

**REGULAR MEETING
JULY 20, 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 7:37 PM.

INVOCATION: Councilwoman President Andre
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 and Recreation Director Frank Masella.

APPROVAL OF MINUTES:

Upon motion by Councilman Dierkes a second by Councilwoman Pater, the minutes of the Regular Session Meeting held on June 15, 2021 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.

Upon motion by Councilman Dierkes a second by Councilwoman Pacifico, the minutes of the Work & Executive Session Meetings held on July 6, 2021 were approved. Roll Call: Ayes: Andre, Dierkes, Matejek, Messler, Pacifico, Pater. Nays: 0.

RESOLUTION OF COMMENDATION:

RESOLUTION 91-2021

WHEREAS, a member of the support staff in the Mountainside Police Department is retiring after having served in that position for over 18 years; and

WHEREAS, her work internally in our Police Department was always characterized by competence, decorum, and discretion; and

WHEREAS, her work and activities as a Borough resident helped integrate our Police Department beyond a solely law enforcement function into the broader life of the Mountainside Community; and

WHEREAS, she accomplished this by helping found the Mountainside Police Athletic League and encouraging activities that have become annual events, anticipated by young people and adults alike, such as the Cop Trot; and

WHEREAS, she herself has been one of our Borough's first responders as a member of the Rescue Squad for many years.

NOW, THEREFORE, We, the Mayor and Council of the Borough of Mountainside, on behalf of ourselves and our fellow residents, do hereby extend to Corinne Moore our thanks and appreciation for her many years of invaluable service to her fellow residents and our earnest hope that she will enjoy a long and happy retirement in our Community.

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

RESOLUTIONS:

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

RESOLUTION 77-2021

AUTHORIZING THE MAYOR AND MUNICIPAL CLERK OF THE MUNICIPALITY OF MOUNTAINSIDE TO EXECUTE AN AGREEMENT WITH THE COUNTY OF UNION TO MODIFY THE COOPERATIVE AGREEMENT DATED JUNE 2014, AS AMENDED JULY 2017

WHEREAS, certain Federal funds are potentially available to the County of Union under Title I of the Housing and Community Development Block Grant Act of 1974, as amended, commonly known as the Community Development Block Grant Program; and

WHEREAS, certain Federal funds are potentially available to the County of Union under Title II of the National Affordable Housing Act of 1990, commonly known as the HOME Investment Partnership program; and

WHEREAS, substantial Federal funds provided through subtitle B of Title IV of the McKinney-Vento Homeless Assistance Act commonly known as the Emergency Solutions Grants program (ESG) are allocated to prevent homelessness and to enable homeless individuals and families to move toward independent living; and

WHEREAS, it is necessary to amend an existing Cooperative Agreement for the County of Union and its people to benefit from this program; and

WHEREAS, it is in the best interest of the Municipality of Mountainside and the County of Union in cooperation with each other to enter into a modification of the existing Cooperative Agreement pursuant to N.J.S.A. 40A:65-1 et seq.

NOW THEREFORE, BE IT RESOLVED by the Mayor and Governing Body of the Borough of Mountainside that the agreement entitled "COOPERATIVE AGREEMENT BETWEEN THE COUNTY OF UNION AND CERTAIN MUNICIPALITIES FOR CONDUCTING CERTAIN COMMUNITY DEVELOPMENT ACTIVITIES," dated June 2014, as amended July 2017 for the Purpose of Inserting a Description of Activities for Fiscal Year 2021-2022 of the Union County Community Development Block Grant program, the HOME Investment Partnership program, and the Emergency Shelter Grant program (ESG), a copy of which is attached hereto; be executed by the Mayor and Municipal Clerk in accordance with the provisions of law;

BE IT FURTHER RESOLVED that 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 Councilwoman Pacifico and seconded by Councilwoman Andre.

RESOLUTION 78-2021

WHEREAS, the Labor Attorney is required to perform services for the Borough beyond the scope of the services upon which his salary is based; and

WHEREAS, such services constitute professional services within the meaning of N.J.S.A.40A:11-2; and

WHEREAS, the nature of such legal services will not reasonably permit the drawing of specifications or the receipt of competitive bids;

WHEREAS, the Borough of Mountainside desires to appoint the Labor Attorney as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 and 20.5; and

WHEREAS, the appropriate Borough official has determined that the value of these services will exceed \$17,500, but not to exceed \$45,000 over the life of the contract. This maximum dollar value is based on a reasonable estimate of the services required over the contract term, and the Borough of Mountainside is not obligated to spend that amount; and

WHEREAS, the anticipated term of the contract is one year; and

WHEREAS, Vincent J. Apruzzese, Esq. (a member of the firm of Apruzzese, McDermott, Mastro & Murphy PC) will complete and submit a Business Entity Disclosure Certification which certifies that it has not made any reportable contributions to a political candidate or candidate committee in the Borough of Mountainside in the previous year, and acknowledging that the contract will prohibit it from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Mountainside that Apruzzese, McDermott, Mastro & Murphy, PC be the Labor Attorney, be and is appointed to perform such legal services as may be required by the Governing Body and which are beyond the scope of the services upon which the Labor Attorney's salary is based; and

BE IT FURTHER RESOLVED that award of this contract will be published in the appropriate newspaper within ten days hereof.

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

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

RESOLUTION 79-2021

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2021-4 for "Paving Improvements on High Point Drive, Larkspur Drive and Pheasant Hill Rd"; and

WHEREAS, on July 1, 2021 the return date for the bids, six bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt. #2
AJM Contractors	\$299,999.70*	\$13,910.00	\$7,400.00
Denbar Construction	\$315,661.95*	\$19,260.00	\$7,960.00
Midwest Construction	\$309,542.41	\$29,960.00	\$7,895.00
Topline Construction	\$363,942.47	\$29,885.10	\$7,061.80
Granada Construction	\$394,550.66	\$31,030.00	\$10,950.00
DLS Construction	\$400,049.70	\$32,100.00	\$14,000.00

*= corrected

WHEREAS, the Borough Engineer recommends awarding the Base Bid, Alternate #1 and Alternate #2; and

WHEREAS, the lowest bidder is AJM Contractors Inc., and the Borough Engineer has recommended that Contract 2021-4 be awarded to AJM Contractors Inc., 300 Kuller Road, Clifton, NJ 07011.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Paving Improvements on High Point Drive, Larkspur Drive and Pheasant Hill Road” be awarded to AJM Contractors Inc., 300 Kuller Road, Clifton, NJ 07011 in the amount of \$321,300.70, subject to Borough Attorney review.

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

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

RESOLUTION 80-2021

WHEREAS, NJSA 40A:5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Borough Clerk as per the requirements of NJSA 40A:5-6 and a copy has been received by each member of the Governing Body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, the Local Finance Board has promulgated a regulation requirement that the Governing Body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body have reviewed, as a minimum, the sections of the annual audit entitled:

GENERAL COMMENTS
RECOMMENDATIONS

and;

WHEREAS, the members of the Governing Body have personally reviewed as minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

GENERAL COMMENTS
RECOMMENDATIONS

as evidenced by the group affidavit form of the Governing Body; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, all members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the Local Governing Body to the penalty provisions of R.S. 52:27BB-52 – to wit:

R.S. 52-27BB-52 – “A local officer or member of a local Governing Body who, after a date fixed for compliance fails or refuses to obey an order of the of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than One Thousand Dollars (\$1,000) or imprisoned for not more than one year, or both, in addition shall forfeit his office.”

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Mountainside, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

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

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

RESOLUTON 81-2021

WHEREAS, the Chief Finance Officer is required to submit a Corrective Action Plan of the 2020 Municipal Audit Report to the Governing Body;

NOW, THEREFORE, BE IT RESOLVED that the following 2020 Audit Corrective Action Plan submitted by the Chief Finance Officer be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that a certified copy of the 2020 Audit Corrective Action Plan be forwarded to the Division of Local Government Services.

2020 Audit- Corrective Action Plan
Recommendation: None
Corrective Action: None

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

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

RESOLUTION 82-2021

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>
Jennifer Soares 338 Old Tote Road	Pool Membership	\$345.00

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

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

RESOLUTION 83-2021

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 Police 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 #20-FLEET-01189 for the acquisition of a Police truck; and

WHEREAS, the cost for a 2021 Ford 150 with options under the State Contract is \$33,400.00; 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 F150 with options in the amount of \$33,400.00 under terms and provisions of State Contract #20-FLEET-01189 be and hereby is approved.

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

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

RESOLUTION 84-2021

WHEREAS, there exists a vacancy in the position of P/T Electrical Inspector; and

WHEREAS, Borough Administrator Glenn Mortimer has recommended that the Borough Council take action to hire Michael Juzefyk, to fill this position.

NOW, THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Mountainside that Michael Juzefyk be appointed as a P/T Electrical Inspector at a rate of \$40.00 per hour, not to exceed 6 hours a week, effective July 29, 2021.

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

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

RESOLUTION 85-2021

WHEREAS the Borough's contract with Robert La Ferrara Construction for Snow & Ice Removal Services expires on July 31, 2021; and

WHEREAS under the terms of such contract the Borough has an option to renew the contract for a term of two years; and

WHEREAS the Governing Body has determined that it would be in the best interests of the Borough to renew the term of the Agreement as it is entitled to do under the terms of the Agreement.

NOW THEREFORE BE IT RESOLVED that the Governing Body of the Borough of Mountainside does hereby authorize the appropriate Borough Officials to advise Robert La Ferrara Construction that the Borough is exercising the option to renew the contract under the current terms and conditions for an additional two-year term, from the period of August 1, 2021 to July 31, 2023.

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

Resolution 86-2021 was tabled.

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

RESOLUTION 87-2021

STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
GREEN ACRES ENABLING RESOLUTION

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides loans and/or grants to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition, development, and stewardship of lands for outdoor recreation and conservation purposes; and

WHEREAS, the Borough of Mountainside desires to further the public interest by obtaining funding in the amount of \$478,000.00, in the form of a \$478,000.00 matching grant, from the State to fund the following project: Our Lady of Lourdes Fields which will cost \$1,912,000.00;

NOW, THEREFORE, the governing body resolves that Paul N. Mirabelli, Mayor of the Borough of Mountainside, New Jersey, or his successor or designee, is hereby authorized to:

- (a) make application for such a loan and/or such a grant,
- (b) provide additional application information and furnish such documents as may be required, and
- (c) act as the authorized correspondent of the above-named applicant; and

WHEREAS, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations and applicable statutes, and is willing to enter into an agreement with the State for the above-named project;

NOW, THEREFORE, BE IT FURTHER RESOLVED BY THE Mayor and Council of the Borough of Mountainside:

1. That Paul N. Mirabelli, Mayor of the Borough of Mountainside, New Jersey, or his successor or designee, is hereby authorized to execute an agreement and any amendment thereto with the State known as the Our Lady of Lourdes Fields, and;
2. That the applicant has its matching share of the project, if a match is required, in the amount of \$1,434,000.00.
3. That, in the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project;
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and
5. That this resolution shall take effect immediately.

CERTIFICATION

I, Martha Lopez, Borough Clerk do hereby certify that the foregoing is a true copy of a resolution adopted by the Mayor and Council of the Borough of Mountainside at a meeting held on the 20th day of July, 2021.

IN WITNESS WHEREOF, I have hereunder set my hand and the official seal of this body this 20th day of July, 2021.

The Mayor opened the hearing to the public, with no member of the public wishing to speak, this portion of the meeting was closed.

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

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

RESOLUTION 88-2021

WHEREAS, the Police Committee of the Borough Council and Representatives of P.B.A. Local 126, representing members of the Mountainside Police Department ("PBA"), have conducted negotiations for the purpose of establishing salary and benefits for the members of the Department for the period from January 1, 2022 through December 31, 2026, and

WHEREAS, such negotiations were successfully concluded in a historically short period of time, resulting in a recommendation to the Governing Body regarding salary and benefits, and

WHEREAS, the Governing Body reviewed the Police Committee's recommendations at its July 6, 2021 meeting and determined that the Police Committee's recommendations would be in the best interests of the Borough, and

WHEREAS, the Borough’s Labor Counsel is preparing the Collective Bargaining Agreement that will be required to implement the terms that have been accepted by the Governing Body.

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 Collective Bargaining Agreement between the Borough and P.B.A. Local 126 establishing salary and benefits for the members of the Department for the period from January 1, 2022 through December 31, 2026, when such Collective Bargaining Agreement has been prepared by the Borough’s Labor Counsel and signed by P.B.A. Local 126.

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

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

RESOLUTION 89-2021

WHEREAS, our former Detective Sergeant Walter Betyeman, passed away on July 4, 2021 at age 83; and

WHEREAS, Walter spent most of those 83 years living in Mountainside and working to ensure that our town would reflect the values of integrity, charity, good cheer, civic responsibility and community service that he cherished, and by which he lived his life; and

WHEREAS, to those ends Walter was a Mountainside Police officer from 1960 to 1979 attaining the rank of Detective Sergeant; and

WHEREAS, after serving In the US Navy aboard the USS Forrestal from 1955-1959, he and his wife Annemarie raised their family in Mountainside; and

WHEREAS, our town has been so much the better in so many ways for Walter ’s presence in our midst.

NOW, THEREFORE, BE IT RESOLVED that we, the current members of the Governing Body of the Borough of Mountainside, recognize Walter Betyeman’s service to our community and that we extend our condolences to Walter’s widow, Annemarie, and to the rest of his family.

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

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

RESOLUTION 90-2021

WHEREAS, on July 23, 2018 the Borough entered into a Redevelopment Agreement with the Garnico Group, LLC for construction of 26 market condominium units and six affordable condominium units on the Barnes Tract, and

WHEREAS, the Garnico Group, LLC has requested that such Redevelopment Agreement be amended in order to permit the Garnico Group, LLC to assign its rights and obligations under the terms of such Redevelopment Agreement to High Point Development, LLC, and

WHEREAS, both the Garnico Group, LLC and High Point Development, LLC have requested that a reverter clause that appears in paragraph 10.7 of the Redevelopment Agreement be eliminated, and

WHEREAS, both requests were considered at length by the Barnes Tract Committee that had been created by the Governing Body to oversee the development of the Barnes Tract, and

WHEREAS, the Barnes Tract Committee met with Garnico Group, LLC and High Point Development, LLC on several occasions and after considering the requests made a Report to the Governing Body dated July 3, 2021 in which it recommended that the Governing Body grant the requests, and

WHEREAS, the Governing Body has considered the Report of the Barnes Tract Committee and determined to accept the recommendations contained in the July 3, 2021 Report.

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 an amendment to the July 23, 2018 Redevelopment Agreement between the Borough and the Garnico Group, LLC that implements the recommendations contained in the July 3, 2021 Report of the Barnes Tract Committee.

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

ORDINANCES Second Reading (Public Hearing)

ORDINANCE 1296-2021

AN ORDINANCE BY BOROUGH OF MOUNTAINSIDE, IN UNION COUNTY, NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER XXII OF THE LAND USE ORDINANCE OF THE BOROUGH OF MOUNTAINSIDE

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;

- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Governing Body of the Borough of Mountainside has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on Mountainside in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of Mountainside’s residents and members of the public who visit, travel, or conduct business in Mountainside, to amend Mountainside’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of Mountainside; and

WHEREAS, officials from two prominent non-profit organizations established for the purpose of advising New Jersey municipalities on legal matters (New Jersey State League of Municipalities and New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the

complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts.

NOW THEREFORE, BE IT ORDAINED, by the Governing Body of the Borough of Mountainside, as follows:

1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Borough of Mountainside. Licensed cannabis delivery services situated outside the geographic boundaries of the Borough may deliver cannabis items and related supplies within the Township as permitted by the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31, et. seq.

2. Chapter XXII of the Mountainside Municipal Code is hereby amended by adding to the list of prohibited uses, the following: "All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a licensed cannabis delivery service."

3. Any article, section, paragraph, subsection, clause, or other provision of the Mountainside Municipal Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

5. This ordinance shall take effect upon its passage and publication and filing with the Mountainside Planning Board, and as otherwise provided for by law.

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

It was moved by Councilwoman Andre and seconded by Councilwoman Pater 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.

First Reading (Introduction)

ORDINANCE 1297-2021

AN ORDINANCE TO APPROPRIATE THE SUM OF EIGHT HUNDRED TWENTY THOUSAND DOLLARS (\$820,000.00) FOR THE PURCHASE OF BLOCK 14, LOTS 15.01 AND 15.03, COMMONLY KNOWN AS 90 NEW PROVIDENCE ROAD AND 903 MOUNTAIN AVENUE, RESPECTIVELY, IN THE BOROUGH OF MOUNTAINSIDE

WHEREAS, the Governing Body of the Borough of Mountainside is desirous to purchase Block 14, Lots 15.01 and 15.03, commonly known as 90 New Providence Road and 903 Mountain Avenue, respectively, (“Properties”) in the Borough of Mountainside, and

WHEREAS, funds in the amount of \$820,000 will be needed to purchase these lots, and

WHEREAS, the Borough has applied for and will receive a grant of \$56,250 toward the purchase of the Properties, and

WHEREAS, Beautiful Mountainside, has applied for and will receive a grant of \$250,000 toward the purchase of the Properties, and

WHEREAS, the Borough and Beautiful Mountainside have entered into an Agreement whereby Beautiful Mountainside will apply the grant it receives toward the purchase price and deed its interest in the Properties to the Borough.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Mountainside that the sum of \$820,000.00 be and is hereby appropriated to purchase Block 14, Lots 15.01 and 15.03, commonly known as 90 New Providence Road and 903 Mountain Avenue, respectively, in the Borough of Mountainside, as follows:

\$ 250,000.00 New Jersey Green Acres Grant from Beautiful Mountainside
\$ 56,250.00 New Jersey Green Acres Grant from Borough of Mountainside
\$ 513,750.00 from Misc. Reserves, Sale of Municipal Assets

This Ordinance shall take effect upon final passage and publication as required by law.

It was moved by Councilman Messler and seconded by Councilman Matejek that this ordinance be passed on first reading and advertised in full for a public hearing on August 17, 2021.

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

ORDINANCE 1298-2021
AN ORDINANCE TO AMEND CHAPTER VI, SECTION 6-4.2 OF THE BOROUGH CODE BY PERMITTING HOLDERS OF PLENARY DISTRIBUTION LICENSES TO OPEN FOR BUSINESS AT 11 A.M. ON SUNDAYS

WHEREAS, a holder of a plenary distribution license has requested that the Borough permits such licensees to open for business at 11 a.m. on Sundays, rather than at noon, and

WHEREAS, the Governing Body has determined that such request is reasonable.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Borough of Mountainside that Chapter VI, Section 6 – 4.2 of the Borough Code is hereby amended to provide:

Plenary Distribution- between the hours of 2:00 a.m. and 11:00 a.m.

This Ordinance shall take effect upon final passage and publication as required by law.

It was moved by Councilman Matejek and seconded by Councilwoman Pacifico that this ordinance be passed on first reading and advertised in full for a public hearing on August 17, 2021.

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

MOTION:

The following motion was unanimously approved:

1. Approve raffle application from Mountainside Restoration Committee for an off premise draw raffle
-

BILLS & CLAIMS:

The following resolution was introduced by Councilman Dierkes 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 20th day of July 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 \$340,435.57 (Copy of bill list attached).

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

COUNCIL COMMENTS:

Councilwoman Andre announced an upcoming event and congratulated Corinne on her retirement.

Councilwoman Pater thanked the Restoration Committee for providing historical photographs to share on social media and promoted a food voucher program for seniors.

Councilman Messler displayed a drawing of the proposed Mountainside Commons.

Mayor Mirabelli stated the 4th of July Fireworks were a great success and thanked Mountainside Beautiful for their service to the community.

AUDIENCE PARTICIPATION:

Todd Evans, Coles Avenue, was thrilled to see the Mountainside Commons project moving forward.

Alice Cowell, Orchard Road, loves Mountainside and appreciates the support given to the Mountainside Beautiful Committee and the Mountainside Commons project.

AUDIENCE PARTICIPATION:

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

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

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, contracts and litigation 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 8:25 P.M.

The meeting was recalled to public session.

Upon a motion by Councilwoman Pacifico and a second by Councilwoman Andre, the meeting was unanimously adjourned at 8:40 P.M.

Martha Lopez, RMC
Borough Clerk