

**BOROUGH OF MOUNTAIN LAKES**  
**BOROUGH HALL, 400 BOULEVARD, MOUNTAIN LAKES**  
**973-334-3131**  
[www.mtnlakes.org](http://www.mtnlakes.org)

**OCTOBER 26, 2015**  
**7:30 PM EXECUTIVE SESSION**  
**8:00 PM PUBLIC SESSION**

**MINUTES**

**1. CALL TO ORDER; OPENING STATEMENT**

This meeting is being held in compliance with Public Law 1975, Chapter 231, Sections 4 and 13, as notice of this meeting as originally scheduled and the agenda thereof had been reported to The Citizen and the Morris County Daily Record and The Star Ledger on January 8, 2015 and posted in the municipal building.

Mayor McWilliams called the meeting to order at 7:30 p.m. in the municipal building.

**2. ROLL CALL**

Ms. Reilly called the roll. All Council members were present except for Councilman Albergo, who arrived at 7:34 p.m., and Councilman Happer, who was absent. Also present were Borough Manager Richard Sheola, Borough Clerk Michele Reilly, and Borough Attorney Robert Oostdyk.

**3. PLEDGE OF ALLEGIANCE**

Mayor McWilliams led the salute to the flag.

**4. EXECUTIVE SESSION**

**Resolution 170-15**

**Matters Relating to Litigation, Negotiations and the Attorney-Client Privilege**

-Contract Negotiations – Public Water Supply

Motion made by Deputy Mayor Holmberg, second by Councilman Lester, to enter into Executive Session with all members in favor signifying by "Aye".

Motion made by Councilman Borin, second by Councilman Lester, to adjourn the Executive Session and return to the public portion of the meeting with all members in favor signifying by "Aye".

**5. COMMUNITY ANNOUNCEMENTS**

Mayor McWilliams announced the flu shot clinic would be held this Wednesday from 7:00 p.m. – 8:00 p.m. and that the cost of the shot was \$20.00

Mayor McWilliams reminded those in attendance that Halloween candy donations were being accepted and that the Halloween Safe Zone would be open on October 31st between the hours of 4:00 p.m. and 8:00 p.m.

Mayor McWilliams reported that Election Day was on November 3<sup>rd</sup> and the polls would be open from 6:00 am – 8:00 p.m.

Mayor McWilliams said the Recreation Department was sponsoring a bus trip to New Jersey PAC and a Fifty-Five Plus Club event on November 13<sup>th</sup>.

Councilman Albergo mentioned that the Borough had held its semi-annual blood drive, shredding event and trash days last weekend. He reminded residents that the Department of Public Works (DPW) has installed a styrofoam recycling container for structural styrofoam. Mayor McWilliams said the blood drive netted seventeen or eighteen units of blood and that there had been a good turnout for the shredding event, although not as much tonnage as had been recorded at previous events.

**6. SPECIAL PRESENTATIONS**

There were no special presentations.

**7. REPORTS OF BOROUGH ESTABLISHED BOARDS, COMMISSIONS AND COMMITTEES**

No reports were presented.

**8. PUBLIC COMMENT**

**Please state your name and address for the record.** Each speaker is limited to one (1) comment of no more than five (5) minutes with no yielding of time to another person.

Mayor McWilliams opened the public comment portion of the meeting with the consent of the Council. Mayor McWilliams explained the Council's policy of limiting each speaker to five (5) minutes with no yielding of time to another person.

Sandy Batty – 15 Lockley Court

Ms. Batty said the Concerned Citizens Group had hired its own planner, Deborah Lawler, and she had addressed the Planning Board at the meeting last Thursday night. Ms. Batty summarized some of Ms. Lawler's comments for the Council. She said Ms. Lawler had testified that the Borough's consultants needed more time to gather information, had pointed out numerous inconsistencies between the Ordinance and the Master Plan, had recommended an environmental and fiscal impact analyses, and had cited the sensitive parameters of the property.

Jackie Bay – 430 Morris Avenue

Ms. Bay said she doesn't accept that the proposed development doesn't impact the schools. She stated that the Legacy project has added twelve (12) students to the school system and that the proposed King of Kings project could add another twenty (20). Ms. Bay said that the King of Kings project would not satisfy the Borough's affordable housing obligation and suggested that the Council explore other options for the development of affordable housing units, such as floating a bond for construction of one hundred percent (100%) affordable housing on municipal land.

Ellen Emr – property owner, 19 Sherwood Drive

Ms. Emr stated that she agreed with Ms. Bay's suggestion and that it is a good option for the town and should be explored. She mentioned that there are a lot of affordable housing issues that need to be resolved before the governing body can make an informed decision. Ms. Emr talked about her experience with water issues and what she had learned during her affiliation with the Whippany River Watershed Coalition and during her time on the Borough Council. She said water is very important to the future of the town and certain questions should be addressed prior to entering into any agreement, such as how much does the Borough need, what would the cost be, and which town is responsible for the water treatment.

George Jackson – 20 Sherwood Drive

Mr. Jackson mentioned that he had attended the Planning Board meeting and that it was clear that the Board thought the proposed Ordinance was inconsistent with the Master Plan. He asked the Council what they were delivering to the town. He offered his opinion that it was something clearly not consistent with the rest of the town and alleged that the Ordinance constituted spot zoning. Mr. Jackson said that the builder is claiming that affordable housing is driving the density of the project but that the Borough does not know what its affordable housing contribution needs to be. He said that, at a minimum, the Council should revise the Ordinance and drop litigation from its list of concerns.

With no one else wishing to be heard, Mayor McWilliams closed the public comment portion of the meeting.

Deputy Mayor Holmberg said that he had contributed to the Master Plan revisions. He mentioned that the Plan serves as a guide, but that it is also a fluid document and changes to the Plan do occur. He said the Master Plan should work for the Borough, and that the Borough doesn't work for the Master Plan. He listed two projects, the development of the Village and the fields, which were deviant from the Master Plan at the time of development. He stated that he had no concerns about litigation but his concern was what the Borough could control and manage.

Deputy Mayor Holmberg responded to the comments about water and the Executive Session discussion by stating that the Council was committed to identifying and repairing leakages, exploring options for conservation, and potentially seeking additional sources of water from a third party. He said that any water supply for a development project will be the responsibility of the developer.

**9. DISCUSSION ITEMS**

There were no discussion items.

**10. ATTORNEY'S REPORT (verbal)**

Mr. Oostdyk had nothing additional to report.

**11. MANAGER'S REPORT (verbal)**

Mr. Sheola reported that he had reviewed the professional proposals and copies were being distributed to the Personnel Subcommittee. He said that the Chair of the Finance Advisory Committee (FAC) agreed the FAC would be interviewing the candidates for auditor. Mr. Sheola said he expected to have recommendations for the Council by early December.

Mr. Sheola told the Council that the Halloween Safe Zone would operate in its original sector and there would be no second zone this year. He indicated that there were no additional funds available for police overtime and in addition, he didn't get a sense of the need to expand.

Mr. Sheola stated that he was developing his work plan and he would be sharing it with the Personnel Subcommittee on Friday. He said he was reviewing performance software from Rutgers School of Public Affairs and Administration for possible implementation in 2016.

Mr. Sheola asked Ms. Reilly to report on her activities.

Ms. Reilly said she has facilitated training between Allied Biological and the DPW for aerator maintenance, tentatively scheduled for November 11<sup>th</sup>.

Ms. Reilly reported the meeting was advertised on the electronic sign as per Council request.

Ms. Reilly mentioned that she anticipated that the Efficient Hire system should be rolled out via email to all employees by Friday. She said she had collected all employee email addresses in anticipation of the rollout, and that the system has already been rolled out to her so she could review the onboarding process and correct deficiencies with Balance Point.

Ms. Reilly stated that the application process for obtaining a special permit for beaver trapping in Zone 7 takes place between October 1<sup>st</sup> and October 31<sup>st</sup>. She said Mr. Trapasso has reported that, in past years, there have been up to fourteen (14) trappers on record as receiving permits in this zone. She said that Mr. Trapasso will be contacting Amy Schweitzer from Fish & Wildlife to see how many permits were issued and to get contact information after the close of the application period.

Ms. Reilly said she had forwarded the current fee schedule Ordinance to all departments and expected to have an updated Ordinance ready for discussion at the November 9<sup>th</sup> meeting.

Ms. Reilly reported that she would be running the flu shot clinic Wednesday night at Borough Hall from 7:00 p.m. – 8:00 p.m. She said shots cost \$20 and would be given by the Township of Bloomfield nurses. She said a clinic was run for employees last week.

Ms. Reilly mentioned that she was facilitating the open enrollment process with employees and, at the request of several employees, has arranged for the AFLAC representative to visit this week.

In response to Councilman Lester's questions about the Fee Ordinance review and a cost/revenue analysis, Mr. Sheola stated that he was holding a staff meeting Thursday and that the CFO would be presenting a finance overview. Councilman Lester suggested discussing the cost/revenue analysis at the Finance Advisory Committee meeting Thursday evening.

**12. ORDINANCE 10-15**

**ORDINANCE AMENDING CHAPTER 173 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND PROHIBITING PARKING IN PARKS AND RECREATION FACILITIES DURING CERTAIN HOURS**

**BE IT ORDAINED** by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

**Section 1.** Chapter 173 of the Revised General Ordinances of the Borough of Mountain Lakes entitled "Parks and Recreation", Section 173-1 entitled "Lakes, parks and beaches," shall be amended by the addition of the following additional subsection P. which shall read in its entirety as follows:

P. It shall be a violation of this Chapter for a motor vehicle to be parked in a municipal park or recreation facility between the hours of midnight and 5:00 a.m.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

If adopted this Ordinance shall take effect after publication and passage as provided by law.

**PUBLIC HEARING**

Mayor McWilliams opened the public hearing on the Ordinance with the consent of the Council. Mayor McWilliams explained the Council's policy of limiting each speaker to five (5) minutes with no yielding of time to another person.

With no one wishing to be heard, Mayor McWilliams closed the public hearing.

**Introduced: September 28, 2015**

**Adopted: October 26, 2015**

Council Member	By:	2 <sup>nd</sup>	Yes	No	Abstain	Absent	By	2nd	Yes	No	Abstain	Absent
Albergo				X						X		
Barrett						X			X			
Borin			X						X			
Happer	X		X									X
Lester		X	X				X		X			
Holmberg			X					X	X			
McWilliams			X						X			

**13. ORDINANCE 13-15**

**ORDINANCE AMENDING THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND ESTABLISHING MUNICIPAL TOWING REGULATIONS**

**BE IT ORDAINED** by the Borough Council of the Borough of Mountain Lakes, in the County of Morris and State of New Jersey, as follows:

**Section 1.** The Revised General Ordinances of the Borough of Mountain Lakes shall be amended by the inclusion of new Chapter 230 which shall read, in its entirety, as follows:

**CHAPTER 230 TOWING REGULATIONS**

**230-1 DEFINITIONS.** The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

**Automobile** shall mean a private passenger automobile or motor-cycle.

**Basic towing service** shall mean the removal and transportation of an automobile from a highway, street or other public or private road, or a parking area, or from a storage facility, and other services normally incident thereto, but does not include recovery of an automobile that has left the roadway and does not include any additional labor required to clean up the scene.

**Daytime hours** shall mean from 8:00 a.m. until 4:30 p.m., prevailing time.

**Nighttime hours** shall mean from 4:31 p.m. until 7:59 a.m., prevailing time.

**Outside storage** shall mean an automobile storage facility that is not indoors and is secured by a fence, wall or other man-made barrier that is at least six (6') feet high.

**Recovery of vehicle** shall mean the recovery of an automobile from a position off the roadway, the recovery of a vehicle on the roadway which is overturned or on its side or in any other position other than its normal position. Recovery charges are in addition to any towing charges.

**Tow vehicle** shall mean a vehicle equipped with a boom or booms, winches, slings, tilt beds, wheel lifts or under reach equipment specifically designed by its manufacturer for the removal and transport of private passenger automobiles.

**Truck** shall mean any motor vehicle, including buses, other than an automobile as defined above. Trucks up to 6,999 lbs. GVWR shall be subject to light duty towing rates; vehicles between 7,000 lbs. GVWR and 29,999 lbs. GVWR shall be subject to medium duty towing rates and vehicles over 30,000 lbs. shall be subject to heavy duty towing rates.

**Waiting time** shall mean time spent at the scene standing or waiting for extrication of victims, police investigation, etc. after one-half (1/2) hour.

**Winching** shall mean moving a vehicle by use of the cable or winch from a position that is not accessible for direct hookup by conventional means of loading onto a tow vehicle. It shall not include pulling a motor vehicle onto a tilt bed or car carrier or lifting a vehicle with a conventional tow sling.

**Yard tow** shall mean removal of the vehicle from the towing operator's storage yard for the benefit of another towing operator who is taking the vehicle from the storage site and whose tow vehicle is physically unable to gain access to the vehicle while it is inside the storage yard.

## **230-2 TOWING REGULATIONS.**

### **230-2.1 Removal of Motor Vehicles.**

Whenever a police officer orders the removal of automobiles from private or public property, the officers shall utilize the rotation lists established in subsection 230-2.2 of this chapter.

### **230-2.2 Towing Contractors.**

At every annual reorganization meeting, the Borough Council shall establish by resolution a list of automobile towing contractors and a list of truck towing contractors to be utilized by the Police Department on a rotating basis. An operator may, if qualified, be on both lists. Such lists shall be utilized by members of the Police Department on a non-exclusionary and nondiscriminatory basis. Only those towing contractors who meet the minimum standards of operator performance set forth in this chapter shall be included on such lists. There shall be no limit on the number of operators on either list. Operators may be added to the list at any time.

a. **Equipment.** All towing operators shall meet the following requirements:

1. For classification as an automobile towing service the operator must possess one (1) flatbed-style tow truck and one (1) hoist-type tow truck with a wheel lift and one (1) other vehicle with wheel lift or flatbed capability.
2. For classification as a truck towing service, the contractor must have one (1) heavy duty tow vehicle capable of towing a fully loaded tractor trailer weighing eighty thousand (80,000) pounds.
3. All tow vehicles must carry the following equipment:
  - (a) Push broom
  - (b) Shovel
  - (c) Fire extinguisher
  - (d) Jumper cables
  - (e) Tire changing equipment
  - (f) Jack
  - (g) Hammer
  - (h) Pry bar or similar tool
  - (i) Speedy Dry or similar liquid absorbent
4. All towing vehicles must have amber emergency warning lights mounted on the vehicle so as to warn approaching traffic of their presence. The size and location of these lights must conform to New Jersey Division of Motor Vehicle standards. The operator must have an amber light permit.
5. All towing vehicles must carry a copy of their rate schedule. Said schedule must also be displayed in a conspicuous manner at the operator's place of business.

b. **Facilities.** Each operator must have a storage lot and place of business within five (5) miles of the Mountain Lakes Borough corporate line. The towing business and storage lot must comply with all zoning ordinances and regulations in the municipality in which they are located.

c. **Availability and Response Time.** Each operator must be available twenty-four (24) hours a day, seven (7) days a week and must respond within twenty (20) minutes during daytime hours and thirty (30) minutes during nighttime hours of the original telephone call request by the Police Department.

### **230-3.1 Fees Established.**

The following is the fee schedule for towing services and storage:

a. **Automobiles and Trucks.** The fee schedule for towing services and storage for automobiles and trucks shall be established by the Borough Council by resolution.

b. **Cancellation.** No fee may be charged when a request for towing service is canceled by a Borough Police Officer, even if the towing request is canceled after the towing operator has arrived at the scene.

c. **Appeal.** In the event of a dispute over charges, the owner of the vehicle shall have the right to appeal the validity of the charges to the Chief of Police who shall conduct a hearing as soon as is practicable. If, after the hearing, the Chief of Police determines that there is a legitimate basis to dispute the billing, he shall order the vehicle released upon payment of the undisputed amount and the parties may address the balance due in such proceedings as they deem appropriate.

#### **230-4 REGULATIONS FOR TOWING SERVICE OPERATORS.**

##### **230-4.1 Release of Impounded Vehicles.**

No impounded vehicle is to be released without proper authorization from the Police Department. Vehicle release arrangements must be available from the hours of 8:00 a.m. to 4:00 p.m., Monday through Saturday (excluding New Jersey State holidays). In accordance with N.J.S.A. 39:3-40.6, no motor vehicle which has been impounded shall be released by the Police Department unless proof of valid motor vehicle insurance for that vehicle is presented to the Department. The recovery or salvage of the impounded motor vehicle by, or on behalf of, an insurer, financial institution or other lending entity, shall not require proof of valid motor vehicle insurance for that vehicle.

##### **230-4.2 Insurance; Indemnity.**

a. Each operator on the approved lists shall furnish the Borough Clerk with a certificate of insurance from an insurance company satisfactory to the Borough. Each certificate of insurance shall identify the coverage provided and shall provide that such insurance shall not be changed or canceled without giving ten (10) days prior written notice to the Borough by certified mail, return receipt requested. Specific reference to the rotating lists of towing operators shall be made on all policies of insurance.

b. Each operator must have bodily injury liability, property damage liability, employer's liability and motor vehicle liability coverage with combined policy limits of one million (\$1,000,000.00) dollars. Each approved operator must also have statutorily required workers' compensation coverage.

c. Each operator shall indemnify and save the Borough harmless from all damages and claims for damages which may be made by any person for bodily injury or property damages as a result of the operator's performing pursuant to this chapter.

##### **230-4.3 Enforcement.**

The Police Department is designated to enforce the provisions of this chapter in accordance with due process of law. In carrying out the provisions of this chapter, the Police Chief is hereby authorized to adopt additional reasonable regulations which are not inconsistent with this chapter.

##### **230-4.4 Abandoned or Unclaimed Vehicles.**

a. **Junk Vehicles.** A junk vehicle shall be defined as a motor vehicle incapable of being operated safely or of being put in a safe operational condition except at a cost in excess of the value thereof. If the vehicle is unclaimed by the owner or other person having legal right thereto for a period of fifteen (15) business days, the contractor shall notify the Chief of Police or his designee that the vehicle has been held for the statutory time and that the vehicle is ready for sale. The Borough shall supply titles for abandoned junk vehicles in accordance with N.J.S.A. 39:10-1 and 3.

b. **Abandoned Vehicles.** An abandoned vehicle shall be defined as a motor vehicle which cannot be certified for a junk title certificate pursuant to N.J.S.A. 39:10A-3. If the vehicle is unclaimed by the owner or other person having legal right thereto for a period of twenty (20) business days, the contractor shall notify the Chief of Police or his designee that the vehicle has been held for the statutory time and that the vehicle is ready for sale pursuant to N.J.S.A. 39:10A-1 and 4.

c. **Conduct of Sale.** Sales of all junk and abandoned vehicles shall be conducted in accordance with the provisions of N.J.S.A. 39:10A-1 et seq.

d. **Proceeds from Sale.** Proceeds from the sale of junk or abandoned vehicles shall be used to satisfy any towing or storage charges which may have accumulated on the subject vehicle. Excess proceeds shall be paid to the Borough Treasury. If the proceeds are insufficient to cover the accumulated costs, such excess cost shall be waived by the contractor and no further funds will be due from the Borough or the purchaser of the vehicle. This section will be administered in accordance with N.J.S.A. 39A:10-1 et seq.

e. **Failure to Follow Statutory Procedures.** Any operator found to be disposing of vehicles in violation of this procedure will be charged with misapplication of entrusted property (N.J.S.A. 2C:21-15) and will be prohibited from providing service for Mountain Lakes.

**230-4.5 Rights of Owners.**

- a. The owner of any vehicle towed shall have the right to remove property belonging to him or her from the stored vehicle unless a "police hold" is marked on the towing form.
- b. The vehicle owner or his or her authorized representative shall have the right to take photographs of stored vehicles.
- c. If the Police Department receives any complaints arising from the towing and storage of motor vehicles required by the Borough without the consent of the owner, such complaints shall be heard and decided by the Chief of Police or his designee.

**230-4.6 Public Inspection.**

This chapter, all regulations adopted by the Police Chief and the fee schedules of individual towers shall be available to the public during normal business hours.

**230-4.7 Operator Dealings with Public.**

- a. The operator shall always act in a professional manner and at all times to be courteous and respectful toward members of the public, as well as representatives of the Borough of Mountain Lakes. While members of the public, especially those whose cars may have been towed or impounded, may at times resort to strong language, threats and unbecoming behavior toward the operator, the operator is expected to exercise restraint and not to respond in kind and thereby reflect unfavorably on the Borough of Mountain Lakes and/or the Police Department.
- b. Repeated reports of discourteous behavior by the operator, which can be substantiated and documented, may be considered by the Borough as sufficient cause for termination of the contract.

**230-4.8 Liability of Borough.**

There shall be no privity of contract between the Borough and any towing operator on the rotation list and utilized by the Police Department pursuant to subsection 230-2.2. Except to the extent that the Borough will use the proceeds from the sale of abandoned and junk vehicles to satisfy towing and storage charges pursuant to subsection 230-4.4, the Borough will not be liable for any towing or storage or related charges for services rendered pursuant to this chapter.

**230-5 VIOLATIONS AND PENALTIES.**

**230-5.1 Violations and Penalties.**

- a. Any contractor who violates any section of this chapter, in addition to any other penalties provided by law, shall be subject to suspension of towing privileges for one (1) month for a first offense, three (3) months for a second offense and six (6) months for a third offense. If the contractor commits a fourth offense, its right to provide towing services to the Borough shall be permanently revoked.
- b. Any contractor who violates the operator rate schedule shall receive a fine of one hundred (\$100.00) dollars and suspension of towing privileges for one (1) month. A second violation will result in a fine of two hundred fifty (\$250.00) dollars and suspension of towing privileges for six (6) months. A third violation will result in a fine of five hundred (\$500.00) dollars and permanent revocation of towing privileges.
- c. In all cases, if a contractor overcharges a vehicle owner, the excess moneys paid will be returned by the contractor.
- d. A towing operator may be removed from the annual list by resolution of the Borough Council if its performance is determined to be unreliable or inadequate. If there is a breach of any of the provisions of this chapter or applicable regulations, an operator may be removed from the list by the Chief of Police pending action by the Borough Council.

Following introduction, the above Ordinance will be published in accordance with the law and a public hearing will be held on **November 9, 2015.**

Prior to the introduction of the Ordinance, the Council consensus was to update the definition to "trucks" to include the term "buses".

**INTRODUCED: OCTOBER 26, 2015**

Council Member	By:	2 <sup>nd</sup>	Yes	No	Abstain	Absent	By	2nd	Yes	No	Abstain	Absent
Albergo		X	X									
Barrett			X									
Borin			X									
Happer						X						
Lester	X		X									
Holmberg			X									
McWilliams			X									

**14. \*RESOLUTIONS**

- R171-15 Resolution Authorizing the Membership in a Shared Services Cooperative with the National Joint Powers Alliance (NJPA)
- R172-15 Resolution Authorizing the Membership in a Shared Services Cooperative with U.S. Communities
- R173-15 Resolution Authorizing the Membership in a Shared Service Cooperative with National Intergovernmental Purchasing Alliance (National IPA)
- R174-15 Resolution Requesting Approval of Item of Revenue and Appropriation Under N.J.S.A. 40A:4-87 For the Green Communities Grant in the Amount of \$2,250.00
- R175-15 Resolution Authorizing the Payment of Bills

**15. \*MINUTES**

- October 13, 2015 (Executive)
- October 13, 2015 (Regular)

**16. \*DEPARTMENT REPORTS**

- Construction Department September 2015
- Department of Public Works September 2015
- Fire Department September 2015
- Health Department September 2015
- Police Department September 2015
- Recreation Department September 2015
- Tax Department September 2015

**17. \*BOARD AND COMMITTEE AND COMMISSION APPOINTMENTS NONE**

Prior to the Consent Agenda vote, Councilman Lester called attention to the Police Report and commended Chief Bennett for taking the initiative and utilizing his professional relationship with the FBI to acquire weapon sights for his department at no cost to the Borough.

Council Member	By:	2 <sup>nd</sup> :	Yes	No	Abstain	Absent
Albergo			X			
Barrett			X **			
Borin			X **			
Happer						X
Lester		X	X			
Holmberg	X		X			
McWilliams			X			

**\*Indicates Consent Agenda Item**

Matters listed as Consent Agenda Items are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

\*\*Councilman Barrett abstained from voting on the October 13<sup>th</sup> Executive and Regular Minutes. Councilman Borin abstained from voting on Purchase Order Numbers 14628 and 13487.

**18. COUNCIL REPORTS**

**Woodlands Advisory Committee** – Councilman Albergo reported that the Committee had attended a presentation given by JORBA, the Jersey Off Road Bike Association. He said that JORBA had offered to maintain the Borough's trails at their expense, and that maintenance could include clearing falling trees, putting stones and logs in place to prevent erosion, and widening and/or curving trails. Councilman Albergo said that JORBA is currently maintaining trails for the Morris County Parks Commission in the Tourne Park and that he would follow up with Mr. Sheola about the offer.

**Recreation Commission** – Councilman Lester said the Board of Education had recently passed a policy change to allow the Recreation Commission the use of the turf fields under the lights, and he commended the Chair, Deb Shertzer, and the Recreation Director, Audrey Lane, for their efforts and hard work on this issue.

**Planning Board** – Mayor McWilliams stated that the most recent meeting had been very informative and that the Board had determined it would like to hold additional discussions on the Ordinance change at its next meeting on November 19<sup>th</sup>. Mayor McWilliams thanked the Board of Education for letting the Borough use their facilities for meetings. Councilman Lester commended Planning Board Attorney Peter Henry and Borough Planner Paul Phillips and said they did an exemplary job explaining the changes to the Ordinance and facilitating a productive discussion.

**19. PUBLIC COMMENT**

**Please state your name and address for the record.** Each speaker is limited to one (1) comment of no more than five (5) minutes with no yielding of time to another person.

Mayor McWilliams opened the public comment portion of the meeting with the consent of the Council. Mayor McWilliams explained the Council's policy of limiting each speaker to five (5) minutes with no yielding of time to another person.

Chris Sullivan – 4 Sherwood Drive

Mr. Sullivan said he wished to address his comment to the Borough Attorney, and asked about the history of builder's remedy lawsuits over the past few years.

Ellen Emr – property owner, 19 Sherwood Drive

Ms. Emr stated she disagreed with previous comments made by the Deputy Mayor that obtaining water was the responsibility of the developer. She said that the health, safety, and welfare of residents is the responsibility of the Council and it was inappropriate to allow the builder to obtain its own water source. She also stated that she disagreed with Councilman Lester's assessment of the Planning Board meeting and felt there was a lot of ranting and rhetoric on the part of Borough professionals. Ms. Emr said she would appreciate facts about builder's remedy lawsuits, their adjudication, and how they might affect Mountain Lakes. She stated her opinion that change is not always good.

Sandy Batty – 15 Lockley Court

Ms. Batty agreed that the Master Plan is fluid to some extent as it supposed to be reexamined every ten (10) years but stated that the most recent version was adopted in 2013. She said that the proposed Ordinance has many inconsistencies especially regarding the character of the town and the Master Plan's statements of environmental protection. Ms. Batty said the Ordinance looks like a developer's Ordinance and pointed out that it had been documented that the developer had input into the draft but that the Planning Board and public did not. She mentioned that when the townhomes had been developed there was very little public objection to the development because the public had been involved in the process. Ms. Batty asked the Council to achieve sustainable future development for the town.

George Jackson – 20 Sherwood Drive

Mr. Jackson urged the Council to continue to negotiate and to modify the proposed Ordinance to be more compatible with the character of Mountain Lakes if the property is to be developed. He said the proposed Ordinance is terrible and requested the Council unbundle high density and inappropriate development from the affordable housing obligation.

With no one else wishing to be heard, Mayor McWilliams closed the public comment portion of the meeting.

In response to public questions about the Executive Session, Mr. Oostdyk stated that Mr. Sheola had updated the Council on where Mountain Lakes stands on water and water needs, and he said that issue will transition to public discussion after negotiations have ceased. In reference to questions about litigation, Mr. Oostdyk said there have always been builder's remedy lawsuits. He mentioned that many have been resolved through settlements and that the details are not necessarily a public record. He stated that there are a lot of factors involved in the settlement of this type of litigation, but that one common denominator is the fact that every builder's remedy lawsuit involves a loss of control for the municipality. Mr. Oostdyk cited Livingston as an example, Mayor McWilliams cited Essex Fells, and Councilman Barrett cited Cedar Grove. Mayor McWilliams also mentioned the ongoing issues with the development at Waterview in the neighboring Township of Parsippany, and said that the loss of municipal control meant the destruction of Doremus Ridge, ingress and egress onto Intervale Road, and the erosion of the buffer to a mere ten (10) feet.

**20. ADJOURNMENT at 9:19 PM**

Motion made by Deputy Mayor Holmberg, second by Councilman Lester, to adjourn the meeting at 9:19 p.m., with all members in favor signifying by "Aye".

**\*Indicates Consent Agenda Item**

Matters listed as Consent Agenda Items are considered routine and will be enacted by one motion of the Council and one roll call vote. There will be no separate discussion of these items unless a Council member requests an item be removed for consideration.

**ATTEST:           OCTOBER 26, 2015**

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Michele Reilly, RMC, Borough Clerk

G. Douglas McWilliams, Mayor