

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

**NOVEMBER 9, 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 7:32 p.m. Also present were 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 176-15**

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

-Financial Documentation – Contributions to Non-Profit Organizations

-Affordable Housing Litigation

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

Motion made by Deputy Mayor Holmberg, second by Councilman Happer, 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**

Councilman Barrett reported that the Halloween Safe Zone event was excellent.

Mayor McWilliams reminded those in attendance to check the Borough website for news and for upcoming events, such as the extended hours at the Department of Public Works (DPW) for leaf dropoff, the addition of the new styrofoam recycling container at the DPW, and the paving on Cobb Road.

Ms. Reilly said that the Tree Lighting and Menorah Lighting would be held on December 5<sup>th</sup> and 6<sup>th</sup>, respectively.

**6. SPECIAL PRESENTATIONS**

There were no special presentations.

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

-Shade Tree Commission

The Shade Tree Commission (STC) was represented by Chair Consuelo Murtagh and Commissioner Blair Bravo. Ms. Murtagh reported that the STC had received two grants in 2015, one to help underwrite the Community Forestry Management Plan (CFMP) and one to fund the planting of new trees. She explained that the STC had lost three (3) long-serving members but had been fortunate to recruit three (3) new members, all of whom have taken the CORE training. Ms. Bravo recommended that all Council members take the CORE training if they have the time. Ms. Murtagh mentioned the success of the STC's yearly Arbor Day program and commended commissioners and event leaders Marnie Vyff and Janet Horst.

Ms. Murtagh reported that the Commission has recently completed its yearly survey of trees located in the Borough's right-of-ways and would next be developing the annual Prune and Remove list. Ms. Bravo mentioned that the commissioners had noted a lack of missing and/or illegible house numbers and wanted to express to the Council the STC's concerns about fire safety and the ability of emergency service personnel to identify the location of an emergency situation.

Ms. Murtagh asked the Council to consider a mechanism for administrative support regarding tree issues. She stated that it would be helpful if there was a dedicated Borough staff member who was charged with addressing and coordinating tree related concerns. She said the STC is always willing to help but that keeping up with tree related questions is challenging for a volunteer group and not all queries forwarded to the STC are relative to shade trees.

Ms. Murtagh mentioned that the Borough sets aside a sizeable sum for pruning trees but not as much for planting. She said that the lack of funding for replanting and the aging of the Borough's tree population presented challenges for the STC. She also mentioned that she would be walking through the Borough with the Arborist on November 18<sup>th</sup>, and that she expected to receive the draft copy of the CFMP from him shortly. She said the STC would be presenting the plan to the Council next year.

**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.

Fred Kanter – 81 Hanover Road

Mr. Kanter said he was pleased to note the Borough Council meeting advertised on the electronic sign board. He described a tree situation he had on his personal property and discussed a device the arborist had used to determine if the interior of other trees on his property were rotted. He suggested the town explore using this method to evaluate private property trees located near power lines and advocated the removal of rotted trees in order to prevent power outages.

Jim Bailey – 111 Kenilworth Road

Mr. Bailey, Chair of the Planning Board, asked the Borough Council to consider moving the date of the vote on Ordinance 12-15. He said the Planning Board meeting would be held on November 19<sup>th</sup> and he felt there might not be enough time for Ms. Shaw, the Planning Board Administrator, to type up the Board's comments and forward them to the Council. He recommended the Council hold the public hearing on November 23<sup>rd</sup> but postpone the vote in order to have more time to consider any Planning Board comments.

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

Mayor McWilliams and Deputy Mayor Holmberg stated that the Planning Board and the Council were aware of the proximity of the meeting dates but felt the Council would have adequate time to consider a communication from the Planning Board unless it was voluminous. Councilman Lester commended Ms. Murtagh on her presentation and asked the STC to use the website in order to communicate their efforts and/or events to the public. Deputy Mayor Holmberg also suggested making arborist information available on the website in order to encourage residents to maintain private property trees.

**9. DISCUSSION ITEMS**

-Fee Ordinance

Ms. Reilly reviewed her memo regarding changes to the Fee Ordinance, to be implemented in January of 2016. The Council was in agreement with the recommended changes and Ms. Reilly said she would have the Ordinance ready for introduction at the next Borough Council meeting.

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

Mr. Oostdyk had nothing additional to report.

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

Ms. Reilly gave the Manager's report. She said the General Election had recently been held in the Borough and reported some voter statistics. In addition she said the annual Flu Clinic had been held, and that approximately fifty (50) shots had been administered to residents and staff.

Ms. Reilly stated that aerator training would be held next week between Allied Biological and DPW staff. She also mentioned that the DPW superintendent had arranged for Tree King to facilitate tree removals recommended by the Shade Tree and that this work should begin within the next two (2) weeks.

Ms. Reilly mentioned that the milling and paving of Cobb Road was scheduled to begin tomorrow.

Ms. Reilly said the implementation of the Iworq system was progressing and that she expected the program to be rolled out to Borough employees by November 23<sup>rd</sup>. She said the anticipated rollout date to the public was December 10<sup>th</sup>.

Ms. Reilly reported that the first chapter of the personnel policy and procedure manual had been distributed to employees through the Efficient Hire system and that the entire manual would be distributed, chapter by chapter, before the end of 2015.

**12. 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 an outside storage lot and place of business within five (5) miles of the Mountain Lakes Borough corporate line. The towing business and outside 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.**

a. **Automobiles and Trucks.** The fee schedule for basic 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.

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.

Fred Kanter – 81 Hanover Road

Mr. Kanter expressed concerns over fees charged for towing and storage and asked the Council to make sure the Borough's fees are reasonable.

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

In response to Councilman Lester's questions about the fee schedule, Mr. Oostdyk stated that the Borough sets the fees and the towing companies have the opportunity to review them before submitting an application to secure a place on the rotation. Councilman Happer expressed concerns about the amount of administrative work this Ordinance would require and said additionally, a tracking system would have to be put in place so that the Borough would be able to evaluate the performance and responsiveness of the towing companies.

Councilman Borin suggested language be added to Section 4 noting that the Ordinance shall take effect January 1<sup>st</sup>, 2016, and after final passage and publication in the manner provided by law. The consensus of the Council was to make this non-substantive change in order to provide clarity as to the effective date of the Ordinance.

**INTRODUCED: OCTOBER 26, 2015**

**ADOPTED: NOVEMBER 9, 2015**

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

**13. \*RESOLUTIONS**

- R177-15 Resolution Authorizing Approval to Submit Grant Application and Execute Grant Contract With the New Jersey Department of Environmental Protection for the Green Communities Grant/Community Forestry Management Plan
- R178-15 Resolution Authorizing Membership in the New Jersey State Firemen's Association – Van der Merwe
- R179-15 Resolution Amending the Members of the Finance Advisory Committee - Dodyk
- R180-15 Resolution Authorizing the Payment of Bills

**14. \*MINUTES**

- October 26, 2015 (Executive)
- October 26, 2015 (Regular)

**15. \*DEPARTMENT REPORTS**

**NONE**

**16. \*BOARD AND COMMITTEE AND COMMISSION APPOINTMENTS**

**NONE**

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 Borin abstained from voting on Purchase Order Number 14704.

**17. COUNCIL REPORTS**

Deputy Mayor Holmberg offered thanks to the League of Women Voters for the forum they recently held to facilitate a public discussion on the issues involving the proposed development of the King of Kings project. He said that the forum offered a good, well balanced panel and a valuable dialog that he and Councilman Lester had been able to attend.

**DPW Advisory Committee** – Deputy Mayor Holmberg reported that the Committee had discussed water issues, including better conservation methods and hiring a vendor to complete water assessment next year in order to identify areas for repair and to decrease leakage.

**Lakes Management Advisory Committee** – Deputy Mayor Holmberg said the Committee is still discussing beavers and trappers. He said the beavers have taken down close to seventy (70) trees around Birchwood Lake. Ms. Reilly reported that Mr. Trapasso had spoken to a representative of Fish and Wildlife who said that trappers would be notified of their permit areas in early December. Mr. Trapasso said he expected to be able to speak to the trappers in December and would endeavor to encourage them to trap in Mountain Lakes.

**18. 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.

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

**19. ADJOURNMENT at 9:00 PM**

Motion made by Councilman Happer, second by Deputy Mayor Holmberg to adjourn the meeting at 9:00 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:            NOVEMBER 9, 2015**

\_\_\_\_\_  
Michele Reilly, RMC, Borough Clerk

G. Douglas McWilliams, Mayor