

**MINUTES
WORK SESSION**

The Work Session Meeting of the Mayor and Council was held in the Council Chambers and called to order at 7:30pm. Adequate notification was published in the official newspaper of the Borough of Montvale. Roll call was taken.

OPEN PUBLIC MEETING STATEMENT

Adequate notice of this meeting was provided to The Bergen Record and The Ridgewood News, 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 Cudequest	Councilmember LaMonica - absent
Councilmember Curry	Councilmember Lane - absent
Councilmember Ghassali	Councilmember Talarico

Also present: Mayor Roger Fyfe; Borough Attorney, Phil Boggia; Borough Engineer, Andy Hipolit; Municipal Clerk/Administrator, Maureen Iarossi-Alwan; and Deputy Municipal Clerk, Fran Scordo

ORDINANCES:

PUBLIC HEARING ORDINANCE NO. 2014-1394 AN ORDINANCE FURTHER RESTRICTING THE MAXIMUM VALUE OF A CONTRACT THAT MAY BE AWARDED PURSUANT TO A NON-FAIR-AND-OPEN PROCESS UNDER THE CAMPAIGN CONTRIBUTIONS AND EXPENDITURES REPORTING ACT IN THE BOROUGH OF MONTVALE

Ordinance No. **2014-1394** was introduced for second reading by Councilmember Curry; seconded by Councilmember Ghassali; Clerk read by title only
Motion to open meeting to the public by Councilmember Cudequest; seconded by Councilmember Talarico - all ayes

NO PUBLIC COMMENT

Motion to close meeting to the public by Councilmember Ghassali; seconded by Councilmember Talarico - all ayes

Motion to adopt on Second and Final Reading in the Ridgewood News by Councilmember Talarico; seconded by Councilmember Cudequest; Clerk read by title only ----- A roll call vote was taken --
- all ayes

PUBLIC HEARING ORDINANCE NO. 2014-1395 AN ORDINANCE AMENDING CHAPTER 51 OF THE CODE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, TO REGULATE THE DISCHARGE OF BOWS AND ARROWS IN THE BOROUGH OF MONTVALE –

(DISCUSSION/RECOMMENDATIONS)

Mayor Fyfe explained that this ordinance will be tabled. In light of new comments and recommendations the ordinance will need to be changed.

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

Some members of the public added suggestions, such as this ordinance should not be combined with fire arms

Motion to close meeting to the public by Councilmember Ghassali; seconded by Councilmember Talarico- all ayes

A motion to table the ordinance by Councilmember Ghassali; seconded by Councilmember Talarico- all ayes

PUBLIC HEARING ORDINANCE NO. 2014-1396 AN ORDINANCE AMENDING CHAPTER 48, "GASOLINE STATIONS," OF THE CODE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, TO REVISE GAS STATION LICENSING FEES

Ordinance No. **2014-1396** was introduced for second reading by Councilmember Curry; seconded by Councilmember Cudequest; Clerk read by title only

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

NO PUBLIC COMMENT

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

Motion to adopt on Second and Final Reading in the Ridgewood News by Councilmember Talarico; seconded by Councilmember Ghassali; Clerk read by title only ----- A roll call vote was taken --- all ayes

INTRODUCTION ORDINANCE NO. 2014-1397 AN ORDINANCE TO PROVIDE FOR THE PRESERVATION OF TREES THROUGHOUT THE BOROUGH OF MONTVALE AND AMENDING CHAPTER 128 IN THE BOROUGH CODE ENTITLED "ZONING

(PUBLIC HEARING 11/10/2014)

A motion to Introduce Ordinance **2014-1397** for first reading was made by Councilmember Curry; seconded by Councilmember Cudequest; Clerk read by title only; Councilmember Talarico made a motion that this ordinance be passed on first reading and advertised in The Bergen Record; seconded by Councilmember Ghassali; - A roll call was taken – all ayes

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

Susan Hameyer, 64 Summit Ave

Resident spoke regarding using 4 ½ feet height; Addressing subsequent owners; Need to take into consideration of the necessity of it

Dante Teagno, Planning Board Member

Paragraph 128 has a typo; Doesn't state a period of time for the removal of 3 trees; Why the need for this ordinance; who makes the final decision; what happens if the town official makes the decision not to remove a tree and a storm comes and knocks it down, the homeowner will sue the borough.

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

MINUTES:

October 14, 2014

A motion to accept the minutes by Councilmember Ghassali; seconded by Councilmember Talarico - all ayes

RESOLUTIONS:

149-2014 Authorize Refunds Montvale Tennis Lessons

BE IT RESOLVED, the below listed individuals are hereby granted a refund for cancelled tennis lessons not held.

Matthew Solomon	\$80.00 (1 participant)
Donna Schmidt	\$80.00 (1 participant)
Grant Linardic	\$80.00 (1 participant)

Introduced by: Councilmember Cudequest; seconded by Councilmember Curry - All ayes

150-2014 Appointing / Permanent Montvale Police Officer / Maciej Zagaja

WHEREAS, Maciej Zagaja has successfully completed a twelve (12) month probationary period; and

WHEREAS, Chief Abrams has recommended Officer Zagaja for permanent appointment.

NOW, THEREFOR BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, New Jersey that Maciej Zagaja is hereby permanently appointed to the Montvale Police Department, effective August 2014.

Introduced by: Councilmember Cudequest; seconded by Councilmember Talarico - All ayes

151-2014 Authorize Purchase State Contract/ Montvale Fire Prevention Vehicle /Winner Ford of Cherry Hill

WHEREAS, The Mayor and Council approved the purchase of a State Contract 2015 Interceptor Utility, All Wheel Drive Base Vehicle State Contract #82925 for the Montvale Fire Prevention Department; and

WHEREAS, the vehicle will be paid and furnished as per the quotation attached to the original of this resolution financing agreement; and

WHEREAS, purchase and payment shall be made to Winner Ford of Cherry Hill, 250 Haddonfield-Berlin Road, Cherry Hill, NJ 08034; and

NOW, THEREFORE, BE IT RESOLVED, the Chief Financial Officer has certified that funds are available and certification is attached to the original of this resolution.

NOW THEREFORE, BE IT FURTHER RESOLVED, the Mayor and Council authorize the Borough Administrator to execute documentation for this state contract purchase with the above named vendor.

Introduced by: Councilmember Talarico; seconded by Councilmember Curry - All ayes

BILLS: Municipal Clerk read the Bill Report

Motion to pay bills by Councilmember Talarico; seconded by Councilmember Ghassali - All ayes
Councilmember Cudequest abstained on bill #00125; Councilmember Ghassali asked for clarification regarding a new server and computers. The administrator explained that this was already approved in the budget as a capital item. The pc's are on a rotating basis.

ENGINEER'S REPORT:

Andrew Hipolit
Report/Update

a. Status 2014 Road Program

Micro-surfacing portion was not properly done on a few roads; the contractor will fix in Spring 2015

b. Update/Status Valley View Pump Station

The lining process is being scheduled to be done overnight

ATTORNEY REPORT:

Philip Boggia, Esq.

Report/Update

Trial will continue to next week for DePieros;

Mr. Boggia stated that the resolution that he has provided is a result of the pending application United Water has with the Board of Public Utilities, which United Water will comply with certain terms and conditions imposed by Montvale Zoning Board of Adjustment

152-2014 A Resolution Authorizing the Execution of a Stipulation With United Water New Jersey in Connection With the Pending Application Before the Board of Public Utilities, BPU Docket No. WO-09020115, In Order to Ensure that UWNJ Will Incorporate and Comply With Certain Terms and Conditions Imposed by the Montvale Zoning Board of Adjustment Related to the 2010 Approval of UWNJ's Pump Station Project and to Ensure the Inclusion of Additional Safety Measures

WHEREAS, United Water New Jersey ("UWNJ") has proposed to construct an above-ground pumping station at the site of the existing one-and-a-half million gallon Montvale Ground Storage Tank located in the Borough of Montvale (the "Project"); and

WHEREAS, the property on which the Project is proposed to be located, Block 1804, Lot 5, is owned by UWNJ and is located near the intersection of Chestnut Ridge Road and Sunrise Drive; and

WHEREAS, the Project as proposed would consist of a seven hundred fifty gallons per minute (750gpm) pumping station meeting domestic potable water requirements and improving fire flow water requirements in United Water New Jersey Pressure District 95 ("UWNJ PD95"); and

WHEREAS, UWNJ's stated purpose for the Project is to allow for UWNJ PD95 customers in the Borough of Montvale to be served by UWNJ water sources, treatment, pumping, transmission and distribution facilities and to replace existing supply from United Water New York ("UWNY") Pressure District 95 ("UWNJ PD95") in Rockland County; and

WHEREAS, the UWNJ PD95 serves approximately two hundred sixteen (216) properties, whose water needs are presently served by UWNY PD95 through two (2) interconnections located at the border of New Jersey and New York; and

WHEREAS, currently, a New York State Department of Environmental Conservation (NYSDEC) Permit allows for UWNY to supply water to these customers in UWNJ PD95 (WSA #4214 and #5398); and

WHEREAS, as part of the proposed Project, the two (2) aforementioned interconnections would remain in place to be used as necessary for such matters as meeting fire flow requirements or, if a pumping station is out of service or for such matters as permitted by the New Jersey Department of Environmental Protection ("NJDEP"); and

WHEREAS, at the request of the NJDEP, the Project has been designed to serve all existing customers in UWNJ PD95, as well as additional lots within UWNJ PD95 not currently served by UWNJ totaling ninety-seven (97) additional properties; and

WHEREAS, according to UWNJ, the pumping station will allow for the monitoring and addition of calcium hypochlorite tablets to assist in maintaining total chlorine residual to customers in UWNJ PD95 and UWNJ PD30; and

WHEREAS, the one-story, twenty by fifty foot (20'x50') proposed above-ground facility will include the following:

1. Four (4) pumping units, each capable of up to two hundred fifty gallons per minute (250gpm), with up to three (3) operating and one (1) unit on stand-by;
2. One (1) stand-by natural gas-powered electric power generator; and
3. Calcium hypochlorite tablet feed system; and

WHEREAS, UWNJ has recently proposed the use of calcium hypochlorite tablets as an accommodation to residents who had expressed concern about the presence of a proposed 150 gallon storage tank of liquid sodium hypochlorite on the proposed site; and

WHEREAS, UWNJ has recently proposed the use of a natural gas-fired back-up generator as an accommodation to residents who had expressed concern about the presence of a diesel-powered back-up generator on the proposed site; and

WHEREAS, according to UWNJ, the proposed facility will:

1. supply New Jersey customers with UWNJ water through the modification of existing interconnections and the addition of a pumping station;
2. provide a system to maintain a chlorine residual entering and leaving the Montvale Tank;
3. provide the system with a flow meter and pressure gauges;
4. add a stormwater retention system for the proposed site; and

WHEREAS, the proposed Project, without the changes to the generator and hypochlorite feed system, was previously the subject of an application to the Borough of Montvale Zoning Board of Adjustment, which application was initially denied by resolution dated January 28, 2009; and

WHEREAS, said denial was challenged by UWNJ by way of action in lieu of prerogative writ; and

WHEREAS, after a one-day bench trial, the trial court ruled in favor of UWNJ, reversed the Zoning Board's denial of UWNJ's application, and remanded the matter for further proceedings consistent with its decision; and

WHEREAS, the Zoning Board of Adjustment thereafter held hearings on and re-considered UWNJ's remanded application; and

WHEREAS, the Zoning Board of Adjustment eventually approved UWNJ's site plan and soil moving permit applications by unanimous vote on March 23, 2010, Resolution #974B (the "2010 Approval"); and

WHEREAS, the 2010 Approval contained a significant number of conditions related to, *inter alia*, landscaping including new plantings and screening, buffers and set-backs, building design including the use of cultured stone and a reduction in height from an earlier design, stormwater management, a generator muffler system, and other safety features; and

WHEREAS, an objector appealed the 2010 Approval by way of action in lieu of prerogative writ; and

WHEREAS, the 2010 Approval was subsequently upheld by the Superior Court, Bergen County Vicinage; and

WHEREAS, the objector further appealed the trial court's decision to the Superior Court, Appellate Division; and

WHEREAS, the trial court's decision was subsequently reversed by the Appellate Division; and

WHEREAS, UWNJ has filed with the New Jersey Board of Public Utilities ("BPU") an application that has been referred to the Office of Administrative Law ("OAL"), in a matter captioned *Matter of the Application By United Water New Jersey ("UWNJ") Pursuant to N.J.S.A. §40:55D-19 to Appeal the Decision of The Borough of Montvale Zoning Board of Adjustment Denying the Application by UWNJ for a Variance Pursuant to N.J.S.A. §40:55D-70(d)(2) to Permit the Expansion of a Non-Conforming Use and Construct a Pump Station; and a Determination that the Use of Such Land is Reasonably Necessary for the Service, Convenience or Welfare of the Public; and That the Zoning and Land Use Ordinances of Montvale Shall Have No Application Thereto*, BPU Docket No. WO-09020115, OAL Docket No. PUC-05149-09 (the "BPU Matter"); and

WHEREAS, the BPU has concurrent jurisdiction with the Superior Court over these matters and has the authority to approve UWNJ's Project notwithstanding the decision of the Superior Court, Appellate Division; and

WHEREAS, in the BPU Matter, UWNJ is seeking a determination from the BPU that the proposed Project is reasonably necessary for the service, convenience or welfare of the public, and a

further determination that the zoning and land use ordinances of the Borough of Montvale are not applicable to the proposed Project; and

WHEREAS, in the event such a determination is made and the Project is built, there is a realistic possibility that UWNJ could be permitted by the BPU to construct a facility on the proposed site without regard to the Borough of Montvale’s zoning ordinance or any of the terms and conditions previously imposed upon UWNJ by the Zoning Board of Adjustment as part of the 2010 Approval; and

WHEREAS, the Borough of Montvale was granted leave to intervene in the BPU Matter; and **WHEREAS**, the Mayor and Council of the Borough of Montvale have always maintained that they support the 2010 Approval by the Montvale Zoning Board of Adjustment and would seek to compel UWNJ to comply with the terms and conditions thereof over which the municipality has jurisdiction in the event that the Project is built; and

WHEREAS, UWNJ has agreed to comply with said terms and conditions and to make further modifications to the Project in order to address safety concerns raised by Montvale residents; and

WHEREAS, in the interest of conserving taxpayer funds while also protecting the public welfare, the Borough of Montvale is desirous of executing a stipulation with UWNJ whereby UWNJ will stipulate and agree that in the event the Project is approved by the Board of Public Utilities and constructed, UWNJ will abide by the terms and conditions of the Montvale Zoning Board of Adjustment’s 2010 Approval (excluding those terms and conditions that are preempted by the NJDEP or the BPU including, but not limited to, conditions #11, 13 and 17 of Resolution No. 974B), and UWNJ will further agree to amend its plans to utilize calcium hypochlorite tablets as an accommodation to residents who had expressed concern about the presence of a proposed 150 gallon storage tank of liquid sodium hypochlorite on the proposed site, and UWNJ will further agree to amend its plans to utilize a natural gas-fired back-up generator as an accommodation to residents who had expressed concern about the presence of a diesel-powered back-up generator on the proposed site, and the Borough will withdraw as an intervening party in the BPU Matter prior to any hearings scheduled by the BPU or the Office of Administrative Law on behalf of the BPU and it will not participate in the BPU matter thereafter; and

WHEREAS, following the execution of said stipulation, the BPU Matter will remain active, and UWNJ will be required to demonstrate to the satisfaction of the Board of Public Utilities that the proposed facility meets the statutory criteria for relief.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale that the Mayor and Borough Clerk are hereby authorized and empowered to execute all documents necessary to effectuate the purposes of this resolution, subject to approval as to form by the Borough Attorney.

Introduced by: Councilmember Curry; seconded by Councilmember Talarico - a roll call vote was taken - All ayes

UNFINISHED BUSINESS:

- a. Rockland Built Homes/Subdivision/Vacate Short Avenue
Council needs more time to further discuss
- b. K-Hovnanian/Request Street Name/Reserve At Montvale
Councilmembers agreed on “Autumn Way”
- c. United Water/Application/BPU/Draft Resolution (attorney to provide)
Explanation is under Attorneys Report

NEW BUSINESS:

- a. Proposed Ordinance Mobile Retail Food Trucks

After a brief discussion, it was decided to ask the Board of Health and Planning Board for a little more details

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 Cudequest; seconded by Councilmember Curry – all ayes

Dante Teagno,

Bow/arrow ordinance – 450 foot restriction should be changed

A motion to close meeting to the public by Councilmember Ghassali; seconded by Councilmember Curry – all ayes

Motion to adjourn by Councilmember Cudequest; seconded by Councilmember Ghassali – all ayes

ADJOURNMENT

Meeting adjourned at 8:46pm

The next Meeting of the Mayor and Council will be held November 10, 2014 at 7:30 p.m.

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk