

**WORK SESSION
MINUTES**

The Work Session Meeting of the Mayor and Council was in the Council Chambers and called to order at 7:31pm. Adequate notification was published in the official newspaper of the Borough of Montvale. Roll call was taken. Master Sergeant Koelling, led the Pledge of Allegiance.

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).

ROLL CALL:

Councilmember Arendacs
Councilmember Cudequest
Councilmember Koelling

Councilmember Lane
Councilmember Roche
Councilmember Russo-Vogelsang

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

ORDINANCES:

PUBLIC HEARING OF ORDINANCE NO. 2023-1543 AN ORDINANCE REPEALING
ORDINANCE NO. 2014- 1394 AND CHAPTER 17 ARTICLE II OF THE BOROUGH CODE

WHEREAS, the “Elections Transparency Act” made various changes to New Jersey’s pay-to-play laws; and

WHEREAS, the State has now prohibited municipalities imposing pay-to-play provisions that are more restrictive than those in State law; and

WHEREAS, as a result thereof, Montvale is required to repeal Ordinance No. 2014-1394 and Chapter 17 Article II of the Borough Code.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Montvale, that Ordinance No. 2014-1394 and Chapter 17 Article II of the Borough Code are hereby repealed in their entirety.

BE IT FURTHER RESOLVED that this Ordinance shall be deemed effective immediately upon adoption and publication pursuant to law.

A motion Introduced for second reading **Ordinance No. 2023-1543** by Councilmember Cudequest; seconded by Councilmember Koelling; Clerk read by title only.

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

No Public Comment

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

Motion to adopt on Second and Final Reading in The Bergen Record by Councilmember Lane; seconded by Councilmember Roche; Clerk read by title only. - All ayes on a roll call vote

PUBLIC HEARING OF ORDINANCE NO. 2023-1544 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 400, "ZONING," TO ADD PUBLIC UTILITY FACILITIES AS PERMITTED USES IN THE AH-6 ZONE

WHEREAS, the Borough of Montvale currently receives water service from Veolia (formerly known as Suez and United Water); and

WHEREAS, there currently exists a situation wherein some areas of the Borough are experiencing high water pressure and others experiencing low water pressure; and

WHEREAS, Veolia has advised that it is necessary and advisable to construct new public utility facilities, including but not limited to new water towers and storage tanks, in order to provide improved service to the Borough; and

WHEREAS, the AH-6 Zone has been identified by Veolia as a potential location for such facilities; and

WHEREAS, public utility facilities are not permitted in the AH-6 Zone, and it is necessary and advisable to amend the zoning regulations applicable to the AH-6 zone to expressly permit public utility facilities.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Montvale as follows:

SECTION 1. Chapter 400 of the Borough Code is hereby amended and supplemented by adding a new subsection F to Section 400-28, shown as the underlined text, as follows:

§400-28 Affordable Housing Zones for first fair share cycle.

In the AH Affordable Housing Zones AH-6, AH-7, AH-8 and AH-9, no building, structure, area or lot or land shall be used in whole or in part for any other than one or more of the uses specified below.

F. In the AH-6 Zone only, the following public utility uses shall be permitted:

1. Principal uses: Public utility water towers, buildings and other structures. For purposes of this section only, multiple towers, buildings and other structures owned and/or operated by a single utility company shall be considered to be one principal use, notwithstanding the fact that two or more structures may be constructed.
2. Accessory uses: Fences, retaining walls, berms and landscaping in accordance with §§ 400-8, 400-50 and 400-51; parks and other open space areas; off-street parking; signage; any use customary and incidental to a permitted principal use.

(3) Limiting Schedule:

<u>Item</u>	<u>Specifications¹</u>
<u>Maximum building or structure height (feet)</u>	<u>28/2-story</u> <u>(building or structure)</u>
<u>Maximum tower height (feet)</u>	<u>150/100</u> <u>(primary/secondary towers)</u>
<u>Minimum lot area (square feet)</u>	<u>10 acres</u>
<u>Minimum lot width (feet)</u>	<u>200</u>
<u>Maximum building coverage</u>	<u>25%</u>
<u>Maximum lot coverage</u>	<u>40%</u>
<u>Front yard setback, minimum (feet)</u>	<u>150</u>
<u>Rear yard setback, minimum (feet)</u>	<u>150</u>
<u>Side yard setback, minimum (one/total) (feet)</u>	<u>150/300</u>
<u>Setback from developed residential lot, minimum (feet)</u>	<u>150</u>

SECTION 2. Upon approval of this Ordinance upon First Reading by the Mayor and Council of the Borough of Montvale, this Ordinance shall be transmitted to the Planning Board for its review and recommendation pursuant to N.J.S.A. 40:55D-26.

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

SECTION 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.

SECTION 5. This ordinance shall take effect immediately upon its passage and publication as required by law.

¹ Fences and retaining walls up to six feet in height, landscaping and berms are exempt from these setback requirements.

A motion Introduced for second reading **Ordinance No. 2023-1544** by Councilmember Cudequest; seconded by Councilmember Lane; Clerk read by title only.

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

Robert – Summit Ridge

Wanted to know where the water tower will be located. The administrator stated most of the property is wetlands so the north western portion of the property will be the likely area. The ordinance has 150 foot buffer from any property line, so it pushes it as far back towards the Parkway.

Dorothy Frischman, 115 Gelnaw Lane

Inquired about a second tower. Mayor Ghassali stated, yes, 2 towers are needed and there will be visuals once this moves forward.

Joel Kalishman, 8 Morgan Court

Wanted to know will their be other buildings. Mayor Ghassali stated it will just be 2 towers. Mr. Kalishman asked where will the access be located. Mayor Ghassali stated it will be off Summit Ave.

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

Motion to adopt on Second and Final Reading in The Bergen Record by Councilmember Lane; seconded by Councilmember Roche; Clerk read by title only. - All ayes on a roll call vote

INTRODUCTION OF ORDINANCE NO. 2023-1545 AN ORDINANCE OF THE BOROUGH OF MONTVALE AMENDING AND SUPPLEMENTING CHAPTER 347, "STREETS AND SIDEWALKS," TO ADD STANDARDS FOR DRIVEWAY CURB CUTS
(public hearing 11-28-23)

A motion to Introduce Ordinance **2023-1545** for first reading was made by Councilmember Cudequest; seconded by Councilmember Lane; Clerk read by title only;

Councilmember Lane made a motion that this ordinance be passed on first reading and advertised in The Bergen Record; seconded by Councilmember Cudequest - a roll call was taken – all ayes

MINUTES:

October 12, 2023

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

CLOSED/EXECUTIVE MINUTES:

October 12, 2023

A motion to accept the closed session minutes by Councilmember Cudequest; seconded by Councilmember Roche - all ayes with the exception of Councilmembers Arendacs, Lane 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.

209-2023 Trust Reserve for Planning

WHEREAS, there exists old, stale reserves in the Other Trust Fund; and

WHEREAS, said old balances should be cancelled; and

WHEREAS, it is the desire of the Mayor and Council to cancel said Other Trust Fund reserve balance as listed below:

Reserve for Planning Board \$20,943.75

NOW, THEREFORE, BE IT RESOLVED by the Mayor and the Borough Council of the Borough of Montvale that the above Other Trust Fund reserve balance be canceled and that said total be transferred to the proper statutory account (MRNA).

210-2023 Requesting Approval Of Items Of Revenue And Appropriation N.J.S.A. 40a:4-87 – Drive Sober Or Get Pulled Over – Chapter 159

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 was not determined at the time of the adoption of the budget; and

WHEREAS, the Director may also approve the insertion of an item of appropriation for an equal amount.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Montvale, in the County of Bergen, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the CY 2023 Municipal Budget in the sum of \$7,000, which is now available as revenue from:

Miscellaneous Revenues – Section F:

Special Items of Revenue Anticipated with Prior Consent of the Director of Local Government Services – Public and Private Revenues Offset with Appropriations:

Drive Sober or Get Pulled Over (FCOA 10-509).

BE IT FURTHER RESOLVED that the like sum of \$7,000 is hereby appropriated under the caption:

General Appropriations:

(A) Operations – Excluded from “CAPS”

Public and Private Revenues Offset by Revenues

Drive Sober or Get Pulled Over (FCOA 41-509).

BE IT FURTHER RESOLVED that a copy of this Resolution shall be electronically filed with the Director for approval as required by law.

211-2023 A Resolution Authorizing the Borough of Montvale to Enter Into a Cooperative Pricing Agreement with the Riverside Cooperative

WHEREAS, N.J.S.A. 40A:11-11(5) authorizes contracting units to enter into Cooperative Pricing Agreements; and

WHEREAS, the Borough of Northvale (hereinafter referred to as the “Lead Agency”) has offered voluntary participation in a Cooperative Pricing System known as the Riverside Cooperative for the purchase of work, materials and supplies; and

WHEREAS, the Borough of Montvale desires to participate in the Riverside Cooperative.

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

Pursuant to the provisions of N.J.S.A. 40A:11-11(5), the Mayor and Borough Clerk are hereby directed, authorized and empowered to enter into a Cooperative Pricing Agreement with the Lead Agency.

The Lead Agency entering into contracts shall be responsible for complying with the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) and all other provisions of the revised statutes of the State of New Jersey applicable to such procurements.

This Resolution shall take effect immediately.

212-2023 A Resolution Authorizing The Public Sale Of Certain Municipal Property Identified As Block 1002, Lot 7 Otherwise Known As 127 Summit Avenue, Montvale, New Jersey, Owned By The Borough Of Montvale Not Required For Public Purposes Pursuant To N.J.S.A. 40a:12-13

WHEREAS, the Borough of Montvale is the owner of certain real property not needed for public use; and

WHEREAS, pursuant to N.J.S.A. 40A:12-13, municipalities are authorized to sell property not needed for public use by open public sale at auction to the highest bidder after advertisement thereof in a newspaper circulating in the municipality or municipalities in which the lands are situated by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such sale; and

WHEREAS, the parcel to be sold, consisting of approximately 28.404 acres, is identified as Block 1002, Lot 7 on the official Tax Map of the Borough (hereinafter the "Property"); and

WHEREAS, the Property is presently vacant and undeveloped; and

WHEREAS, the Borough has determined that it is in the best interest of the Borough to sell the Property subject to certain restrictions and limitations as set forth herein.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Montvale, in the County of Bergen and State of New Jersey that the Property identified herein shall be sold by open public sale at auction for not less than fair market value, said sale being made expressly subject to the following terms and conditions:

Section 1. The Property herein identified shall be sold, pursuant to N.J.S.A. 40A:12-13 (a) by open public sale at auction to the highest bidder for not less than fair market value. It is the responsibility of the bidder to determine whether the Property is subject to any encumbrances, liens, zoning, regulations, easements, other restrictions and the Borough makes NO REPRESENTATIONS as to the parcel identified herein:

Identified as Block 1002, Lot 7 as depicted on the Tax Assessment Map of the Borough of Montvale, also known as 127 Summit Avenue, Montvale, New Jersey.

Section 2. Right of Reentry if Property Not Devoted to Water Utility Use. The Borough intends to convey the Property subject to a Right of Reentry, as follows:

In the event that the Buyer, or its successor in interest, submits a development application, within a period of twenty (20) years from the date of closing, for a use other than water utility and ancillary uses (which uses shall consist of the construction of elevated and ground storage tanks, access drives, pump stations, water mains and open space, and other uses reasonably necessary to facilitate same); then the Borough may, in its sole and absolute discretion, reenter and reacquire the Property subject to the terms and conditions set forth below:

The Borough shall provide Buyer, or its successor in interest, written Notice of the Borough's intent to reenter and reacquire the Property.

If the Borough shall exercise its right to repurchase the Property, said repurchase shall close within one hundred eighty (180) days of the written notification thereof.

The purchase price for the repurchase shall be the Purchase Price paid by the Buyer for the

Property, less twenty percent (20%).

Buyer, or its successor in interest, shall convey the Property back to the Borough by way of Bargain and Sale deed with Covenant Against Grantor's Acts, and free and clear of all encumbrances, liens, easements and other restrictions.

Section 3. Deed Restriction. The Borough intends to convey the Property subject to a Deed Restriction containing the Right of Reentry specified in Section 2 hereof.

Section 4. The minimum bid for this Property is Four Million Seven Hundred Twenty Five Thousand Dollars (\$4,725,000.00). The Borough of Montvale expressly reserves the right to accept the highest bid received or to reject all bids in its sole discretion. Each bidder shall be required to submit two separate bids for the Property:

Option A for the Property subject to the Right of Reentry set forth in Sections 2 and 3; and

Option B for the Property free and clear of the Right of Reentry set forth in Sections 2 and 3.

Section 5. The public auction shall be conducted on Tuesday, November 28, 2023, at 10:00 a.m. at the Borough of Montvale Municipal Complex, 12 DePiero Drive, Montvale, New Jersey.

Section 6. The Buyer shall further abide by the following terms and condition: The Buyer shall conduct all the necessary title searches prior to the date of the sale. The cost for any title search and/or policy shall be the responsibility of the Buyer.

The description of the property above is intended as a general guide only and may not be accurate. This lot shall be conveyed subject to existing encumbrances, liens, zoning regulations, easements, other restrictions, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefitting said property.

Buyer, at its sole expense, shall have the right to conduct environmental and other inspections within 30 days of the acceptance of the Buyer's bid at auction.

The Borough Engineer or other approved engineer, shall prepare a survey of the entire tract being sold in form and substance satisfactory to the Borough and the Buyer. Said survey shall be at Buyer's sole expense and said survey shall be certified to the Borough.

The sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the Borough of Montvale, including without limitation those concerning the disposition of municipal property.

No employee, agent or officer of the Borough of Montvale has any authority to waive, modify or amend any of the conditions of the sale, whether orally or in writing.

No employee, agent or officer of the Borough of Montvale shall have the ability to bid on the subject property at auction.

The Property shall be conveyed by Bargain and Sale Deed with Covenant Against Grantor's Acts and such conveyance shall be subject to all covenants, restrictions reservations and easements established of record or by prescription and without representation as to character of title or the property to be conveyed. Buyer agrees to restrict such use of the Property as described in Section 3, above, and the Deed from the Borough.

The Buyer shall deposit, cash, check or money order (payable to the "Borough of Montvale") in the amount of not less than ten percent (10%) of the purchase price at the time that the bid is accepted at the auction. If the prospective Buyer defaults on the contract of sale and/or fails to proceed with the purchase of the Property, the deposit shall be forfeited and shall become the property of the Borough. Furthermore, within fourteen (14) days of acceptance of the bid at auction, the successful bidder shall deposit the balance of the purchase price into escrow with the

Buyer's attorney.

The Buyer shall pay at the time of closing:

The balance of the purchase price;
Legal fees incurred by the Borough for transfer of title, including the cost of production of legal documents and this Resolution and Bid Specifications;
The cost of the Borough's appraisal of the Property;
Engineering fees incurred by the Borough in determining the exact dimensions of the Property and/or survey;
Engineering fees incurred by the Borough in conducting any requested due diligence activities by the Buyer;
The cost of advertisement/notice of the rezoning of the Property;
The cost of advertisement/notice of the sale.

The Buyer shall covenant and agree to abide by appropriate zoning, health and building regulations and codes and shall stipulate that this sale will not be used as grounds to support any variance from the regulations and codes except where such necessary variances are granted.

The purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any Court of this State as grounds to support a challenge of the existing or future assessments with regard to other Properties.

Section 7. No representations of any kind are made by the Borough of Montvale as to the condition of the Property; the Property is being sold in its present condition "as is". The Borough does not warrant or certify title to the Property and in no event shall the Borough of Montvale be liable for any damages to the Buyer/successful bidder if title is found unmarketable for any reason and the Buyer/successful bidder waives any and all right in damages or by way of liens against the Borough, the sole remedy being the right to receive a refund prior to closing of the deposit paid in the event title is found unmarketable. It shall be the obligation of the successful bidder to examine title to the Property prior to closing. Notice of any alleged defect in title or claim of unmarketability must be served on the Borough Clerk by the Buyer in writing no later than thirty (30) days after the execution of the contract of sale. Failure upon the part of the Buyer to give written notice within said time shall be deemed conclusive proof that the Buyer accepts the title in its present condition, and the Borough shall not be responsible for any subsequent claims of defect in title and shall not be required to refund money or correct any defect in title or be held liable for damages.

Section 8. Pursuant to N.J.S.A. 40A:12-13, the description of the property to be sold and the terms and conditions of said sale shall be published in a newspaper circulating in the municipality in which the lands are situated, by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to such public auction.

Section 9. Severability. If any section, sentence or any other part of this Resolution is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution but shall be confined in its effect to the section, sentence or other part of this Resolution directly involved in the controversy which such judgment shall be rendered.

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

BILLS: Administrator read the Bill Report

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

ENGINEER'S REPORT:

Andrew Hipolit - absent
Report/Update

ATTORNEY REPORT:

Dave Lafferty, Esq.
Report/Update
No Report

ADMINISTRATOR REPORT:

Joe Voytus
Report/Update
No Report

UNFINISHED BUSINESS:

None

NEW BUSINESS:

- a. 2023 Health Benefits Determination - Borough Employees Percentage of Employee Contributions Toward Medical Plans - Determination Health Savings Account (HSA) Contribution Limits

The administrator stated that the plans will stay the same; the HSA contribution that the borough gives will be capped to coincide with the PBA contract which is \$8,000 for a family plan and \$4,000 for single coverage for the administration staff. It would allow all employees to make an additional contribution of \$300 for family or \$150 for single.

Councilmember Lane added initially the High Deductible plan would have rates that were significantly lower than other plans and the idea of having money in your account would make you a better consumer of your own health plan. It seems now that the rate differential between the plans is not as wide so consequently the contribution from the borough will likely not be increasing going forward.

A motion by Councilmember Lane to accept the plans as presented; seconded by Councilmember Roche – a roll call vote was taken – all ayes

- a. 2023 Survey Best Practices Inventory Submission

The administrator stated we needed 29 points to maintain State Aid and we scored 37.5 points

- b. Planning Board Appointments

Mayor Ghassali appointed Sherwin Tsai as Alternate member of the Planning Board

Councilmember Lane wanted to highlight that the Montvale Fire department just celebrated many years of service:

Anthony Fava	5 years
Marianna Rodriguez	10 years
Michael Riabov	10 years
Douglas Piatt	20 years
Craig Miller Jr.	25 years
Brian Librino	30 years
Bruce Hopper	30 years
Jeffrey Ballanco	50 years
Craig Miller Sr.	50 years

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.

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

Lorraine Hutter, employee

Wanted to thank council for the keeping the medical plans and contributions the same. All the employees that do have the high deductible plan do appreciate the contribution from the borough

Dorothy Frischman, 115 Gelnow Lane

Going east on Summit Ave making a left turn, it is very dangerous. The administrator stated that this is a county road and will speak with the borough engineer.

A motion to close meeting to the public by Councilmember Lane; seconded by Councilmember Roche – all ayes

A motion was made by Councilmember Lane to go into closed session to discuss potential litigation; seconded by Councilmember Cudequest – all ayes

ADJOURNMENT:

Motion to adjourn by Councilmember Lane; seconded by Councilmember Roche – all ayes

Meeting adjourned at 8:10pm

Regular Meeting of the Mayor & Council will be held at 7:30pm on Tuesday, November 28, 2023

Respectfully submitted, Frances Scordo, Municipal Clerk