

**REGULAR MEETING
JULY 23, 2018**

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 7:30 P.M.

**INVOCATION: Councilwoman Andre
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 Lt. Joseph Giannuzzi, Recreation Director Frank Masella 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 & Executive Session (2) Meetings held on June 19, 2018 were approved. Roll Call: Ayes: Andre, Dierkes, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

Upon motion by Councilman Mortimer a second by Councilwoman Andre, the minutes of the Work Session Meeting held on July 3, 2018 were approved. Roll Call: Ayes: Andre, Dierkes, Messler, Mortimer, Turner. Nays: 0. Abstained: Fech-Caccamo.

RESOLUTIONS:

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

RESOLUTION 85-2018

WHEREAS, the Union County Board of Chosen Freeholders established the "Kids Recreation Trust Fund" Grant Program designed to fund Recreational opportunities for our County's children; and

WHEREAS, the Borough of Mountainside wishes to apply to Union County Trust Fund through the "Kids Recreation Trust Fund" Grant Program;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside, County of Union, State of New Jersey, that the proper Borough officials are hereby authorized to file an application with the County of Union for the 2018 "Kids Recreation Trust Fund" Grant Program for the following projects:

Field Improvements/Lightning Detection System \$77,000.00

BE IT FURTHER RESOLVED, that matching funds in the amount of \$38,500.00 have been appropriated in accordance with the grant requirements.

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 86-2018
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 2018-2019 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, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0.

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

RESOLUTION 87-2018

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 2018 for the below amount sums of which item is now available as a revenue from:

Public & Private Revenues off-set with Appropriations:
Clean Communities Grant (14,353.24)
Mtsd 2017 Safe Corridor (5,642.65)

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"
Clean Communities Grant (14,353.24)
Mtsd 2017 Safe Corridor (5,642.65)

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

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

RESOLUTION 88-2018

WHEREAS, one bid was received on June 13, 2018 for Snow and Ice Removal Services for the 2018-2021 winter seasons; and

WHEREAS, LaFerrara Construction, 19 West Grover Street, Flanders, NJ submitted the only bid for Snow and Ice Removal Services; and

WHEREAS, the Borough of Mountainside has determined to employ LaFerrara Construction to perform such Snow and Ice Removal Services for the Borough of Mountainside.

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 enter into a contract with LaFerrara Construction for Snow and Ice Removal Services for the 2018-2021 winter seasons.

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 89-2018

BE IT RESOLVED that the Borough Clerk be and she hereby is authorized to advertise for bids for the 2018 Recycling Contract which bids are to conform to the specifications and requirements of the bid package as prepared by the Public Works Manager and Borough Attorney.

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 90-2018

WHEREAS, the Borough previously adopted Resolution 46-2018 for a tax title lien Redemption on Block 5.09, Lot 1; and

WHEREAS, a Superior Court of New Jersey Chancery Division Union County Consent Order was entered by the Court directing the Borough of Mountainside to return redemption monies to Christie Investments, LLC, in the amount of \$199,688.52, resolving motions and reconfirming validity of final judgment.

NOW THEREFORE BE IT RESOLVED, by the Governing Body of the Borough of Mountainside, County of Union, State of New Jersey that Resolution 46-2018 is rescinded.

NOW THEREFORE FURTHER IT BE RESOLVED, that the treasurer be authorized to return redemption monies previously paid to the Borough of Mountainside in the amount of \$199,688.52 to Christie Investments, LLC, 112 Jabez Street, Suite 114, Newark, NJ 07105.

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 91-2018

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 \$90,000 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, Fech-Caccamo, Messler, Mortimer, Turner. Nays: 0

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

RESOLUTION 92-2018

WHEREAS, in accordance with applicable provisions of the Public Contracts Law, the Borough advertised for Bids for Contract 2018-2 for "Resurfacing of Meeting House Lane"; and

WHEREAS, on July 10, 2018 the return date for the bids, four bids were received as follows:

Bidders:	Base Bid	Alt. #1	Alt. #2
Denbar Construction	\$333,047.50	\$22,525.00	\$28,150.00
Top Line Construction	\$364,096.91	\$10,772.25	\$25,078.36
Midwest Construction	\$369,359.25	\$12,918.75	\$29,000.20
DLS Contracting	\$456,935.50	\$18,550.00	\$29,354.00

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

WHEREAS, the lowest bidder is Denbar Construction Inc., and the Borough Engineer has recommended that Contract 2018-2 be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ 07033.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Mountainside that the contract for Resurfacing of Meeting House Lane be awarded to Denbar Construction Inc., 625 B North Michigan Ave, Kenilworth, NJ in the amount of \$383,722.50.

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

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

RESOLUTION 93-2018

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., as is amended from time to time (the “Act” or the “Redevelopment Law”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute “areas in need of redevelopment,” as defined in the Act; and

WHEREAS, on October 6, 2015, the Mayor and Council of the Borough of Mountainside (the “Borough Council”) adopted Resolution 97-2015 directing the Land Use Board of the Borough of Mountainside (the “Land Use Board”), pursuant to N.J.S.A. 40A:12A-5 and 40A:12-6 of the Act, to undertake a preliminary investigation to determine whether the property, identified on the Borough’s tax map as Block 14, Lot 14 (hereinafter referred to as the “Barnes Tract” or “Property”), qualifies as an area in need of Non-Condensation Redevelopment; and

WHEREAS, on November 5, 2015, the Land Use Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that the Barnes Tract is an “area in need of redevelopment” under the Redevelopment Law and recommending to the Borough Council that the Barnes Tract be determined to be an “area in need of redevelopment”; and

WHEREAS, the Mayor and the Borough Council adopted Resolution 109-2015 accepting the recommendations of the Land Use Board and determining the Barnes Tract to be an “area in need of redevelopment”; and

WHEREAS, at the request of the Mayor and Borough Council, John T. Chadwick, IV, P.P. created a proposed redevelopment plan entitled “Redevelopment Plan - Barnes Tract, Block 14, Lot 14” (hereinafter the “Redevelopment Plan”); and

WHEREAS, the Borough Council referred the Redevelopment Plan to the Land Use Board, pursuant to N.J.S.A. 40A:12A-7(e), for a report and recommendation from the Land Use Board concerning 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 Land Use Board may deem appropriate; and

WHEREAS, the Land Use Board recommended implementation of the Redevelopment Plan and reported that said plan is consistent with the Borough Master Plan; and

WHEREAS, the Borough Council determined that the inclusion of the Redevelopment Plan does generally conform with the goals and objectives set forth in the Borough Master Plan and advances the objectives of the Borough Affordable Housing Plan; and

WHEREAS, on December 29, 2015, the Borough Council adopted Ordinance 1240-2015 that adopted the Redevelopment Plan;

WHEREAS, in the course of implementing the aforesaid Redevelopment Plan, it came to the attention of the Borough Council that such Redevelopment 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 Borough Council adopted Resolution 78-2017 directing the Land Use Board, pursuant to N.J.S.A. 40A:12A-5 and 40A:12A-6 of the Act to undertake a preliminary investigation to determine whether the properties identified on the Borough’s tax map as Block 14, Lots 13 and 17 qualified as properties in need of Non-Condensation Redevelopment; and

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

WHEREAS, at this hearing the Land Use Board considered a Chadwick Report, witnesses, exhibits, testimony, opinion, and comments by the public, as well as statements 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 Land Use Board adopted a Resolution concluding that substantial evidence existed under N.J.S.A. 40A:12A-5(a), (c) and (d) that Block 14, Lots 13 and 17 are "areas in need of redevelopment" under the Redevelopment Law and recommended to the Borough Council that both Lots be determined to be an "area in need of redevelopment"; and

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

WHEREAS, by Resolution 108-2017, the Borough Council determined to partially accept these recommendations and determined that Block 14, Lot 13 is also an "area in need of redevelopment"; and

WHEREAS, by Resolution 108-2017, the Borough Council referred the Redevelopment Plan back to the Land Use Board, pursuant to N.J.S.A. 40A:12A-7(e), for a report and recommendation from the Land Use Board concerning the inclusion of Block 14, Lot 13 in the proposed plan, together with an identification of any provisions in the proposed plan that would be inconsistent with the master plan and, if so, any recommendations concerning those inconsistencies, and any other matters as the Land Use Board may deem appropriate; and

WHEREAS, on December 19, 2017, the Borough Council adopted Ordinance 1261-2017 amending Ordinance 1240-2015 to include Block 14, Lot 13 in the Redevelopment Plan; and

WHEREAS, pursuant to the Act, the Borough, in its capacity as the redevelopment entity, as such term is defined at N.J.S.A. 40A:12A-3, for the Property, with full authority to exercise the powers contained in the Act (the "Borough"), desires to facilitate and implement the development of the Property in accordance with the Redevelopment Plan; and

WHEREAS, the Borough has determined to designate The Garnico Group, LLC (the "Redeveloper") to undertake and implement an inclusionary residential development project (the "Project") consisting of new construction and operation of thirty-two (32) residential housing units, comprised of (i) six (6) affordable family rental housing units (the "Affordable Component") and (ii) twenty-six (26) market rate townhome units (the "Market Component"), all in accordance with the Redevelopment Plan on Block 14, Lots 13 and 14 (collectively the "Project Site") and the Borough's Housing Element and Fair Plan dated October 4, 2013 and revised December 9, 2013; and

WHEREAS, the Borough is the owner of the Property; and

WHEREAS, the Redeveloper is the owner of Block 14, Lot 14; and

WHEREAS, in order to implement the Redevelopment Plan, the Borough wishes to enter into a Redevelopment Agreement with the Redeveloper and designate the Redeveloper as redeveloper of the Project Site, by which, inter alia, the Borough will agree to sell the Property to the Redeveloper for a purchase price of \$3,100,000; and

WHEREAS, the Borough has determined that the Redeveloper appears to possess the proper qualifications, financial resources, and capacity to implement and complete the redevelopment of the Property in accordance with all applicable laws, rules and regulations; and

WHEREAS, the Borough believes the Project to be in the vital and best interests of the Borough, and that it promotes the health, safety, and welfare of the Borough's residents;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council that:

1. The Borough Council hereby approves the proposed form of the Redevelopment Agreement in substantially the form attached hereto.
2. The Mayor and Clerk are hereby authorized to execute the Redevelopment Agreement with The Garnico Group, LLC, with offices located at 2 Jason Road, Green Brook, New Jersey 08812 in substantially the form attached hereto, along with any other documents and/or agreements necessary to implement the Redevelopment Plan.
3. The Borough's Director of Finance is authorized to accept the Deposit of \$500,000 less the \$10,000.00 previously remitted by the Redeveloper to the Borough
4. This Resolution shall take effect immediately.

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

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

RESOLUTION 94-2018

WHEREAS, the Borough requires an Attorney to perform services for the Borough consisting of conducting disciplinary investigations regarding certain members of the Mountainside Police Department; 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 such 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 officials have determined that the value of these services will exceed \$17,500, but will not exceed \$30,000 over the term 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 approximately four months commencing May 1, 2018; and

WHEREAS, William F. Maderer, Esq. (a member of the firm of Saiber LLC) 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 William F. Maderer, Esq. be and he hereby is appointed to perform legal services consisting of conducting disciplinary investigations regarding certain members of the Mountainside Police Department; and

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

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

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 23rd day of July 2018, 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 \$298,023.29 (Copy of bill list attached).

COUNCIL COMMENTS:

Mayor's statement to the residents regarding the lawsuit.

AUDIENCE PARTICIPATION:

Daniela Faibes, 9 Mountainview Drive, questioned the status and scope of the investigation.

Genevieve Cooper, 125 Knightsbridge Road, asked about the Barnes Tract Agreement, when the site plans would be available, wetland concerns and if the funds from the sale of the Barnes Tract were earmarked for a particular purpose. Ms. Cooper also inquired about the professional services contracts approved by Council and the Clean Communities Grant.

Anjali Mehrotra, 215 Queens Lane, was concerned about the new recycling requirements being implemented by surrounding towns and if Mountainside was affected.

Ileana Montes, 220 Kings Court, asked how the Council would reconcile punitive damages that may result from the lawsuit.

Susan McCarthy, 309 Garrett Road, questioned whether the borough provides employee training.

Liz Truman, 355 Cherry Hill Road, asked for clarification regarding insurance coverage and estimated legal fees related to the lawsuit.

Carmen Mendiola, requested documents related to insurance coverage, questioned the status of the accused police officers and complained about the lack of council involvement during the March storm.

Jim Hewett, 1351 Wood Valley Road, asked if the borough explored alternative methods to handle the lawsuit such as mediation or tribunal hearings.

Sandy Burdge, 312 Old Tote Road, asked when the borough was conducting a property revaluation.

Gary Whyte, 289 Old Tote Road, attested that the Council and Administrator were very involved in the March storm clean-up.

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

Upon a motion by Councilman Mortimer and a second by Councilwoman Andre, the meeting was unanimously adjourned at 8:23 P.M.

Martha Lopez, RMC
Borough Clerk