and Attorney Post. Also present were Police Chief Allan Attanasio, Borough Engineer Mike Disko and Public Works Manager Ronald Romak.

APPROVAL OF MINUTES:

Upon motion by Councilman Turner and a second by Councilman Mortimer, the minutes of the Regular Session Meeting held on August 15, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Turner a second by Councilwoman Fech-Caccamo, the minutes of the Work Session and Executive Session Meetings held on September 5, 2017 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

RESOLUTIONS:

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

RESOLUTION 100-2017

WHEREAS, receivable balance exist in the records of the Borough; and

WHEREAS, the balance is as follows:

Municipal Alliance Grant \$ 1,465.30

NOW, THEREFORE, BE IT RESOLVED that the Chief Finance Officer cancel this balance from the records of the Borough.

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

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

RESOLUTION 101-2017

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 refund, for the following reason:

Duplicate payments Due to Banks

CoreLogic
Centralized Refunds
P. O. Box 9202
Coppell, TX 75019-9978

<u>Block</u>	<u>Lot</u>	<u>Amount</u>
3.23	3.05	\$3,829.88
16.09	2	\$1,586.83

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

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

RESOLUTION 102-2017

WHEREAS, the Borough Engineer 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>
Martha Perasso 351 Central Avenue	Road Opening	\$500.00

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

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

RESOLUTION 103-2017

WHEREAS, the Borough of Mountainside would like to participate in the leaf disposal program at the Union County Conservation Center; and

WHEREAS, it is necessary to enter into an Indemnification Agreement and Memorandum of Understanding with the County of Union to participate in the leaf disposal program; and

WHEREAS, the current 2017 rate is \$2.00 per yard – loose, \$4.00 per yard – compacted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the Mayor and Borough Clerk are hereby authorized to sign the Indemnification Agreement and Memorandum of Understanding to participate in the leaf disposal program at the Union County Conservation Center.

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

The following resolution was introduced by Councilwoman Fech-Caccamo and seconded by Councilman Mortimer.

RESOLUTION 104-2017

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>Program</u>	<u>Amount</u>
Marion Bass 1441 Forest Court Mountainside, NJ 07092	Pool Membership	\$226.00

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

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

RESOLUTION 105-2017

WHEREAS, the New Jersey Transportation Trust Fund Authority Act has provided funds for the improvement of municipal roads through the New Jersey Department of Transportation; and

WHEREAS, the Borough of Mountainside desires to apply for a grant for local aid funds for improvements of a municipal road; and

WHEREAS, the Borough Engineer will prepare the application for the grant for local aid for a section of roadway known as:

PARTRIDGE RUN

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

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Borough of Mountainside and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

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

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

RESOLUTION 106-2017

WHEREAS, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 2010-33-004-004, heretofore issued to Spanish Tavern III, Inc. for premises located at 1239 Route 22 East, Mountainside, New Jersey; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the license business.

NOW, THEREFORE BE IT RESOLVED that the Governing Body does hereby approve, effective September 19, 2017 the Person-to-Person transfer of the aforesaid Plenary Retail Consumption License to Las Medulas, LLC from its former owner Spanish Tavern III, Inc., and does hereby direct the Borough Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions is hereby transferred to Las Medulas, LLC., effective September 19, 2017."

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

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

RESOLUTION 107-2017

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for bids for Contract 2017-7 for "Resurfacing of Iris Drive and Sawmill Road"; and

WHEREAS, on September 19, 2017 the return date for the bids, three (3) bids were received as follows:

<u>Contractors:</u>	<u>Base Bid</u>	<u>Alt. #1</u>
Top Line Construction	\$139,800.26	\$36,789.90
Denbar Construction	\$153,706.15	\$34,072.50
DLS Contracting	\$182,539.00	\$60,480.00

WHEREAS, the Borough Engineer recommends awarding the Base Bid; and

WHEREAS, the lowest bidder is Top Line Construction Corp. and the Borough Engineer has recommended that Contract 2017-7 be awarded to Top Line Construction Corp., 22 Fifth Street, Somerville, New Jersey 08876.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Resurfacing of Iris Drive and Sawmill Road is awarded to Top Line Construction Corp., 22 Fifth Street, Somerville, New Jersey 08876 in the amount of \$139,800.26 pending attorney review.

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

AUDIENCE PARTICIPATION:

Councilman Turner announced the Redevelopment Committee's recommendation that the council not include Lot 17 in the Barnes Tract redevelopment plan.

Nancy Caffrey, Woodland Avenue, asked the Council to consider the traffic impact.

Genevieve Cooper, Knightsbridge Road, opposed the expansion of the redevelopment area.

Richard Kress, Ridge Drive, asked about the development plans for the Barnes Tract.

Marianne Hopko, Springfield Avenue, expressed her concerns regarding traffic on Mountain Avenue.

Brian Klein, Knightsbridge Road, asked for clarification of the proposed resolution.

Margaret Hanlon, Beechwood Court, inquired about the Borough's affordable housing obligation and expressed her concern regarding drainage/flooding impact from overdevelopment.

Diane Drew, New Providence Road, questioned the plans for the properties behind her home.

Diane Perucki, New Providence Road, opposed the expansion of the redevelopment area and was concerned about the lack of information regarding the construction plans for the Barnes Tract.

Niraj Gupta, Mountain Avenue, objected to the expansion of the redevelopment area and spoke about the traffic impact.

Carlos Gomez, Deer Path, questioned the feasibility of building more arc homes to fulfill the borough's affordable housing obligation.

Nicholas Barbera, Force Drive, asked why the borough commented about coming to the end/conclusion of the affordable housing plan and now hears that future COAH regulations may increase the borough's affordable housing obligation. Mr. Barbera also opposes to the expansion of the redevelopment area.

Lauren St Hill, Wood Valley Road, opposed to the expansion of the redevelopment area.

Mayor Mirabelli and Attorney Post explained the issues associated with the Supreme Court's rulings regarding affordable housing. The Mayor explained that the borough plans to work with the developer to ensure the project keeps with the character of Mountainside.

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

RESOLUTION 108-2017

A RESOLUTION ADOPTING PART OF THE PLANNING BOARD DETERMINATION THAT BLOCK 14, LOTS 13 AND 17 ARE AREAS IN NEED OF REDEVELOPMENT

WHEREAS, on October 6, 2015, the Mayor and Council of the Borough of Mountainside adopted Resolution 97-2015 directing the Planning Board of the Borough of Mountainside, pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 of the Local Redevelopment and Housing Law (the "Redevelopment Law") to undertake a preliminary investigation to determine whether the property identified on the Borough's tax map as Block 14, Lot 14, which property is sometimes referred to as the Barnes Tract (hereinafter referred to as the "Study Area"), qualifies as an area in need of Non-Condensation Redevelopment; and

WHEREAS, in furtherance of such investigation, John T. Chadwick, IV, P.P. issued a report entitled "Preliminary Redevelopment Area Study - Barnes Tract (the "Chadwick Report"); and

WHEREAS, on October 16, 2015 and October 23, 2015, a public notice was published in the Newark Star Ledger indicating that the Planning Board would conduct a public hearing regarding the Study Area on November 5, 2015; and

WHEREAS, a public hearing was held on November 5, 2015 by the Planning Board regarding this investigation of the Study Area; and

WHEREAS, at this hearing and as part of this investigation of the Study Area, the Planning Board considered the Chadwick Report, witnesses, exhibits, testimony, opinion, and comments provided by witnesses and the public, as well as any statement of counsel; and

WHEREAS, on November 5, 2015, upon completion of the hearing, the Planning Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that the Study Area was an "area in need of redevelopment" under the Redevelopment Law and recommending to the Borough Council that the Study Area be determined to be an "area in need of redevelopment;" and

WHEREAS, the culmination of the aforesaid process was the adoption by the Governing Body of the Borough of Mountainside of Ordinance 1240-2015 in which the Governing Body adopted a Redevelopment Plan for the Barnes Tract; and

WHEREAS, in the course of implementing the aforesaid Redevelopment Plan for the Barnes Tract it came to the attention of the Governing Body that such Plan might be improved if Block 14, Lots 13 and 17 were also included in the aforesaid Redevelopment Plan, and

WHEREAS, on June 20, 2017 the Mayor and Council of the Borough of Mountainside adopted Resolution 78-2017 directing the Planning Board of the Borough of Mountainside, pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 of the Local Redevelopment and Housing Law (the "Redevelopment Law") to undertake a preliminary investigation to determine whether the properties identified on the Borough's tax map as Block 14, Lots 13 and 17 qualify as properties in need of Non-Condensation Redevelopment; and

WHEREAS, a public hearing was held on August 22, 2017 by the Planning Board to determine whether the properties identified on the Borough's tax map as Block 14, Lots 13 and 17 qualify as properties in need of Non-Condensation Redevelopment; and

WHEREAS, at this hearing the Planning Board considered a Chadwick Report, witnesses, exhibits, testimony, opinion, and comments by the public, as well as any statement of counsel; and

WHEREAS, on August 22, 2017, upon completion of the hearing, at which separate votes were taken regarding Lot 13 and Lot 17, the Planning Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that Lots Block 14, Lots 13 and 17 are "areas in need of redevelopment" under the Redevelopment Law and recommends

to the Borough Council that the both Lots be determined to be an “area in need of redevelopment;” and

WHEREAS the Planning Board vote to include Lot 17 as an “area in need of redevelopment” was not unanimous, and

WHEREAS, the Planning Board has forwarded a copy of its Resolution to the Mayor and Borough Council; and

WHEREAS, the Mayor and the Borough Council have reviewed the Resolution and the recommendations contained therein and have determined that it is appropriate to partially accept these recommendations and to determine that Block 14, Lot 13 is an “area in need of redevelopment;” and

WHEREAS, the Borough Council hereby wishes to refer the Redevelopment Plan - Barnes Tract, Block 14, Lot 14 back to the Planning Board, pursuant to N.J.S.A. 40A:12A-7(e), for a report and recommendation from the Planning Board concerning inclusion of Block 14, Lot 13 in the proposed plan together with an identification of any provisions in the proposed plan that are inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Planning Board may deem appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL FOR THE BOROUGH OF MOUNTAINSIDE, NEW JERSEY, THAT:

1. The Borough Council hereby finds and determines that (i) Block 14, Lot 13 is in poor condition and that as a result of benign neglect, the deleterious condition of Block 14, Lot 13 renders it an 'attractive nuisance'¹ and it is detrimental to the safety, health and welfare of the community. For all of the foregoing reasons, and for the reasons set forth within the Planning Board's Resolution (whose findings are incorporated herein), substantial evidence exists under N.J.S.A. 40A:12A-5(a), 5(c) and 5(d) that Block 14, Lot 13 is an "area in need of redevelopment" under the Local Redevelopment and Housing Law. The Borough Council therefore finds and determines that the property located on its tax map as Block 14, Lot 13 is an “area in need of redevelopment” under Local Redevelopment and Housing Law.
2. A copy of this Resolution, the August 22, 2017 Planning Board Resolution, any exhibits thereto, and a copy of the map of the Study Area shall be filed with the Office of the Borough Clerk.
3. The Borough Clerk is hereby directed, forthwith, to transmit a copy of this Resolution to the Commissioner of the New Jersey Department of Community Affairs for review in accordance with N.J.S.A. 40A:12A- 6(b)(5)(c).
4. The Borough Clerk is hereby directed to serve, within ten (10) days of the adoption of this Resolution, a copy of this Resolution upon all persons or entities that filed written objection regarding the Planning Board's August 22, 2017 hearing and Resolution and stated, in or upon the written objection, an address to which notice of this determination may be sent.
5. The Borough Clerk is hereby directed, forthwith, to transmit a copy of Redevelopment Plan - Barnes Tract, Block 14, Lot 14 with the addition to such plan of Block 14, Lot 13 to the Planning Board for review in accordance with N.J.S.A. 40A:12A-7(e).
6. The Planning Board Is hereby directed to consider Redevelopment Plan - Barnes Tract, Block 14, Lot 14 with the addition of Lot 13 and, pursuant to N.J.S.A. 40A:12A-7(e), provide a report and recommendation together with an identification of any provisions in the proposed plan that are inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Planning Board may deem appropriate.

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

COUNCIL COMMENTS:

The Council expressed their gratitude to the community for their input and feedback on the expansion of the redevelopment area.

MOTIONS:

The following motions were unanimously approved:

1. Approve raffle applications from Mountainside PTO for an on premise draw raffle and Children's Specialized Hospital for an off premise draw raffle
2. Approve appointment of Kevin Pereira as a Volunteer Firefighter

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 19th day of September 2017, 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 \$243,439.93 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Mayor Mirabelli stated that the redevelopment of the Barnes Tract should commence sometime in the spring. The Mayor invited residents to attend upcoming events.

AUDIENCE PARTICIPATION:

JCP&L Representative Robert Walton informed the public regarding the availability of new LED street lights and open enrollment into the PSI Program.

Nicholas Barbera, Force Drive, spoke about forming an Environmental Council and welcomed anyone interested.

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

Upon motion by Councilman Dierkes and a second by Councilman Turner, the meeting was unanimously adjourned at 8:29 PM.