

**MINUTES
WORK SESSION**

The Work Session Meeting of the Mayor and Council was held in the Council Chambers and called to order at 7:38pm. 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 Arendacs

Councilmember Curry

Councilmember Gloeggler

Councilmember Koelling

Councilmember Lane

Councilmember Russo-Vogelsang

Also present: Mayor Mike Ghassali; Borough Attorney, Joe Voytus; Borough Engineer, Andrew Hipolit; Administrator/Clerk, Maureen Iarossi-Alwan and Deputy Clerk, Fran Scordo

Appointments Environmental Commission:

Mairead Jensen- Member

Victoria Solis 1st Alternate

Lisa DePellegrini – 2nd Alternate

Appointments Planning Board:

Theresa Cudequest – Class IV

Bob Zitelli – Class IV

ORDINANCES:

INTRODUCTION OF ORDINANCE 2019-1474 AN ORDINANCE OF THE BOROUGH OF MONTVALE, COUNTY OF BERGEN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 128 OF THE BOROUGH CODE TO PROVIDE STANDARDS AND PROCEDURES FOR THE APPROVAL OF SPORTS COURTS

(PUBLIC HEARING 10/7/2019)

A motion to Introduce Ordinance **2019-1474** for first reading was made by Councilmember Russo-Vogelsang; 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 Ridgewood News; seconded by Councilmember Curry - a roll call was taken – all ayes

MINUTES:

September 10, 2019

A motion to accept the minutes by Councilmember Gloeggler; seconded by Councilmember Lane - all ayes

MINUTES CLOSED/EXECUTIVE SESSION:

September 10, 2019

A motion to accept the minutes by Councilmember Lane; seconded by Councilmember Curry - all ayes

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.

183-2019 Sale of Surplus/Property/Use of GovDeals/Online Auction/2nd Auction 2019

WHEREAS, the Borough of Montvale is the owner of certain surplus property which is no longer needed for public use; and

WHEREAS, the Governing Body is desirous of selling said surplus property in an “as is” condition without express or implied warranties.

NOW THEREFORE, be it RESOLVED by the Governing Body of The Borough of Montvale, Bergen County, State of New Jersey, as follows:

(1)The sale of the surplus property shall be conducted through GovDeals pursuant to State Contract A-83453/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals is available online at govdeals.com and also available from the Borough of Montvale.

(2)The sale will be conducted online and the address of the auction site is govdeals.com.

(3)The sale is being conducted pursuant to Local Finance Notice 2008-9.

(4)A list of the surplus property to be sold is as follows is attached to the original of this resolution.

(5)The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.

(6)The Borough of Montvale reserves the right to accept or reject any bid submitted.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale, County of Bergen, State of New Jersey the Mayor and/or Municipal Clerk are authorized to execute the agreement with GovDeals, and any and all documents necessary for the auction of surplus municipal property.

184-2019 Authorize Hiring / Interim Fire Prevention Inspector / Samuel Antoshak

WHEREAS, the Uniform Fire Safety Act, (P.L. 1983, c.383) was enacted for the purpose of establishing a system for the enforcement of fire safety standards throughout the State of New Jersey; and

WHEREAS, the Uniform Fire Safety Act authorizes municipalities to provide for local enforcement and to establish local enforcement agencies for that purpose; and

WHEREAS, the Borough of Montvale has opted to have the Uniform Fire Safety Act enforced locally; and

WHEREAS, the Fire Inspector shall carry out the duties in accordance with the Uniform Fire Safety Act and the NJ Administrative Code.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Montvale that Samuel Antoshak is hereby appointed as Interim Fire Inspector, effective September 20, 2019 as a replacement for Christopher Mazzocchi in his absence.

185-2019 Authorize Execution Renewal Shared Service Agreement with The Township of River Vale For Department of Public Works Services

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.) provides that local units of government may enter into a contract for the joint provision of any service which either party to said agreement is empowered to render or perform within its own jurisdiction; and

WHEREAS, the Mayor and Council of the Borough of Montvale are constantly exploring options available to the Borough to obtain cost savings for Borough residents in the performance of

various services, while still maintaining quality of performance and a high level of professionalism; and

WHEREAS, in furtherance of this mission, in 2013 a mutually-supported feasibility study identified opportunities to further improve the efficacy of Public Works operations for the Municipalities, while reducing the costs of delivering Public Works services for the respective local governments; and

WHEREAS, the Municipalities previously determined it to be in their mutual best interests to provide for a shared Department of Public Works (DPW) to be known as the "Pascack Valley Department of Public Works" serving the Township of River Vale and the Borough of Montvale to provide services to their respective Municipalities, with River Vale as the Lead Agency; and

WHEREAS, the parties entered into a Shared Services Agreement ("SSA") in 2013, which was established in accordance with the Uniform Shared Services and Consolidation Act, P.L.2007, c.63 (C.40A:65-1, *et seq.*); and

WHEREAS, the parties are desirous of entering into a new Shared Services Agreement ("Agreement") to provide for a new 10-year term commencing as of January 1, 2020, and to revise and improve certain provisions set forth therein all in accordance with the Uniform Shared Services and Consolidation Act; and

WHEREAS, N.J.S.A. 40A:65-1 *et seq.* requires that the Shared Services Agreement be approved by resolution of the governing body of each participating municipality; and

WHEREAS, the Mayor and Council are desirous of authorizing the new Shared Services Agreement with the Township of River Vale concerning the Pascack Valley Department of Public Works pursuant to N.J.S.A. 40A:65-5(a); and

WHEREAS, pursuant to N.J.S.A. 40A:65-5(b), a copy of the Shared Services Agreement shall be available for public inspection at the Municipal Complex immediately after passage of this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Montvale that the Mayor and Borough Clerk are directed, authorized and empowered to execute the negotiated Shared Services Agreement with the Township of River Vale concerning the operation of the Pascack Valley Department of Public Works, as well as all other documents necessary to effectuate the purposes of this Resolution.

BE IT FURTHER RESOLVED that pursuant to N.J.S.A. 40A:65-5(b), the Borough Clerk shall make the Shared Services Agreement available for public inspection at the Municipal Complex immediately after passage of this Resolution.

186-2019 Authorize Release of Performance Bond/Posting of Maintenance Bond/BCUW/Madeline Housing Partners, LLC

WHEREAS, Bergen County United Way, 6 Forest Avenue, Paramus, NJ has requested a release of their Performance Surety Bonds #24296 & Bond 24297 United States Surety Company for United Way Development In Montvale; and

WHEREAS, a completed inspection of the site has been conducted by Maser Consulting P.A., which takes no exception to the release of the remainder of the performance guarantees in the amount of \$56,833.92 and 51,505.28 subsequent to the posting of a \$71,042.40 Two Year Maintenance Bond which is detailed in a letter dated October 11, 2018 from Borough Engineer, Andrew Hipolit and has been made a part of this resolution; and

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of Montvale hereby authorized to release the performance guarantee's for United Way and the Two Year Maintenance Bond in the amount of \$71,042.40 shall be posted with the Borough of Montvale and a copy of this resolution shall be sent to Gina Nicoletti Gilseman, Director of Special Projects, Bergen County United Way, 6 Forest Avenue, Paramus, NJ 07652.

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

187-2019 A Resolution Authorizing the Public Sale of Certain Municipal Property Known as Municipal Parking Lot Railroad Avenue Owned by the Borough of Montvale Not Required for Public Purposes Pursuant to N.J.S.A. 40A:12-13

WHEREAS, the *Local Lands and Buildings Law*, N.J.S.A. 40A:12-1, et seq., authorizes the sale by municipalities of any real property, capital improvements or personal property, or interests therein, not needed for public use by sale in the manner provided by law; and

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 0.61 acres, is identified as Block 1601, Lot 14 on the official Tax Map of the Borough (hereinafter the "Property"); and

WHEREAS, the Property is presently used as an asphalt paved parking lot for a maximum of approximately 61 vehicles, and is known as the Municipal Parking Lot Railroad Avenue; and

WHEREAS the Borough has determined that it is in the best interests of the Borough to sell the Property.

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 1601, Lot 14 as depicted on the Tax Assessment Map of the Borough of Montvale, also known as The Municipal Parking Lot Railroad Avenue

Section 2. Right of reentry. The Borough intends to retain all existing utility easements and public rights-of-way. The Borough also intends to retain a right of reentry, as follows:

In the event that the Buyer, or its successor in interest, fails to commence construction on or before January 1, 2024, 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 no later than April 1, 2024.

If the Borough shall exercise its right to repurchase the Property, said repurchase shall close within ninety (90) days of receipt of the written Notice required herein.

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.

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Section 3. The minimum bid for this Property is eight hundred fifty thousand dollars (\$850,000.00), and 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 reversionary interest; and
Option B for the Property free and clear of such reversionary interest

Section 4. The public auction shall be conducted on Friday, October 18, at 10:00 a.m. at the Borough of Montvale Municipal Complex, 12 Mercedes Drive, Montvale, New Jersey.

Section 5. The Buyer shall further abide by the following terms and conditions:

The Buyer shall conduct all necessary title searches prior to the date of the sale. The cost for any title insurance 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 benefiting said property.

The Buyer, at its sole expense, shall have a right to conduct environmental and other inspections of the Property with results satisfactory to Buyer and its lender but must complete such inspections within thirty (30) days of 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 disposition of municipal real estate.

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.

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 of the property to be conveyed.

The Buyer shall deposit cash, check or money order in the amount of not less than 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.

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;

The cost of the Borough's appraisal of the Property;

Engineering fees incurred by the Borough in determining the exact dimensions of the Property;

The cost of advertisement of the sale;

The cost of recording the deed, with an agreement that said deed shall be recorded on behalf of the Buyer by the Borough Attorney; and

The Buyer shall covenant and agree to abide by appropriate zoning, subdivision, 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.

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 assessments with regard to other properties.

Section 6. 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 the 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 7. 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 8. 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 Arendacs - a roll call vote was taken - all ayes

The borough attorney gave a brief explanation, stating, this is the parking lot located on Railroad Ave. This resolution represents the process to auction the land with a minimum bid of \$850,000. Council has reserved their right to reject all bids. There is a provision in place, that the successful bidder would be required to start the project by January 2024.

188-2019 A Resolution Designating the Montvale Police Department as the Appropriate Municipal Agency to Administer Clothing Donation Bins in the Borough

WHEREAS, the Legislature has adopted certain statutes regulating clothing donation bins within the State of New Jersey; and

WHEREAS, pursuant to *N.J.S.A.40:48-2.60* through *-2.64*, municipalities shall designate, by resolution, the "appropriate municipal agency" to administer said regulations concerning clothing donation bins; and

WHEREAS, the Borough of Montvale has determined that the Montvale Police Department is best equipped to administer same.

NOW, THEREFORE, BE IT RESOLVED that the Montvale Police Department is hereby designated as the "appropriate municipal agency" for the administration of regulations concerning clothing donation bins in the Borough of Montvale pursuant to *N.J.S.A. 40:48-2.60*.

BE IT FURTHER RESOLVED that this designation shall take effect immediately and shall remain in effect unless and until revoked or amended by the Borough of Montvale.

Introduced by Councilmember Lane; seconded by Councilmember Russo-Vogelsang - a roll call vote was taken - all ayes

BILLS: Municipal Clerk read the Bill Report

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

ENGINEER'S REPORT:

Andrew Hipolit

Report/Update

Update Magnolia Ave Bridge

Will meet with the residents that will be affected by the construction easements

ATTORNEY REPORT:

Joe Voytus, Esq.

Report/Update

No Report

UNFINISHED BUSINESS:

a. Draft Policy for Flying Flags / Public Comments / Discussion

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

Matt Solomon

Most decisions that council make impact the town but this issue is a more personal issue. Mr. Solomon mentioned his daughter in regards to her shyness with talking with people and yet she came here multiple times to express her concerns. Now the choice is yours.

Jarret Schumacher

Need to consider the costs involved, who will be responsible, what other organizations will come forward. If you feel that the American Flag represents all, then we should just fly that one. Currently, we have other flags flying.

Carol Loscalzo

It's time to do something, the policy does not mention flying the Pride flag, it appears to be a general policy. It doesn't mention a separate flag pole.

Christina Campana

10-24 age group has the highest suicide rate especially in the gay community, by flying the Pride flag, this will show community that they belong.

Carolee Adams

Our American flag is singularly inclusive: ethnicity, race, sex, financial status, lifestyle, faith - as patriotically embraced on/after 9/11. Further, as few organizations can afford flags recognizing important causes/celebrations, proclamations and/or our electronic bulletin board could instead be used year-round to represent Montvale's 44 countries and, among 365 collected recognitions, Mrs. Adams referenced 30 known recognitions for September/October such as: military birthdays, Jewish holidays, Dawali/Festival of Lights, Hispanic Heritage, various cancers, Downs Syndrome, Respect Life, HIV/AIDS Awareness, Bullying Prevention, etc.

Further, to respond to the serious concerns expressed by parents/students about suicides in the LGBTQ community, Mrs. Adams offered encouragement to all who suffer medical challenges, financial woes, diminished dreams, broken relationships, and bullying, to never consider aborting the Godly created masterpieces-in- the-making that they are. No flag is a substitute for GOD's unconditional love.

Kari Solomon

Kids need to know that the town has their backs, also new companies coming into town need to know that we are in support of their employees.

Jodi Sullivan

Mentioned that the town jumped into the Stigma Free movement, this is just another part of being Stigma Free.

Lillian Crowley

Thanked all for listening to us week after week on this topic.

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

Councilmember Comments:

All Councilmembers and Mayor Ghassali agreed and thanked all the young people that came before the council to tell their truth, how brave they were and all due credit for getting involved in democracy. Councilmember Gloeggler is in full support of flying the Pride Flag and for the flag policy. Councilmembers Arendacs, Curry, Lane, Koelling and Russo-Vogelsang had similar feelings stating this is a government building that should not be flying commemorative flags, they are not against anywhere else in town like your home, schools and churches. The American Flag represents all. Montvale does not have to show it, we act it, we are inclusive, respectful and a diverse town and proud of it.

Mayor Ghassali mentioned that he and his family are always randomly selected for a second screening, he added by saying that it speaks volumes of this town that he was voted to be Mayor, that alone should show that we are inclusive and welcoming.

A roll call vote was taken – Councilmember Gloeggler voted yes; Councilmembers Arendacs, Curry, Lane, Koelling and Russo-Vogelsang voted no. As a result, there will be no flag policy.

Mayor Ghassali added that he will be creating a committee for a cultural seminar, proclamations, and creating a diverse committee. We will do all we can to make everyone feel included and that “we got your back”.

NEW BUSINESS:**a. Short Term Rentals / Planning Board / Proposed Ordinance**

Mayor Ghassali suggested the Planning Board research policies regarding AirBnB. Currently, we do have a policy in place; The Planning Board is recommending an ordinance. After a brief discussion, all councilmembers stated they would like to proceed with caution and do more research.

b. Planning Board Memorandum/OR4 Zone/Draft Master Plan Amendment

The Planning Board is asking for guidance and/or clarification regarding light manufacturing companies and moving into Montvale. Some concerns that were raised are: what will the products consist of, definition of light manufacturing, the size of the trucks, larger tractor trailers would not be able to navigate the streets. Councilmembers all agreed to go with the Planning Board recommendation which was not to change zone at this time.

COMMUNICATION CORRESPONDENCE:

The Economic and Development Committee received the Commerce Industry Award for Best Practice by a committee in attracting more businesses coming to Montvale.

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 Curry
– all ayes

Carolee Adams

Ask when will Kinderkamack Road be paved by PSEG, in their letter it states 45-90 days; is there some way to expedite the paving. The Engineer stated this is a county road and the county will have to inspect it first, also they might be waiting for the Park Ridge project to be completed before repaving. The Engineer will call the county for an update. For removal of dead deer, there is a DPW employee on call over the weekends, could they pick up the deer not only on local roads, but on county roads and charge the county for it. Mayor Ghassali responded saying we cannot charge the county, we can cover the carcass and call the county and they will pick it up. Mrs. Adams continued by saying in regards to the Smart Meter that the \$15 monthly cost of opting out vs. Rockland County customers who pay only \$10 discriminates against Montvale.

Jarret Schumacher

Asked for clarification regarding the potential sale of Railroad Ave parking lot; the borough attorney explained that the developer would have up to January 1, 2024 to put a shovel in the ground, otherwise the town would have the option to purchase it back for 20% less than purchase price. Mentioned a comment regarding short term rentals, about people using the address to register their children in the schools, Mayor Ghassali stated the school requires a signed lease or home ownership documents.

Kari Solomon

Thanked all councilmembers for their comments. She encouraged councilmembers to challenge yourselves and go beyond your friend groups and meet other people that are different from you.

Carol Loscalzo

We don't know how it feels to be gay or a person of color walking down the street and being discriminated against, to say that we are all welcomed is lovely but we need to reach out and ask other people what it means to them. We heard some of that from the kids these past weeks.

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

ADJOURNMENT:

Motion to adjourn by Councilmember Lane; seconded by Councilmember Koelling - all ayes

The next Meeting of the Mayor and Council will be held **Monday, October 7, 2019** at 7:30 p.m.
Meeting adjourned at 8:50pm

Respectfully submitted, Fran Scordo, Deputy Municipal Clerk