

**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.

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
Councilmember Curry	Councilmember Lane
Councilmember Ghassali	Councilmember Talarico

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

ORDINANCES:

PUBLIC HEARING OF ORDINANCE NO 2013-1374 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 128, ZONING, OF THE BOROUGH OF MONTVALE CODE TO ESTABLISH A NEW AH-PUD ZONE, TO ESTABLISH THE STANDARDS THEREOF AND TO IMPLEMENT CHANGES AND REVISIONS CONSISTENT WITH THE MASTER PLAN

The full complete ordinance is included with original minutes

Ordinance No. **2013- 1374** 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 Lane; seconded by Councilmember Talarico – all ayes

List of speakers are included with original minutes;

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

At this time the Mayor, councilmembers and professionals present answered questions and/or concerns mentioned by the public;

Mayor Fyfe asked for another motion to open to the public for a second time to address further questions by the public - Motion to open meeting to the public for a second time to further answer further questions by Councilmember Lane; seconded by Councilmember Talarico

Motion to close meeting to the public by Councilmember Talarico; seconded by Councilmember Cudequest - a roll call was taken Councilmembers Lane, Ghassali and LaMonica – no

Councilmembers Talarico, Cudequest and Curry - yes – Mayor Fyfe broke the tie to close the meeting to the public

Motion to adopt on Second and Final Reading in the Bergen Record by Councilmember Lane; seconded by Councilmember Talarico; Clerk read by title only ----- A roll call vote was taken --- Councilmember LaMonica voted No; Councilmembers Cudequest, Talarico, Ghassali, Curry and Lane all voted yes - so the ordinance was adopted

Mayor asked for a motion to take a 10 minute break – motion by Councilmember Cudequest; seconded by Councilmember Talarico – all ayes

PUBLIC HEARING OF ORDINANCE NO. 2013-1375 ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 84 OF THE BOROUGH CODE TO REVISE CERTAIN PROVISIONS CONCERNING PROMOTIONS IN THE POLICE DEPARTMENT

WHEREAS, the Borough of Montvale Police Department is in the process of obtaining Accreditation from the Commission of Accreditation for Law Enforcement Agencies (“CALEA”) to better improve its standards and the quality of services provided to the Borough of Montvale; and **WHEREAS**, in connection therewith, the Borough’s Accreditation consultant and the Joint Insurance Fund have recommended certain changes to the Borough’s promotion policy; and **WHEREAS**, the Borough is desirous of adopting a comprehensive promotion policy to be administered by the Borough by and through the Chief of Police in order to establish a fully fair and open promotional process in the Borough of Montvale Police Department.

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

Section 1. The following sections of Chapter 84 of the Code of the Borough of Montvale are hereby amended and supplemented by adding the underlined text and deleting the [bracketed] text, as follows:

§84-11. Grounds for removal.

Any member of the Police Department may be removed from office, suspended and/or fined, as herein provided for, in addition to any other punishment to which he may be subject by law, against whom any of the following charges may have been substantiated:

- Y. Violation of the Montvale Police Department Rules and Regulations.

§ 84-12. Appointments as policemen.

All appointments as policemen of the Police Department of the Borough of Montvale shall be made from a list prepared by the Mayor and Council after examination and with special reference to the fitness of the person so appointed. Appointments shall be made for a probationary period of 12 months from the completion of the approved Police Training Commission (PTC) police certification courts, or for pre-certified appointees, 12 months from the date of hire, after which period, the probationary appointee may be eligible for a permanent appointment. Said list shall be in force for a period of one year from the time of certification. All appointments by the Mayor and Council to the Police Department shall be made from the list of applicants who have passed the written, oral and physical examinations as well as a comprehensive background investigation as provided in this ordinance, subject to the provisions hereof. [No appointment shall be made until said appointee shall have completed his basic training period of 12 months.]

§ 84-13. Examination by Examining Board required.

- A. Applicants for appointment to the Police Department of the Borough of Montvale shall be required to submit themselves to such examination as may be required by the Police Examining Board designated by the Chief of Police[Mayor and Council].
- B. No applicant shall receive consideration for appointment to the Police Department unless he shall have received a passing grade and successfully completed the entire appointment process as required by the Chief of Police. The Chief of Police will provide a list of finalists and recommendations to the Mayor and Council for consideration for appointment. [; provided, however, that the f]Final determination for appointment [as to the fitness of the appointee] shall be reserved to the [sole discretion of the] Mayor and Council.

§ 84-15. Promotions.

A. Chief of Police.

- (1) Whenever a vacancy or impending vacancy for the position of Chief of Police occurs within the Montvale Police Department, the Mayor will empanel an Examining Board to conduct evaluations of all applications, which may include but not be limited to written and oral skills, management ability, psychological assessment and other pertinent areas of performance-related matters. [All applicants shall submit to the Examining Board a resume outlining in detail experience and educational background. The Examining Board shall conduct evaluations of all applicants, which may include but not be limited to written and oral skills, management ability, psychological assessment and other pertinent areas of performance-related matters.] The Examining Board shall submit the name of at least one candidate to the Mayor for appointment.
- (2) The Mayor and Council will determine application eligibility criteria before announcing the opening to members of the Police Department. All eligible applicants shall submit to the Examining Board a resume outlining in detail his or her experience and educational background. The Examining Board may require an independent examination by the New Jersey State Police Chiefs Association, the International Association of Chiefs of Police or other comparable testing entity. The testing entity will develop and conduct an grade an examination that will consist of a series of multiple-choice questions, or an oral examination and then grade the oral examination. The Mayor or his designee may submit or suggest any appropriate topic areas or questions to the outside testing entity to be included in the examination. These questions will be based upon police practices and may include police and investigative procedures, supervisory and administrative principles, New Jersey criminal law, report writing, search and seizure issues, New Jersey Attorney General Guidelines and Directives and legal aspects and requirements of police work. The Mayor or his designee shall provide a written announcement of the reading list or syllabus of possible sources of materials utilized in developing the test in order for candidates to prepare for the written examination.
- (3) The candidates will be required to submit to any additional testing or evaluations such as a psychological evaluation that the Examining Board deems appropriate.
- (4) [(2)] The Mayor may accept or reject the recommendation(s) of the Examining Board. If the Mayor selects a candidate recommended by the Examining Board, he shall appoint a Chief of Police, with the advice and consent of the Borough Council.
- (5) [(3)] If the Mayor does not find any candidate of the Examining Board to be suitable, he may select another person to fill the vacancy of Chief of Police and appoint said person, with the advice and consent of the Borough Council.
- (6) [(4)] In the event that the Mayor fails or refuses to make a selection as above provided for within a reasonable time after a vacancy in the office is determined to exist, then in such event, the Council may, on motion, appoint such person as it deems qualified, subject to the provisions of this ordinance.

B. All other promotions.

- (1) Whenever a vacancy in a higher rank occurs, the Chief of Police shall submit a request to the Mayor and Council to fill the vacancy. If approved, the Chief of

Police will then initiate the promotion procedure as outlined by the current Promotion Policy in the Montvale Police Department. The Appropriate Authority (Montvale Mayor and Council) reserves the right to make the final determination for promotion from any one of the top three (3) scoring candidates from the sergeant, lieutenant or captain eligibility list. In the event of numerous promotional openings during the life span of the promotional list, the number 4, 5 and 6 ranking candidates may be considered if they have received a passing score on the total examination. In no case will a candidate be promoted over another candidate who was ranked more than two positions higher on the final eligibility list. The Chief of Police or his designee will provide the Mayor and Council with the eligibility list and provide advice to the Mayor and Council about the finalists. [upon request, submit to the Mayor and Council the name(s) of qualified personnel to fill the vacant position. The Examining Board shall conduct an examination, written or oral, or both, as to physical, mental and other qualifications for such promotion and invite the recommendations of the Chief as well as other qualified candidates to participate in the evaluation process. A list of all candidates passing the examination shall be filed with the Mayor and Council for its review, The Mayor and Council shall interview each candidate and select the individual who, in its opinion, is best suited for the position, provided that the governing body deems it appropriate that such vacancy be filled.]

- (2) Eligibility for promotions, testing criteria, appeals processes as well as point valuation for seniority, education, performance and discipline are outlined in the Montvale Police Department Policy. [Applicants for promotion shall be required to submit themselves to an examination as may be required by the Examining Board. The Mayor shall appoint a Chief of Police subject to the same being confirmed by a majority vote of the Borough Council.]
- (3) All promotions shall be made in accordance with the Promotion Policy for the Borough of Montvale Police Department, a copy of which is on file in the Montvale Police Department. Notwithstanding the foregoing, the Chief of Police is expressly authorized to relax certain provisions of the Montvale Police Department Promotion Policy, as set forth within the Promotion Policy, when deemed necessary to meet the administrative needs of the Police Department. [The Examining Board shall conduct examinations, written or oral, or both, as to physical, mental and other qualifications for such promotions. Upon the holding of each examination, the Examining Board shall rate said applicants and certify the rating of all such applicants to the Mayor and Council. Promotions shall be made according to such ratings, giving consideration to length of service, knowledge of duties, ability, integrity, dedication to employment, responsibility and tactfulness in the conduct of duty by past record, and only after a personal interview with the Mayor and Police Committee.]

C. General provisions. Notwithstanding anything to the contrary, all promotions shall be made with due regard to the provisions of N.J.S.A. 40A:14-129 and N.J.S.A. 40A:14-130.

Section 2. Adoption of Promotion Policy.

The Mayor and Council hereby adopt the Promotion Policy attached hereto for the Borough of Montvale Police Department, a copy of which is on file in the Borough of Montvale Police Department. This Promotion Policy shall be effective immediately and shall supersede any prior promotion policy for the Montvale Police Department.

Section 3. Repeal of Inconsistent Ordinances.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Savings Clause.

Nothing in this Ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this Ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

Section 5. Severability.

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 6. Effective Date.

This ordinance shall become effective upon adoption and publication as required by law.

Ordinance No. **2013- 1375** 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 Lane - all ayes
NO PUBLIC COMMENT
Motion to close meeting to the public by Councilmember Cudequest; seconded by Councilmember Lane - all ayes
Motion to adopt on Second and Final Reading in the Ridgewood News by Councilmember Lane; seconded by Councilmember Talarico; Clerk read by title only ----- A roll call vote was taken --- all ayes

MINUTES:

April 9, 2013

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

RESOLUTIONS:

89-2013 Tax Court Settlement / 152 Green Way / Mario Facendola

WHEREAS, the Mayor and Council of the Borough of Montvale have been advised of the proposed settlement of a property Tax Appeal filed by Mario Facendola and Debra Facendola (hereinafter the "Tax Appeal"), under Docket Numbers 017492-2011, and 017963-2012, and;

WHEREAS, the aforesaid tax appeal concerns a residential property located at 152 Green Way, Unit 52, and is otherwise referred to as Block 1002 Lot 6.52 Unit C0052 on the tax assessment maps 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 and the Borough Tax Assessor, and;

WHEREAS, the proposed Tax Appeal settlement components are set forth in the Schedule "A" attached hereto and made a part hereof, and;

WHEREAS, it is in the best interest of the Borough of Montvale 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 finalized in accordance with the enclosed 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"

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

2011 Appeal: \$650,000

2012 Appeal: \$615,000

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

90-2013 Appointment Regular Member / Montvale Fire Department / Kenneth Warr, Jr.

WHEREAS, the Montvale Fire Department is desirous of adding a regular member; and
WHEREAS, Kenneth Warr, Jr., has been approved by the Board of Fire Commissioners and has undergone a satisfactory physical, pursuant to the attached application which has been made part of this resolution; and

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale that the appointment of Kenneth Warr, Jr. as a Regular Member of the Montvale Fire Department, is hereby approved.

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

91-2013 A Resolution Rejecting All Bids for the 2013 and 2014 Street Sweeping Services and Related Work Contract and Authorizing a Re-Bid for these Services

WHEREAS, the Borough of Montvale did previously publicly solicit bids for the 2013-2014 Street Sweeping Services and Related Work Contract pursuant to the Local Public Contracts Law, *N.J.S.A. 40A:11-1, et seq.*; and

WHEREAS, in response to said solicitation, two (2) bids were received; and

WHEREAS, after review of these bids, it was determined that the apparent low bidder submitted a bid that contained an invalid bid bond and is therefore non-responsive to the solicitation; and

WHEREAS, the bid price submitted by the sole remaining bidder far exceeded the Borough's budgeted funds for this work; and

WHEREAS, pursuant to *N.J.S.A. 40A:11-13.2*, the Borough of Montvale hereby elects to reject all bids received and to re-bid this project.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale that all bids received for the 2013 and 2014 Street Sweeping Services and Related Work Contract are hereby rejected; and

BE IT FURTHER RESOLVED that the Borough Clerk is hereby authorized to re-solicit bids for this project.

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

92-2013 Resolution to Amending Resolution No. 117-2012 to Permit the Purchase of School #2 Prior to Formal COAH Approval of the Borough's Third Round Spending Plan

WHEREAS, the Montvale Board of Education is the owner of certain real property located at 11 East Grand Avenue in the Borough of Montvale known as School #2, herein referred to as the "Property"; and

WHEREAS, the Property is not required or needed by the Board for educational purposes; and

WHEREAS, the Board is desirous of selling the Property to the Borough of Montvale; and

WHEREAS, the Borough is desirous of purchasing the Property from the Board for the purposes of developing affordable housing; and

WHEREAS, said sale is exempt from public bidding requirements pursuant to N.J.S.A. 18A:20-6(a), since the Borough is a political subdivision of the State of New Jersey; and

WHEREAS, the Borough has determined that no additional debt will be created by said sale that would exceed the debt limitations imposed upon the Borough by the State of New Jersey; and

WHEREAS, the Borough Chief Financial Officer has certified that there are funds in the Borough's Affordable Housing Trust Fund that are sufficient to fund the cost of this purchase; and

WHEREAS, the consummation of this purchase was previously made contingent upon COAH's approval of the Borough's Spending Plan; and

WHEREAS, the Borough has solicited interest in the Affordable Housing Project and is confident that the property can be developed for this purpose without the need for additional expenditure of public funds by the Borough; and

WHEREAS, COAH is presently in a disorganized state and has unreasonably delayed approval of the Borough's revised Spending Plan, which plan is consistent with COAH requirements; and

WHEREAS, the Borough and the Board are desirous of completing this purchase for the benefit of the residents of the Borough of Montvale and for the purposes of fulfilling the Borough's obligation to facilitate the development of affordable housing in the Borough.

NOW, THEREFORE, BE IT RESOLVED that Resolution No. 117-2012 is hereby revised to remove the condition that COAH approve the Borough's Third Round Spending Plan prior to completing the purchase authorized therein.

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized to execute all documents necessary to complete the purchase of School #2 from the Board of Education, subject to approval of such documents by the Borough Attorney.

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

BILLS: *Municipal Clerk read the Bill Report*

Motion to pay bills by Councilmember Lane; seconded by Councilmember Curry - All ayes

ENGINEER'S REPORT:

Andy Hipolit
Report/Update

No Report

ATTORNEY'S REPORT:

Phil Boggia, Esq.
Report/Update

No Report

UNFINISHED BUSINESS:

Councilmember Curry asked the engineer for the status of the crosswalk between Grand Avenue and River Vale Road; Mayor Fyfe mentioned that the borough received \$150,000 grant to pave Magnolia Avenue

NEW BUSINESS:

Mayor Fyfe received a request from the Pascack Valley School district for Relay for Life. They are requesting for the noise ordinance to be extended to midnight; a motion to grant permission by Councilmember Lane; seconded by Councilmember Talarico – all ayes

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 Lane – all ayes

Jeff Piatt

Wanted to thank the Mayor and Council for their due diligence towards the re-zoning of Depiero's property

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

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

ADJOURNMENT

Meeting adjourned at 12:15am

The next Meeting of the Mayor and Council will be held May 14, 2013 at 7:30 p.m.

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk