

**REGULAR MEETING
MAY 18, 2021**

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 7:49 PM via Zoom.

INVOCATION: Councilwoman Pacifico
SALUTE TO THE FLAG
ROLL CALL

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

APPROVAL OF MINUTES:

Upon motion by Councilman Messler a second by Councilwoman Pacifico, the minutes of the Regular Session Meeting held on April 20, 2021 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.

Upon motion by Councilman Dierkes a second by Councilman Matejek, the minutes of the Work Session Meeting held on May 4, 2021 were approved. Roll Call: Ayes: Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0. Abstained: Andre.

ORDINANCE: Second Reading (Public Hearing)

**ORDINANCE 1295-2021
ORDINANCE TO ESTABLISH A CAP BANK
(N.J.S.A. 40A:4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A:4-45.1 et.seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said final budget appropriations to 1.00% unless authorized by ordinance to increase it to 3.5% over the previous years' final appropriations; and

WHEREAS, a municipality may, by ordinance, bank the difference between its final budget appropriations and the 3.5% increase authorized by this ordinance when said difference is not appropriated as part of the final budget; and

WHEREAS, the Borough Council of the Borough of Mountainside, County of Union, hereby determines that this difference in the amount of \$244,998.75 that is not appropriated as part of the final budget shall be retained as an exception to the final appropriations in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Hearing no one wishing to speak, Councilwoman Andre closed the meeting to the public.

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

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

Mayor Mirabelli provided a summary of the 2021 proposed municipal budget. The budget remains the same as last year's with no increase.

Mayor Mirabelli opened the meeting to anyone wishing to discuss the 2021 municipal budget.

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

RESOLUTIONS:

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

RESOLUTION 52-2021

PREVIOUSLY ADOPTED A SPECIAL EMERGENCY ORDINANCE NO. 1287-2020 DECLARED UNDER P.L. 2020 C.74 IN THE AMOUNT OF \$220,902.60 AND AFTER EVALUATION OF 2020 OPERATIONS A RESOLUTION CANCELLING A PORTION OF ORDINANCE 1287-2020 IN THE AMOUNT OF \$2,640.56 IS DESIRED BRINGING THE ADJUSTED TOTAL OF ORDINANCE 1287-2020 TO \$218,262.04

WHEREAS, the Borough of Mountainside declared a special emergency in December of 2020 in the amount of \$220,902.60; and

WHEREAS, Local Finance Notice required actual analysis of the revenue collected as of 12/31/2020 and cancellation of any overestimated shortages; and

WHEREAS, the Borough of Mountainside completed 2020 operation; and

WHEREAS, actual shortage of revenue is \$218,262.04; and

WHEREAS, the Borough of Mountainside desires to cancel the special emergency in the amount of \$2,640.56; and

NOW THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside authorizes the Chief Financial Officer to cancel the Special Emergency in the amount of 2,640.56.

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

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

RESOLUTION 53-2021

GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE UNITED STATES EQUAL
EMPLOYMENT OPPORTUNITY COMMISSION'S
"Enforcement Guidance on the Consideration of Arrest and Conviction Records in
Employment Decisions Under Title VII of the Civil Rights Act of 1964"

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit's hiring practices comply with the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," as amended, 42 U.S.C. § 2000e et seq., (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit's hiring practices as they pertain to the consideration of an individual's criminal history, as evidenced by the group affidavit form of the governing body attached hereto.

NOW, THEREFORE BE IT RESOLVED, That the Mayor and Council of the Borough of Mountainside, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit's hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

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

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

RESOLUTION 54-2021

BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside, County of Union, that the budget herein before set forth is hereby adopted and shall constitute an appropriation for the purposes of the sums therein as set forth as appropriations, and authorization of the amount of \$9,064,481.32 for municipal purposes.

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

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

RESOLUTION 55-2021

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 \$5,854,000 BOND ANTICIPATION NOTE, DATED APRIL 30, 2021 AND PAYABLE APRIL 29, 2022, AS A "QUALIFIED TAX-EXEMPT OBLIGATION" PURSUANT TO SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

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 \$5,854,000 bond anticipation note, dated April 30, 2021 and payable April 29, 2022 (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 2021.

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 2021.

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 2021 dated as of the date of delivery of the Note.

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

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

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

RESOLUTION 56-2021

WHEREAS, pursuant to N.J.S.A. 40A:11-3(c) the State Treasurer increased the bid threshold from \$40,000 to \$44,000 effective July 1, 2020 for contracting units subject to the Local Public Contracts Law for municipalities that have appointed a Qualified Purchasing Agent (QPA); and

WHEREAS, as a result, the quote threshold for the municipalities with a QPA has increased from \$6,000 to \$6,600 (15% of the \$44,000 QPA bid threshold); and

WHEREAS, the Borough of Mountainside has appointed a QPA in accordance with N.J.S.A. 40A:11-9(b); and

WHEREAS, the Governing Body finds it is in the interest of efficiency and economy to raise the Borough's bid threshold to \$44,000.00 and the quote threshold to \$6,600.00.

BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside, in the County of Union and State of New Jersey, that in accordance with N.J.S.A. 40A:11-3(c), the Borough's bid threshold is hereby increased to \$44,000.00 and the Borough's quote threshold increased to \$6,600.00; and

BE IT FURTHER RESOLVED, that such contracts as may be awarded under this Resolution shall comply with all other applicable laws, including but not limited to certification of funds by the Chief Financial Officer where required.

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

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

RESOLUTION 57-2021

WHEREAS, there is a need for a P/T Violations Clerk in the Court Department; and

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

WHEREAS, Giovanna Mack can perform the duties of P/T Violations Clerk; and

WHEREAS, the Borough Administrator recommends that the Borough Council take action and hire Giovanna Mack.

NOW, THEREFORE, BE IT RESOLVED, by Mayor and Council of the Borough of Mountainside that Giovanna Mack is hereby hired as P/T Violations Clerk in the Court Department at an hourly rate of \$15.00, not to exceed 20 hours unless approved in advance, effective April 15, 2021 with a six-month probationary period.

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

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

RESOLUTION 58-2021

WHEREAS, in accordance with Chapter 72, P.L. 1994, the Borough of Mountainside has the authority to prepare and issue estimated tax bills; and

WHEREAS, in order for the Borough of Mountainside to meet our financial obligations, maintain the tax collection rate, provide uniformity for tax payments and save the unnecessary cost of interest expenses on borrowing it would be in our best interest to do so; and

WHEREAS, the Tax Collector and the Chief Financial Officer have reviewed and computed an estimated levy in accordance with N.J.S.A. 54:4-66.3.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside on this 18th day of May, 2021, as follows:

1. The Borough of Mountainside Tax Collector is hereby authorized and directed to prepare and issue estimated bill for the Borough of Mountainside for the third quarter of 2021 taxes, in accordance with the provisions of N.J.S.A. 54:4-66.2 et seq. in the event a tax rate is not certified timely
2. The entire estimated tax levy for 2021 is hereby set at \$37,157,105.14.

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

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

RESOLUTION 59-2021

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 DPW Department is in need of a new truck 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 # A88758 for the acquisition of a DPW truck; and

WHEREAS, the cost for a 2021 Ford F350 with options under the State Contract is \$41,091.00; 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 2021 Ford F350 with options in the amount of \$41,091.00 under terms and provisions of State Contract # A88758 be and hereby is approved.

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

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

RESOLUTION 60-2021

WHEREAS, the Borough of Mountainside, pursuant to N.J.S.A.40A:11-11 may by resolution and without advertising for bids, purchase goods or services under a Cooperative Purchasing Program; and

WHEREAS, the Mountainside DPW Department is in need of a new truck and by utilizing the Educational Services Commission of New Jersey (ESCNJ) Cooperative Pricing System 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 ESCNJ Cooperative Pricing Agreement Contract #65-MCESCCPS-ESCNJ 18/19-42 for the acquisition of a DPW truck; and

WHEREAS, the cost for a 2021 Ford F450 with options under Contract #65-MCESCCPS-ESCNJ 18/19-42 is \$63,718.00; 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 2021 Ford F450 with options under terms and provisions of ESCNJ Cooperative Pricing Agreement Contract #65-MCESCCPS-ESCNJ 18/19-42 be and hereby is approved.

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

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

RESOLUTION 61-2021

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>
Ricardo Costa 1266 Knollwood Road Mountainside, NJ	Pool Membership	\$355.00

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

BILLS & CLAIMS:

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

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 May 2021, 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 \$146,673.47 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Councilwoman Andre announced EMS Week and upcoming events.

Councilwoman Pater reported upcoming Historical Restoration events.

Councilwoman Pacifico provided upcoming Library events.

Councilman Messler publicized a successful electronics recycling event.

Mayor Mirabelli announced upcoming events, the opening of Borough Hall to the public and in-person council meetings.

AUDIENCE PARTICIPATION: None

Upon a motion by Councilman Dierkes and a second by Councilwoman Pacifico, the meeting was unanimously adjourned at 8:27 P.M.

Martha Lopez, RMC
Borough Clerk