

**PUBLIC MEETING
MINUTES**

The Public Meeting of the Mayor and Council was held in Council Chambers and called to order at 7:30PM. Adequate notification was published in the official newspaper of the Borough of Montvale. Frank Musco led the Pledge of Allegiance to the Flag, and roll call was taken.

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting was provided to The Bergen Record informing the public of the time and place according to the provisions of the Open Public Meeting Law (Chapter 231, P.L. 1975).

Also Present: Mayor Mike Ghassali; Borough Attorney, Dave Lafferty; Administrator, Joe Voytus; Borough Engineer, Andy Hipolit; Municipal Clerk, Fran Scordo and Deputy Clerk, Carol Manhart

ROLL CALL:

Councilmember Arendacs
Councilmember Cudequest
Councilmember Koelling

Councilmember Lane
Councilmember Roche - absent
Councilmember Russo-Vogelsang

Mayor Ghassali appointed a new Library board member Cindy Perrini-Lam to replace Geralyn Westervelt

Pascack Hills Varsity Baseball Team – State Champs

Mayor Ghassali read a proclamation and gave each member of the team one

Police Chief, Doug McDowell – Quarterly Report

August 16 will be Touch-a-Truck 3-6pm on Memorial Drive, trucks from the police, fire, ambulance, DPW, Swat Team to name a few. Junior Police Academy will be held September 19 through November 21 for 7th and 8th graders; Held an impaired driver event with Pascack Hills; applying for a DWI grant which runs from August through Labor Day; Police Officer Robert Klecha received the Top Cop award from MADD for the most DWI arrests in the entire Bergen County; If anyone has a traffic complaint please email traffic@montvaleboro.org

ORDINANCES:

None

MEETING OPEN TO PUBLIC:

Agenda Items Only

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Cudequest – all ayes

No Public comment

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Cudequest – all ayes

MEETING CLOSED TO PUBLIC:

Agenda Items Only

MINUTES:**June 27, 2023**

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Cudequest - all ayes with the exception of Councilmembers Arendacs and Russo-Vogelsang abstaining

CLOSED/EXECUTIVE MINUTES:**June 27, 2023**

A motion to accept minutes by Councilmember Lane; seconded by Councilmember Cudequest - all ayes with the exception of Councilmembers Arendacs abstaining

RESOLUTIONS: (CONSENT AGENDA*)

*All items listed on a consent agenda are considered to be routine and non-controversial by the Borough Council and will be approved by a motion, seconded and a roll call vote. There will be no separate discussion on these items unless a Council member(s) so request it, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

156-2023 Authorize Release of Escrow – Beattie Padovano – 200 Market Street – Block 2702, Lot 1.01, Q 2000

WHEREAS, Beattie Padovano located at 200 Market Street, Suite 401, Montvale, NJ 07645 have requested release of escrow posted for Block 2702, Lot 1.01, Q C2000; and

WHEREAS, the Borough Engineer and other Borough professionals take no exception to the release; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale hereby release to Beattie Padovano in the amount of \$631.40; and

BE IT FURTHER RESOLVED, the Treasurer shall receive a copy of this resolution for processing.

157-2023 A Resolution Awarding a Contract to Shore Top Construction Corp. for the Pickleball Courts Crack Filling, Resurfacing and Net Installation Project

WHEREAS, the Borough of Montvale has a need to procure construction services for the Pickleball Courts in the Borough; and

WHEREAS, the Borough of Montvale, in accordance with the laws of the State of New Jersey, publicly advertised for the receipt of bids under specifications for the Pickleball Courts Crack Filling, Resurfacing and Net Installation Project; and

WHEREAS, three (3) bids were received on June 28, 2023; and

WHEREAS, after receipt and review of the three (3) lowest bids received, the Borough of Montvale has determined that Shore Top Construction Corp. is the lowest responsible bidder for this contract; and

WHEREAS, the Chief Financial Officer of the Borough has certified that funds have been appropriated and are available for this purpose, a copy of said certification attached to the original copy of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale that a contract is hereby awarded as follows:

Contractor

Shore Top Construction Corp.
23 Yellowbrook Road
Freehold, NJ 07728

Contract Amount

Base Bid - \$71,000.00

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby directed, authorized and empowered to execute all documents necessary to effectuate the purposes of this Resolution, consistent with the Borough's bid specifications and applicable law, subject to approval as to form by the Borough Attorney.

158-2023 Tax Court Settlement – Block 402, Lot 19.01 - 2 Holdrum Court – Roger & Kamala Raj

WHEREAS, the Mayor and Council of the Borough of Montvale have been advised of the proposed settlement of a property Tax Appeal filed by Roger & Kamala Raj (hereinafter the “Tax Appeal”), under Docket Numbers 005640-2019, 001904-2020, 001140-2021, 002335-2022 and 002779-2023, and;

WHEREAS, the aforesaid tax appeal involves a residential property located at 2 Holdrum Ct, and is otherwise referred to as Block 402 Lot 19.01 on the tax assessment map of the Borough (hereinafter the “subject property”), and;

WHEREAS, the said Governing Body has been advised as to the merits of the subject Tax Appeal by legal counsel, the Borough Tax Assessor and the Borough Appraiser, and;

WHEREAS, the terms of the proposed settlement are set forth in the attached Schedule “A” included herein, and;

WHEREAS, it is in the best interest of the Borough to settle the subject Tax Appeal in accordance with the settlement proposal set forth hereinabove.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale, that the settlement of the aforesaid Tax Appeal be hereby approved, in accordance with the terms set forth in the attached Schedule “A”, and;

BE IT FURTHER RESOLVED, that with respect to same, the Mayor, Borough Administrator, Tax Appeal Attorney and/or any other appropriate Borough official is hereby authorized to perform any act necessary to effectuate the purposes set forth in this Resolution.

SCHEDULE “A”

A. The terms of the aforesaid tax appeal settlement shall consist as follows:

2019 Appeal: Withdraw
 2020 Appeal: Withdraw
 2021 Appeal: Withdraw
 2022 Appeal: \$995,400
 2023 Appeal: \$1,045,400

B. The provisions of N.J.S.A. 54:51A-8 (the “Freeze Act”) are expressly waived by the parties and shall not apply to this settlement.

Introduced by: Councilmember Lane; seconded by Councilmember Cudequest - a roll call vote was taken - all ayes

159-2023 A Resolution Approving the Submission of a Grant Application and the Execution of a Grant Agreement with the New Jersey Department of Transportation for the MA-2024-Woodland Road Resurfacing Project-00310

BE IT RESOLVED that the Mayor and Council of the Borough of Montvale formally approve the grant application for the above stated project; and

BE IT FURTHER RESOLVED that the Mayor, Borough Administrator and/or Borough Clerk are hereby directed, authorized and empowered to submit an electronic grant application identified as MA-2024-Woodland Road Resurfacing Project-00310 to the New Jersey Department of Transportation on behalf of the Borough of Montvale; and

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

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - a roll call vote was taken - all ayes with the exception of Councilmember Cudequest abstaining

BILLS: Administrator read the Bill Report.

Motion to pay bills by Councilmember Lane; seconded by Councilmember Cudequest - all ayes

REPORT OF REVENUE: Administrator read the Report of Revenue – June

COMMITTEE REPORTS:

Council President Arendacs

DPW

Status quo – bocce ball has been improved; line painting will continue

Engineering

Summit Ave paving should begin in August; 2023 road program will go out for bids roads include Magnolia, Williams, Camron, Arthur and Rutherford.

Councilmember Koelling

Police

Monthly report included in original minutes.

Planning Board

Montvale Grove was approved.

Councilmember Russo-Vogelsang

No report

Councilmember Cudequest

Library

Friends of the Library will be holding a fundraising event in the Fall; Clarie Jordan, a long time patron of the library and resident of Montvale received an award for Tudor of the Year helping students learn English as a second language; Guilia will be conducting a survey that will go out to patrons and staff; the library held their first concert on June 29th; held their ribbon cutting for the Reading Garden; 6800 books were checked out in the month of June. Will miss Geralyn Westervelt, she was a long time board member and welcome Cindy to the board.

Councilmember Lane

Fire Department

16 fires, 2 drills, 11 work details and 1 meeting;

MAYOR

Montvale was recognize by the Muslim community at the Teaneck Armory for its diversity. Will be starting the Mayor's Wellness event with the 9 gyms located in the borough; once a week a gym will sponsor a 1 hour work out for members of the community. This will promote their businesses.

ENGINEER'S REPORT:

Andrew Hipolit

Report/Update

Terkuile Road is a NJDOT grant, it will be constructed in the Spring of 2024.

ATTORNEY REPORT:

David Lafferty, Esq.

Report/Update

No report

ADMINISTRATOR REPORT:

Joe Voytus

Report/Update

HVAC in the library is now operational; we are looking into replacing the unit for administration side of the building; awarded the pickleball bids, to be completed after camp is over; had audit exit conference with our auditors, everything looks good, thanks to the finance department for getting the information the auditors needed. Dick Voorhees completed the preliminary application for the Octagon House to send down to the NJ Historic Preservation

The Clerk announced the polling location for District 4 will be moved to the senior community center. All voting districts will now be located at the senior community center at 1 Memorial Drive.

UNFINISHED BUSINESS:

- a. Draft Resolution – Appointing Special Counsel – NJDEP – NRD Settlement

160-2023 RESOLUTION APPOINTING MEYNER AND LANDIS LLP SPECIAL COUNSEL

Natural Resource Damages Settlement

NJDEP v Handy & Harmon, et al.

Docket No. BER-L-8605-19

WHEREAS, the Borough of Montvale (“Borough”) desires to hire special counsel to assist the Borough in providing comments to NJDEP regarding the proposed settlement in the referenced matter to make sure natural resource damage (“NRD”) settlement funds are directed to the Borough for reasonable NRD projects as permitted by law; and to negotiate, mediate, arbitrate, and litigate the matter as may be necessary to achieve satisfactory results, subject to Borough approval; and to work with the TBLS Group, an NRD consulting firm knowledge with NRD protocols and designing NRD projects pursuant to service proposals approved in advance by the Borough(hereinafter “Work”), and **WHEREAS**, the law firm of Meyner and Landis LLP (Albert I. Telsey, Esq.) has submitted the attached retainer proposal indicating the firm will provide legal services as Special Counsel to undertake the Work set forth above for the Borough; and **WHEREAS**, Special Counsel shall be hired by means of a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.8; and **WHEREAS**, the Borough's purchasing agent has determined and certified that the value of the services will exceed \$17,500.00; and **WHEREAS**, the law firm of Meyner and Landis LLP has completed and submitted a Business Entity Disclosure Certification which certifies that Meyner and Landis LLP has not made any contributions to a political or candidate committee in the Borough in the previous one (1) year and this Resolution

prohibits the law firm of Meyner and Landis LLP from making any contributions through the term of the contract;

NOW THEREFORE, BE IT RESOLVED by the Borough Council of Montvale, County of Bergen, State of New Jersey that:

1. Pursuant to N.J.S.A. 40A:11-1 et seq., the law firm of Meyner and Landis LLP be and is hereby appointed as Special Counsel for the purpose described herein.
2. The law firm of Meyner and Landis LLP is prohibited from making any contribution to a local or Bergen County political or candidate committee during the term of this appointment.
3. The Mayor and the Borough Clerk be and are hereby authorized to enter into a contract with Meyner and Landis LLP on behalf of the Borough in connection with this appointment by countersigning the attached retainer proposal.
4. The Business Entity Disclosure Certification and Determination of Value is to be placed on file with this Resolution.
5. A copy of this Resolution shall be printed once in the appropriate local newspaper(s) and is to be retained on file in the Office of the Borough Clerk.

Introduced by: Councilmember Lane; seconded by Councilmember Cudequest - a roll call vote was taken - all ayes

Borough attorney mentioned that this is as a result of the property located on Criag Road that had a long standing DEP cleanup, there is a fund now available through mediation and we have the opportunity to submit a proposal with the DEP to see what funds are available to us.

NEW BUSINESS:

- a. Draft Resolution – Opposing Assembly Bill A-4376 – Telecommunication Facilities

161-2023 A Resolution Expressing Municipal Opposition To New Jersey General Assembly Bill A-4376, A Bill Which Would Impose Unconscionable Restrictions On A Local Municipality's Right And Ability To Manage Land Use On Public And Private Land As Well As Within The Public Rights-Of-Way In Regard To The Deployment And Modification Of Telecommunications Facilities

WHEREAS, pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), the Home Rule Act, as well as sections 253 and 332 of the federal Telecommunications Act (47 U.S.C. 253; 332(c)(7)), and a local jurisdiction's police powers, as established by law, regulation and custom, a municipality retains the right and authority to establish reasonable regulations concerning the placement, installation and alteration of telecommunications facilities

WHEREAS, the Borough of Montvale ("Municipality") desires to retain these rights and authorities, consistent with state and federal laws, and which allow it to, among other things, establish regulations regarding the placement and alteration of telecommunications facilities which encourage judicious siting of said facilities in order to minimize the total number of facilities throughout the Municipality and which encourage collocation when possible, and which help to minimize the adverse visual impact of said facilities via careful design, landscaping and screening techniques, on the aesthetic character of the Municipality; and

WHEREAS, on February 8, 1996, the federal government adopted the Telecommunications Act which, among other things, preserves a local government's authority over the "placement construction and modification of personal wireless service facilities" (47 U.S.C. §332(c)(7)(A)) while, at the same time, making it unlawful for a local government to prohibit or have the effect of prohibiting the provisions of personal wireless service (47 U.S.C. 332(c)(7)(B)(i)(II)), and provides that local government "shall not unreasonably discriminate among providers of functionally equivalent services" (47 U.S.C. §332(c)(7)(B)(i)(I)); and

WHEREAS, on November 18, 2009, the Federal Communications Commission (“FCC”) adopted a declaratory ruling at Docket WT Docket No. 08-165 titled “Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance” in regard to the provisions of the Telecommunications Act which require the timely siting, by establishing 90 and 150 day shot clock timeframe provisions for wireless siting applications; and

WHEREAS, on February 22, 2012, the federal government adopted the Middle Class Tax Relief and Job Creation Act which, among other things, contains provisions designed to improve and expedite wireless siting applications by specifying that eligible facilities requests which do not substantially increase the size of an existing tower or base station must be approved by local governments, with this subset of telecommunications provisions becoming subsequently known as the Spectrum Act; and

WHEREAS, on January 17, 2012, the State of New Jersey adopted the New Jersey Collocation Law (N.J.S.A. 40:55D-46.2), which specifies, among other things, that site plan review may not be required if a proposed modification does not result in an area greater than 2,500 square feet for a wireless communications compound; and

WHEREAS, on October 17, 2014, the FCC adopted a Report and Order (the “Infrastructure Order”) at WT Docket No. 13-238 titled “Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies”, which clarified the provisions of the Spectrum Act by describing the types of modifications to wireless facilities which constitute an Eligible Facilities Request, as the term is used in the Spectrum Act, including that a modification may not increase the height of a facility by more than 10% of its existing height; and

WHEREAS, on June 9, 2020, the FCC adopted a Declaratory Ruling and Notice of Proposed Rulemaking at WT Docket No. 19-250 titled “Implementation of State and Local Governments’ Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012” in order to further clarify the provisions of the Spectrum Act in regards to what type of modification constitutes an Eligible Facilities Request, including specifying which modifications do not defeat the originally intended concealment elements of an existing facility, when the FCC mandated 90 and 150 day shot clocks commence and permitted height increases for towers outside the public right-of-way; and

WHEREAS, on October 27, 2020, the FCC adopted a Report and Order at WT Docket No. 19-250 titled “Implementation of State and Local Governments’ Obligation to Approve Certain Wireless Facility Modification Requests Under Section 6409(a) of the Spectrum Act of 2012” in order to further clarify the provisions of the Spectrum Act by specifying the extent to which an Eligible Facilities Request to modify an existing wireless may expand said facility in size and dimensions, including that an existing facility may be expanded by up to 30 feet in any one direction; and

WHEREAS, on September 26, 2018, the FCC adopted an order entitled “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment,” (FCC-18-133A or the “Small Cell Order”), which was upheld for the most part by the Ninth Circuit Court of Appeals on August 12, 2020, concerning City of Portland et al. vs. the FCC; and

WHEREAS, the Small Cell Order places 60 and 90 day shot clock time limits on the municipal decision-making process for applications for the placement of small wireless facilities, the replacement of existing poles and the placement of new poles in the public right-of-way; and

WHEREAS, on June 27, 2022, A-4376 was introduced and sponsored by Carol A. Murphy of the 7th legislative district with said bill, among other things, intending to combine aspects of the above-referenced FCC rulings regarding the Telecommunications Act, the Spectrum Act and small wireless facilities in the public right-of-way, while also going well above and beyond said rulings in regard to its intention to preempt a local jurisdiction’s right and authority to manage its territory and rights-of-way; and

WHEREAS, on June 5, 2023, the Assembly Telecommunications and Utilities Committee amended and favorably reported A-4376; and

WHEREAS, if adopted, A-4376 would expand the existing preemption framework of the state and federal government by, among other things, accelerating review timeframes and precluding discretionary for most antenna siting applications; and

WHEREAS, per A-4376, discretionary land use approvals would only be an option for a municipality if facility installation on a structure not previously used for antennas increased that structure's height by more than 20 feet, or expanded width by more than 20 feet or the width of a structure; and

WHEREAS, A-4376 encompasses both tower and rooftop sites on private land as well as small wireless antenna facilities on utility poles and other supporting structures in the public right-of-way; and

WHEREAS, the overarching effect of A-4376 would be to essentially eliminate nearly all effective control of a municipality's territory in regard to telecommunications facilities deployments; and

WHEREAS, this is an excessive and unreasonable loss of authority which runs contrary to the intention of the Municipal Land Use Law, the Home Rule Act and local police powers; and

WHEREAS, as a result, the Municipality strongly opposes passage of said bill A-4376 and desires to maintain its existing rights and authority to regulate telecommunications facilities within its jurisdiction.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen and State of New Jersey that:

1. The Borough of Montvale opposes New Jersey General Assembly bill A-4376.
2. The Borough of Montvale urges the Assembly not to pass A-4376.
3. A copy of this resolution will be submitted to both chambers of the New Jersey Legislature, and any applicable legislative committees tasked with reviewing same, including the Assembly Telecommunications and Utilities Committee, which will be asked to reconsider its favorable report of A-4376.

Introduced by: Councilmember Lane; seconded by Councilmember Koelling - a roll call vote was taken - all ayes

b. Waverly Place – Block Party

A resident on Waverly Place is requesting his street to be closed on July 29th for a block party. A motion by Councilmember Lane; seconded by Councilmember Cudequest to approve – all agreed

c. Boy Scouts – Request Camp Out

Boy scouts are requesting to have their camp out again this year at the swim club property on September 22, 23 and 24. Councilmember Lane made a motion to approve; seconded by Councilmember Koelling – all agreed

d. Police Promotions

Councilmember Koelling made a recommendation to promote the following police officers:

E. Kash Cruise and Andrew Fedick promote to Lieutenant and Eric Robalino and Herminio Amado promote to Sergeant. A motion to approve by Councilmember Cudequest; seconded by Councilmember Lane – all agreed. Swearing in will be July 25

COMMUNICATION CORRESPONDENCE:

None

MEETING OPEN TO THE PUBLIC:

HEARING OF CITIZENS WHO WISH TO ADDRESS THE MAYOR AND COUNCIL:

Upon recognition by the Mayor, the person shall proceed to the floor and give his/her name and address in an audible tone of voice for the records. Unless further time is granted by the Council, he/she shall limit his/her statement to five (5) minutes. Statements shall be addressed to the Council as a body and not to any member thereof. No person, other than the person having the floor, shall be permitted to enter into any discussion, without recognition by the Mayor.

Motion to open meeting to the public by Councilmember Lane; seconded by Councilmember Cudequest - all ayes

No Public Comment

Motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Koelling - all ayes

MEETING CLOSED TO THE PUBLIC:

ADJOURNMENT:

Motion to adjourn Public Meeting by Councilmember Lane; seconded by Councilmember Cudequest - all ayes

Meeting was adjourned at 8:29pm

Regular Workshop Meeting of the Mayor & Council to be held at 7:30pm on July 25, 2023

Respectfully submitted, Frances Scordo, Municipal Clerk