

BOROUGH OF MOUNTAIN LAKES
MOUNTAIN LAKES HIGH SCHOOL, 96 POWERVILLE ROAD, MOUNTAIN LAKES
973-334-3131
www.mtnlakes.org

APRIL 27, 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 (change in location April 20, 2015) and posted in the municipal building.

Deputy Mayor Holmberg called the meeting to order at 8:00 p.m. in the municipal building.

2. ROLL CALL

Ms. Reilly called the roll. All Council members were present except for Mayor McWilliams, who was absent. Also in attendance were Borough Manager Richard Sheola, Former Interim Manager Robert Hoffmann, Borough Clerk Michele Reilly, Borough Attorney Robert Oostdyk, Deputy Treasurer Tim Roberts and Fire Chief Matt DeSantis.

3. PLEDGE OF ALLEGIANCE

Deputy Mayor Holmberg led the salute to the flag.

4. EXECUTIVE SESSION

NONE

5. COMMUNITY ANNOUNCEMENTS

Deputy Mayor Holmberg wished Mayor McWilliams a speedy recovery from his recent knee surgery.

Deputy Mayor Holmberg thanked Mr. Hoffmann for his service to the Borough, the energy and enthusiasm he brought to the job, and the significant savings and efficiencies realized by the Borough during his tenure as the Interim Borough Manager.

Deputy Mayor Holmberg welcomed Mr. Sheola as the new Borough Manager.

Deputy Mayor Holmberg acknowledged the volunteers from the Shade Tree Commission, particularly Marnie Vyff, for a successful Arbor Day event.

Deputy Mayor Holmberg also acknowledged volunteers Joan Ostrow and Tom Heuser, who once again ran the Woods and Lakes Run.

Councilman Albergo reported on the events of Eco Weekend, including the free tree give away, which resulted in one thousand (1000) free trees distributed among the Woodlands Advisory Committee for planting in the Borough, to residents, and to Wildwood Elementary School students. He mentioned that one hundred thirty-four (134) residents had used the bulk trash day service at the Department of Public Works, and that 1.95 tons of paper was shredded during the shredding event, netting three hundred dollars (\$300) each for both the Mountain Lakes Volunteer Fire Department and the Boonton Kiwanis Ambulance Squad. He said there were eleven (11) pints of blood donated at the blood drive, sixteen (16) attendees at the rain barrel workshop, and reported a successful town wide clean-up, which counted as participants several committees and commissions as well as High School groups. He thanked Mimi Kaplan for spearheading the clean-up event and the Environmental Commission for taking the lead on Eco Weekend.

Councilman Albergo congratulated the Borough Clerk on her recent recertification from the Department of Local Government Services (DLGS).

Deputy Mayor Holmberg announced that the Borough Council Goes To Briarcliff event would be held on Wednesday.

6. 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.

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

Deputy Mayor Holmberg recommended that comments regarding the King of Kings backland lot be made at the public comment session immediately following the Borough Manager's discussion on the subject.

Jeff Leman – 32 Sherwood Drive

Mr. Leman asked if it would be more appropriate to have public comment on the King of Kings issue now and said his concern was that people might have to leave before the next public comment session.

Ellen Emr – property owner at 19 Sherwood Drive

Ms. Emr identified herself as a former Borough Council member. Ms. Emr said she felt that the Council should be committed to exploring and publicly discussing issues pertaining to the King of Kings property such as water, COAH, and environmental concerns, and should not yield to the developer's request to quickly pass an Ordinance. She recommended referring any potential Ordinance changes to the Planning Board for review. In addition, she said a water plan should be presented, an environmental study should be done, affordable housing units should be satisfied, and that the Council should not act until the Borough receives more information from the Council on Affordable Housing (COAH). Ms. Emr said she felt that the Economic Development Subcommittee needs to reconsider its mission and explore ratables in the commercial corridor only. She advised the Council that they should make changes to the subcommittee structure and include members of the public.

Jack Gentul – 14 Sherwood Drive

Mr. Gentul identified himself as a member of the Board of Education. He said he felt that a thorough review of the proposal should take into account the impact on many items including the schools. Mr. Gentul said there are forty (40) school aged children in the Pine Edge and Spruce Edge neighborhoods. He said that the schools are at ninety-eight percent (98%) capacity and space is a consideration. He said that it costs \$15,700 to educate a High School student, \$13,100 to educate a Briarcliff student, and \$12,900 to educate a Wildwood student and that sixty-eight percent (68%) of a tax dollar goes to the school system. Mr. Gentul said he felt there was no economic benefit to adding a residential development in the Borough and in fact it could be a detriment.

John Parker – 6 Littlewood Court

Mr. Parker said he found it ironic that the meeting began with the Council talking about the beauty of the town.

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

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|----|------------------------------|-------------|
| 7. | SPECIAL PRESENTATIONS | NONE |
| 8. | DISCUSSION ITEMS | NONE |
| 9. | ORDINANCE 02-15 | |

ORDINANCE AMENDING CHAPTER 208 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND UPDATING THE APPLICATION PROCEDURES AND SUBMISSION REQUIREMENTS FOR CERTAIN PLANNING BOARD APPLICATIONS

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 208, Section 208-5 entitled "Applications; procedures for filing," shall be amended to read in its entirety as follows:

208-5. Applications; procedures for filing.

- A. Applications for development within the jurisdiction of the Planning Board, pursuant to the provisions of N.J.S.A. 40:55D-1 et seq. shall be filed with the administrative officer. The applicant shall file at least 15 business days before the date of the monthly meeting of the Board the number of required copies determined by the Planning Board Administrator of a sketch plat or concept plan if required, of the application for minor subdivision approval, plans for major subdivision approval, site plan review, conditional use approval, informal review or planned development. At the time of filing the application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps and other papers required by virtue of any provision of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the administrative office of the Board who shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.
- B. Separate and complete applications shall be submitted for preliminary and final plans. A change in a duly approved subdivision or site plan shall require approval of the Planning Board or Zoning Board of Adjustment.

Section 2. Chapter 208, Section 208-6 entitled "Subdivision Review," subparagraph A., shall be amended to read as follows:

A. Informal review. At the request of the developer, the Planning Board shall grant an informal review of a concept plan for development for which the developer intends to prepare and submit an application for development. The developer shall not be required to submit an application fee for such an informal review, but will be required to establish an escrow account to cover the cost for professional services. The developer shall not be bound by such a review. The informal review presentation shall be limited to 30 minutes.

Section 3. Chapter 208, Section 208-14 entitled "Informal Review," shall be amended to read in its entirety as follows:

208-14. Informal Review.

At the request of the developer, the Planning Board shall grant an informal review of a conceptual site plan for a development for which the developer intends to prepare and submit an application. The developer shall not be required to submit an application fee for such an informal review, but will be required to establish an escrow account to cover the cost for professional services. The developer shall not be bound by any concept plan for which review is requested, and the Planning Board shall not be bound by any such review. The informal review presentation shall be limited to 30 minutes.

Section 4. Chapter 208, Section 208-17 entitled "Site plan submission and design requirements", Subsection A shall be amended to read in its entirety as follows:

A. The site plan shall show or include the following information:

- (1) Name and address of applicant and owner.
- (2) Borough Tax Map block and lot numbers.
- (3) Name, title, professional seal and signature of person preparing the plat.
- (4) Place for the Chairperson, administrative officer of the Planning Board and the Borough Engineer to sign.
- (5) Scale shall equal 50 feet to the inch except, for one acre or less, the scale shall be 20 feet to the inch.
- (6) Date and revision dates of drawings.
- (7) North arrow.
- (8) Key map showing the entire site plan and its relation to surrounding areas. Where required for a public hearing, the key map shall show name and location of all property owners within 200 feet, with block and lot numbers.
- (9) Name and location of all contiguous property owners, with block and lot numbers.
- (10) Existing zoning and zone boundaries and contiguous zone classifications.
- (11) All existing and proposed streets within 200 feet.
- (12) Area of lot.
- (13) Lot frontage and lot depth.
- (14) All existing and proposed bearings and all setback lines.
- (15) Present and proposed elevations based on New Jersey Geodetic Control Survey Datum, at two-foot contour intervals.
- (16) Location, size and nature of all existing and proposed rights-of-way, easements and other lands, if any, to be dedicated to the Borough.
- (17) Location and type of all existing and proposed storm drainage facilities, watercourses and ditches, water and sanitary sewer lines.
- (18) Location of all major trees and tree masses.
- (19) Location of all existing and proposed buildings.
- (20) The location of all structures within 200 feet of the property.
- (21) Location of off-street parking areas with dimensions showing parking spaces, loading docks, access drives and a traffic circulation pattern showing all ingress and egress means to site.
- (22) Location and description of all proposed signs and exterior lighting.
- (23) Location, type and size of electric, telephone, cable television and gas mains and appurtenances, both above and below ground.
- (24) All landscaping, fences, walls, hedges or similar facilities.
- (25) The first floor plan and front elevation of all proposed buildings.
- (26) Environmental impact statement.
- (27) Soil erosion and sedimentation control plan.
- (28) Surface water management plan.
- (29) Groundwater management plan in the wellhead protection area.
- (30) Landscaping plan.
- (31) Wetlands and transition area delineation or waiver approved by the NJDEP.

Section 5. Chapter 208, Section 208-7 entitled "Subdivision submission requirements", Subsection D shall be amended to read in its entirety as follows:

D. Preliminary plat. The preliminary plat shall be designed and drawn by a New Jersey licensed professional engineer in accordance with Section III(C) of the County Development Standards, as the same presently exists and as may be amended or supplemented from time to time, and shall be accompanied by the other maps, documents, plans, items and other items specified in and required by Section III(C). It shall also meet the requirements of Subsection A, Common requirements, hereinabove. In addition, the developer shall:

10. ORDINANCE 03-15

ORDINANCE AMENDING CHAPTER 111 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND REVISING CERTAIN LAND USE, SEWER USE, AND FIRE INSPECTION FEES

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 111, Section 11-3 entitled "Fee Schedule"; Subsection K "Uniform Fire Safety Code" shall be amended so that the inspection fee for Fire Prevention Non-life hazard annual inspections shall be as follows:

| | |
|---|----------|
| Premises up to 3,000 square feet | \$ 65.00 |
| Premises over 3,001 square feet and up to 6,000 square feet: | \$150.00 |
| Premises over 6,001 square feet and up to 12,000 square feet: | \$250.00 |
| Premises over 12,000 square feet: | \$400.00 |
| Multi-level premises with up to and including three stories: | \$250.00 |

And the fee for fire extinguisher training shall be as follows:

| | |
|------------------------------------|----------|
| 1. Group of one to five people: | \$100.00 |
| 2. Group of six to ten people: | \$150.00 |
| 3. Group of eleven or more people: | \$200.00 |

Section 2. Chapter 111, Section 11-3 entitled "Fee Schedule"; Subsection G,

"Planning Board Fees" shall be amended by the following additional fees:

| | |
|---|-----------------------|
| 2. Major Subdivision | |
| e. Informal Review | No Charge |
| 3. Site Plan | |
| g. Additional fee for variance, per application | \$250.00 per variance |
| h. Informal Review | No Charge |
| 5. Escrow Fees | |
| Informal Review | \$750.00 |

Section 3. Chapter 111, Section 11-3 entitled "Fee Schedule", C. "Department of Public Works", (7) "Sewer" shall be amended to include the following minimum fees as follows:

| | |
|---|----------|
| Minimum Charge for sewer usage, pro rata when meter is connected for less than a quarter: | |
| Residential sewer fee: | \$ 63.60 |
| Commercial sewer fee: | \$ 69.00 |

Section 4. 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 5. All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 6. This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Following introduction, the above Ordinance will be published in accordance with the law and a public hearing will be held on **May 11, 2015**.

VOTE AS INTRODUCED APRIL 27, 2015

| Council Member | By: | 2 nd : | Yes | No | Abstain | Absent | By: | 2 nd : | Yes | No | Abstain | Absent |
|----------------|-----|-------------------|-----|----|---------|--------|-----|-------------------|-----|----|---------|--------|
| Albergo | | X | X | | | | | | | | | |
| Barrett | | | X | | | | | | | | | |
| Borin | | | X | | | | | | | | | |
| Happer | | | X | | | | | | | | | |
| Lester | X | | X | | | | | | | | | |
| Holmberg | | | X | | | | | | | | | |
| McWilliams | | | | | | X | | | | | | |

11. ORDINANCE 05-15

ORDINANCE AMENDING THE SALARY, WAGE AND COMPENSATION OF THE OFFICERS AND EMPLOYEES OF THE BOROUGH OF MOUNTAIN LAKES, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY

Mr. Hoffmann reported that some additional changes to the Ordinance were needed prior to its introduction. Council consensus was to carry this Ordinance until the next Borough Council meeting at Mr. Hoffmann's recommendation.

12. RESOLUTION 102-15

Resolution Authorizing the 2015 Budget to be Read by Title Only

| Council Member | By: | 2 nd : | Yes | No | Abstain | Absent |
|----------------|-----|-------------------|-----|----|---------|--------|
| Albergo | | | X | | | |
| Barrett | | | X | | | |
| Borin | | | X | | | |
| Happer | | X | X | | | |
| Lester | X | | X | | | |
| Holmberg | | | X | | | |
| McWilliams | | | | | | X |

13. PUBLIC HEARING ON 2015 MUNICIPAL BUDGET

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.

Deputy Mayor Holmberg opened the public hearing with the consent of the Council. Deputy Mayor Holmberg 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, Deputy Mayor Holmberg closed the public hearing.

Deputy Mayor Holmberg thanked the administration for their efforts involving the budget process.

14. BUDGET RESOLUTION 103-15
Adoption of 2015 Municipal Budget

Ms. Reilly read the Resolution into the record:

BE IT RESOLVED, that the Borough Council of the Borough of Mountain Lakes, in the County of Morris, State of New Jersey, hereby adopts the **2015** Municipal Budget set forth herein and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$ **5,859,925.48** for municipal purposes

VOTE AS INTRODUCED MARCH 23, 2015

| Council Member | By: | 2 nd : | Yes | No | Abstain | Absent | By: | 2 nd : | 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 |

15. *RESOLUTIONS

- R98-15 Resolution Authorizing the Municipal Excess Liability Joint Insurance Fund to Add Junior Laker Basketball, Inc. and MLBT Lacrosse As Additional Insured To Its Class IV Coverage Document
- R104-15 Resolution Authorizing the Self-Examination of the Budget
- R105-15 Resolution Authorizing the Award of Contract for the Glen Road & Kenilworth Road Project
- R106-15 Resolution Approving Updates to the Cash Management Plan
- R107-15 Resolution Designating Official Depositories for Borough Funds
- R108-15 Resolution Authorizing the Payment of Bills

16. *MINUTES

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

17. *DEPARTMENT REPORTS

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

18. BOARD AND COMMITTEE AND COMMISSION APPOINTMENTS

NONE

Prior to the Consent Agenda vote Councilman Happer presented non-substantive changes to the minutes. Councilman Lester asked Mr. Sheola to follow up with Chief Bennett regarding modifications to the monthly report. Councilman Lester said he would like the Chief to include the percentage of his overtime budget used each month in addition to the reflection of the actual cost of the overtime. Councilman Lester said he would like this information available at the next Borough Council meeting.

| Council Member | By: | 2 nd : | Yes | No | Abstain | Absent |
|----------------|-----|-------------------|-----|----|---------|--------|
| Albergo | | | X | | | |
| Barrett | | | X | | | |
| Borin | | X | X | | | |
| Happer | | | X | | | |
| Lester | X | | X | | | |
| Holmberg | | | 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.

19. ATTORNEY'S REPORT

Mr. Oostdyk had nothing additional to report.

20. MANAGER'S REPORT

Mr. Hoffmann that the banking change was going smoothly and the target date for the implementation of new banking services was May 1st. He said that two (2) of the resolutions just passed by the Governing Body were related to the change.

Mr. Hoffmann said that Resolution 105-15 would allow the Borough to move ahead with the paving of Kenilworth and Glen Roads, and that \$190,000 of the paving costs will be covered through grant funding.

Mr. Hoffmann reported that the Salary Ordinance will be revised and listed on the agenda for consideration in May.

Mr. Hoffmann commended the Governing Body, the Finance Advisory Committee, Deputy Treasurer Roberts, and former Manager Robert Tovo for their work on the budget.

-User Friendly Budget Discussion

Mr. Hoffmann said that the State of New Jersey had mandated that municipalities also fill out and file "User Friendly Budget Forms", basically a second set of budget documents but in a different format. Mr. Hoffmann reported that it requires approximately twenty-five (25) hours for the Chief Financial Officer (CFO) to fill out the forms. He said this is yet another example of a State mandate without State funding. Mr. Hoffmann said he had distributed a sample resolution in the packet for the Governing Body to review in case they chose to oppose the municipal user friendly budget mandate.

-History and Potential Uses for King of Kings Backlands Lot – Designated as Block 116 Lot 3

Mr. Hoffmann read aloud the memo he had distributed to the Borough Council that afternoon, which outlined the history of the Borough's Master Plans from 1963 to present and also gave an overview of the potential uses for the King of Kings Backlands Lot, as follows:

Summary

This memo is intended to provide the Governing Body and all interested parties with a history of the Borough's Master Plans from 1963 to present as well as an overview of the potential uses for the King of King Backlands Lot also known as Block 116, Lot 3.01. There have been nineteen (19) updates to the Master Plan since the adoption of the first Master Plan in 1963. The Borough's current Master Plan was adopted on October 24, 2013.

The Borough is at the start of the evaluation process for the potential rezoning of the King of Kings Backlands Lot in a manner that would allow responsible and economically feasible development consistent with the Borough's Goals and Objectives. The planning for this eventuality began back in 1915 and was formalized with the adoption of the Borough's first Master Plan in 1963.

The history of the Borough's Master Plan process shows that the development of Mountain Lakes including this parcel has not occurred in a vacuum. A thorough and methodical evaluation process has been and should continue to be used to evaluate the development of all parcels of land.

Previous governing bodies had tasked current and former Borough representatives with bringing forth opportunities to increase the ratable base. The Master Plans have recommended that the Route 46 corridor be considered a priority. Any development on this parcel would increase the Borough's ratable base.

The Borough has recognized that the King of Kings Backlands lot is one of the few remaining vacant tracks within its borders. It is a potential site which can be utilized to meet the Borough's future unfulfilled affordable housing obligations. The updated obligation listed by the Fair Share Housing Alliance is 264 units. It should be noted that this proposed number has not been sanctioned by the Courts. The previous second round approved obligation was 88 units.

The Governing Body has a responsibility to review Ordinances, policies and procedures. They are not required to take action. The Governing Body is required to examine, evaluate and ultimately conduct a due diligence of the issues that affect the Borough.

Overview

The King of Kings Backlands lot is a 7.7 acre parcel that currently has a farmland assessment. It is private property. The current owner has the right to use the land as they deem in their best interest as long as the use conforms to the Zoning Code of the Borough. The owner has the right to: use the property, apply for a change and/or variance, develop it for other uses, or, sell the property to another who will have the same rights for land use. These are the same rights that all other property or homeowners in the Borough have. Any homeowner can petition for a variance to build a deck, add addition or subdivide their property if it is large enough. The parcel is zoned RC-1. This stands for Single Family Residential – Cluster. The lot size in this designation is approximately 22,500 square feet or a half acre.

History

On December 3, 1963, the Borough's Planning Board adopted its first Master Plan. The preparation of the Master Plan had been authorized in June of 1962. Public Hearings were held on November 8th and December 3rd 1963. The area south of Boulevard between Route 46 and Pocono Road was proposed as a site for garden apartments (rental). It was projected that apartment development in this area would attract development in the Route 46 Business Zone (pages 61 through 66).

Page 8 of the 1979 Master Plan references "The Intervale District". It states "the vacant land of this ED (Economic District) consists of about 45 acres of land, presently divided among three land owners, plus about 10 acres of the tract owned by the Lutheran Church." One of the recommendations on page 9 for the Intervale District is for residential land use. The fifth (5th) recommendation states "It gives the opportunity to construct homes of smaller size to meet local demand for such units to serve elderly residents and younger families."

Both the 1996 Master Plan and the 2002 Reexamination Report state that "Housing options, senior housing" indicate that the intent to create a variety of housing through zoning for townhouses and cluster development did not result in the construction of smaller and lower priced housing units. There are few opportunities remaining. The need for senior housing has not been met by a specific development in the Borough. "Mountain Lakes had zoned for age-restricted housing at the 'Fusee' property, but the restriction was lifted when the market no longer supported construction of such units."

Chapter III, Page 6 of the 1996 Master Plan references this parcel (King of Kings Backlands – Block 116 Lot 3.01) and states "In order to address the housing needs of older Borough residents, attached housing suitable for senior citizens is recommended with an overall density of 3-6 units per acre."

Chapter XIII, Page 3 of the 1996 Master Plan states "In view of the Borough's aging population, the Land Use Plan element recommends rezoning this site for housing for senior citizens."

Note: On May 26, 2006 an amendment to the Land Use Element of the Master Plan was adopted. This amendment prepared by the Master Plan Subcommittee removed the requirement for senior citizen housing on the King of Kings Backlands lot. It was anticipated that the need for senior citizen housing would occur on the Fusee property. This did not occur.

The 2002 Reexamination Report states that "The property is a constrained lot both in access and environmental encumbrances. The cluster option would permit a protection of some open space and retention of the buffer to the highway and railroad."

Since 2004, there have been two (2) attempts to purchase this property and preserve it as open space. The Mountain Lakes Conservancy made the first attempt. They were able to obtain a \$1,000,000 grant from the Morris County Planning and Preservation Office. The owner decided not to sell the property. The Borough then made an attempt in both 2010 and 2012 to purchase this parcel. Again the intention was to add the parcel to the Borough's open space inventory and create a passive park. Morris County provided a total of \$1,610,000 of grant funding through two separate grant applications for this acquisition. The appraised value of the property was lower than the seller believed it was worth. It is my understanding that three (3) appraisals were obtained. All three valued the property below the expectations of the seller. The owner declined to sell the property to the Borough for an amount supported by the appraisal. The Borough was not able to reach an agreement with the property owner on the purchase price. The grant funding was returned to Morris County so that they could reallocate the grant funds for use by another municipality.

Conclusion

1. The process to obtain grant funding to purchase this property would take a significant period of time to achieve. Based on the history dating back to 2004 of the unsuccessful attempts to acquire the property it would be exceedingly difficult. It is unlikely that the property would still be available for purchase by the Borough even if funding could be obtained.
2. The Borough must be cognizant of the potential for a Mount Laurel action similar to that currently being threatened by the Waterview developer in Parsippany for approximately 660 units. The Borough Planner has advised us that a potential developer bringing a "Builders Remedy" action against the Borough could be expected to propose a project with as many as 200 apartment style units. This could provide the Borough with up to forty (40) affordable housing units.

3. A well thought out, intelligent, lower density development on that site is preferable to a Court ordered higher density development which would in all likelihood have a more severe impact on the Borough's environment, educational system, infrastructure and cost of services for decades to come.
4. Any development at site would require the developer to obtain a source of water from outside the Borough and deliver it to the units that will be built there.
5. The Governing Body and the citizen volunteers who have served the Borough of Mountain Lakes since the 1960's are to be commended for their efforts to follow in the footsteps of the founders of this planned community. Your combined efforts to be good stewards of the environment has resulted in the development of one of the most desirable and prestigious communities in the State of New Jersey. Sandy Batty, Ellen Emr, Jim Moody, Brian Marshall and Khizar Sheik have all been gracious with their sharing of knowledge. Sandy, Ellen and Jim met with me on Wednesday afternoon, February 25th to provide information from a historical perspective that has been corroborated by a review of past Master Plans.

Recommendations

1. Authorize the Borough Planner to draft an ordinance which proposes a change to the zoning of the property in a manner that will encourage reasonable and economically feasible residential development. The draft ordinance should also provide an incentive for a developer to look to a conforming development rather than consider a "Builder's Remedy" alternative for the development of the property. The Governing Body should have a draft for introduction at the May 11th Council meeting.
2. Direct that the ordinance be reviewed by the Planning Board at its May 28th meeting.
3. Review the Planning Board's comments at the Public Hearing for the ordinance at the June 8th Council meeting.
4. Authorize the Council liaisons to meet with the Board of Education, Environmental Commission and any other interested parties to obtain information and report back to the full Council with the understanding that this information will be used to assist with the development of the parcel, not to attempt to stop the development.
5. Direct the Borough Manager to provide the Governing Body with monthly updates on any activity related to the purchase of the parcel, zoning, and development of plans or construction.
6. Authorize the Borough Attorney to monitor the project and make any recommendations necessary to avoid a Builders Remedy Lawsuit.
7. Direct the Manager to apply for open space grant funding for any property within the Borough that would meet the open space criteria.

Following the Borough's well thought out process to review proposed development plans as described in the Municipal Land Use Law (MLUL) will ensure that the rights of all parties are evaluated and protected from the planning stage through development and occupancy. The combined efforts of the Governing Body, Borough professionals and concerned citizens working within the framework of the MLUL will ensure that the parcel is developed in a manner that is consistent with the character of Mountain Lakes.

Please do not hesitate to contact me with any questions that you may have.

Deputy Mayor Holmberg thanked Mr. Hoffmann for his exhaustive research and, with the consent of the Council, directed him to have the memo posted on the Borough website. In addition, he asked Mr. Oostdyk to update the Council members and audience with the most recent communications from the developer.

Mr. Oostdyk said that the attorney for the developer had sent a draft complaint outlining a potential builder's remedy lawsuit to him. He said the email had not been sent until after the close of business on Friday and therefore the Council had just received it today and was still in the process of evaluating the content. He restated that this complaint had not been filed in the courts but was a draft, and it was accompanied by a letter requesting that the Borough at least reexamine the zoning for the property or the developer would elect to seek a builder's remedy.

Mr. Oostdyk explained that a builder's remedy lawsuit is a complaint which states that the municipality is not providing for its share of affordable housing under the State constitutional requirements and subsequently requests court intervention in reviewing the municipal zoning.

Mr. Oostdyk stated that Mr. Hoffmann did not have draft complaint or letter from the developer's attorney when he was working on the preparation of his report but that the attorney for the developer also referenced the Fair Share calculation of at least two hundred (200) units.

21. 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.

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

Jeff Lemam – 32 Sherwood Drive

Mr. Lemam spoke about the petition recently forwarded to the Council, signed by residents concerned about the future of the King of Kings property. He said more residents have signed the petition since it was sent in and that two hundred sixty-nine (269) residents have currently signed. Mr. Lemam mentioned that it is not just residents from Pine Edge and Spruce Edge who are signing the petition but residents from other areas of the Borough. Mr. Lemam read the petition, which stated that the King of Kings lot should be preserved as parkland or kept as it is currently zoned.

George Jackson – 20 Sherwood Drive

Mr. Jackson said he was not very worried about a builders remedy lawsuit and didn't think the Council should be either. He said that the Borough had met its first and second round COAH commitments and that the risk is that the Borough never filed a third round certification. He urged the Council to file a third round plan in order to protect the Borough from a lawsuit.

Jim Hyson – 23 Ronarm Drive

Mr. Hyson said he wanted to reinforce previous comments he had made to the Borough Council regarding the costs of development. He said a new development could result in higher taxes instead of lower taxes due to the increased costs for education and infrastructure. Mr. Hyson mentioned that the New Jersey Association of Environmental Commissions had published a recent paper supporting this theory. He also mentioned the Bloustein Study, which points to a housing shift and more families with children living in condominium communities. Mr. Hyson said his comments about development increasing costs instead of increasing ratables applies only to residential properties and not commercial.

Khizar Sheikh – 2 Warwick Drive

Mr. Sheikh spoke as chair of the Environmental Commission (EC). He said the EC is trying to understand the environmental issues of the whole community. Mr. Sheikh commended the Council for involving the Commission in the process and said they will respond to the questions posed recently by the Council regarding the King of Kings property. He said the response will include delivering further questions for the Council to answer. Mr. Sheikh expressed concerns that the timetable proposed by Mr. Hoffmann will not give the EC enough of an opportunity to conduct a thorough study and asked for more time to consider the issues.

Sandy Batty – 15 Lockley Court

Ms. Batty thanked the Manager for his detailed report and echoed the comments made by Mr. Sheikh. She said the timetable is worrisome to her and too short and relies completely on the Planner developing the Ordinance. She mentioned that more input is needed from the Borough's volunteer experts, particularly as Mountain Lakes has a tradition of active volunteers contributing to the planning process. Ms. Batty said that the short time frame does not allow the Borough time to respond with an Affordable Housing plan. She said that filing such a plan would offer at least temporary indemnity from lawsuits and would give the Borough the opportunity to explore affordable housing options, such as group homes, and also decide where affordable housing works best within the borders of the Borough rather than letting the developer make that decision.

Fred Kanter – 81 Hanover Road

Mr. Kanter offered a sincere apology to Mr. Oostdyk for a previous remark made about the quality of his answers. Mr. Kanter explained that he made the comments because of the confusion over the issue of not appointing a Borough attorney. He said he wants confirmation from the Council that they did the right thing when they did not select a Borough Attorney and maintained the attorney in a holdover status. Mr. Kanter said a holdover status is allowed only if there is a vote and the result of that vote is a tie. He cited faulty advice from the Borough attorney and questioned the competency of the present law firm. He mentioned the recent limousine Ordinance as an example and said the Borough deserves better even if it costs more. Finally, Mr. Kanter said he had asked Mr. Hoffmann to comment to the Council on the adequacy of the space at Borough Hall and said he would appreciate if this information could be shared with the public.

Jim Chaplin – 27 Sherwood Drive

Mr. Chaplin said he thought the Borough should approach the King of Kings property owner regarding the potential sale of the property to the Borough and that the Borough should apply for grant money and do this in parallel to the other proposed actions.

Marnie Vyff – 10 Vale Drive

Ms. Vyff said she saw two issues, that residents love trees and don't want them to come down, and the need to stay away from a builders remedy lawsuit. She said that affordable housing is a good concept and the Borough should find other solutions for affordable housing opportunities so a builder's remedy is not forced upon us. Ms. Vyff mentioned that the Borough's aquifer has the highest negative recharge and has been labeled by the Environmental Protection Agency as an environmentally sensitive area. She said forest land feeds the aquifers best and that the highlands language speaks to keeping buildings where building are and keeping open space where there is open space.

John Garrison – 78 Intervale Road

Mr. Garrison thanked Mr. Hoffmann for reviewing the history of the property. He said he felt the process thus far has been flawed and has been less than transparent. He said he felt that the charter of the Economic Development Subcommittee should be reexamined. He urged the Council not to overreact to a threat of a builders remedy by acting hastily. He recommended the Council adopt a thorough and thoughtful review and said the stakes were too high not to do so.

Steve Arnold – 4 Craven Road

Mr. Arnold said it was unfortunate that the Borough hadn't been able to come up with the three hundred thousand dollars (\$300,000) necessary to use grant money to purchase the King of Kings property. He said he felt the number of units to be developed should be fourteen (14), not forty (40) and that although the parcel is 7.7 acres not all of it is developable. Mr. Arnold stated that attention should be paid to the Troy Brook and a topographical map showing the Troy Brook and steep slopes should be superimposed over a map of the property.

Ellen Emr – property owner at 19 Sherwood Drive

Ms. Emr thanked Mr. Hoffmann for his research but said some of the background information was missing. She said the Pocono Road property was purchased because it is unbuildable due to wetland concerns and that COAH allows exceptions for property with environmental issues. She stated that in the first attempt to purchase the King of Kings property, the Church approached the Borough. Ms. Emr said that while on Council, she proposed an Economic Development Committee and went to Trenton and took classes. She said her committee would have functioned a lot differently and focused on developing the Midvale Area. She mentioned that her proposal was not accepted by the Council and no committee was formed. Ms. Emr said the Borough needs an Economic Development Committee but she doesn't agree with the current structure.

Stephen Shaw – 4 Point View Place

Mr. Shaw identified himself as a Borough Council member for twelve (12) years and a Mayor for three (3) years. He stated that he had served on the Morris County Open Space Committee as Vice Chair and the COAH Highlands Committee. He said that in 2010, the open space grant award for the King of Kings property was \$1.5 million dollars and in 2012 the grant awarded was in the amount of \$110,000. Mr. Shaw said that the Borough's grants had been extended but in spite of the extension a deal could not be struck with the property owner. He mentioned that the Borough did petition for third round COAH certification in 2005 but the courts struck down the growth share methodology. He said that the Borough had satisfied the first and second round obligations through sending COAH funds to Orange, a solution that is no longer available, and through development at the Fusee property. Mr. Shaw stated that the issue of affordable housing has been a prominent public policy issue for thirty (30) years and he would be happy to share his COAH information and files with the new Manager.

Cliff Miles – 127 Ball Road

Mr. Miles said water was his main concern, particularly as there are water restrictions every summer. He mentioned that the Borough currently has a recharge area and expressed concern that there would be no recharge area if the King of Kings property was developed.

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

The Council discussed the contents of Mr. Hoffmann's memo and how to proceed. Responding to Council questions regarding the Borough's affordable housing obligations Mr. Oostdyk said it was difficult to determine the third round obligations or even how they might be calculated. He confirmed that the Borough did meet the first and second round affordable housing obligations and that the overlay zone was an attempt to meet future obligations. He stated that the only certain way for the Borough to meet future affordable housing obligations would be if there was development.

In reference to Council questions as to whether or not filing a third round plan could stay a builder's remedy lawsuit, Mr. Oostdyk said the Borough did not file a third round plan and therefore has always been subject to a builder's remedy lawsuit. He explained that if the Borough had filed a third round plan and had received third round substantive certification from COAH, the Borough would be in the clear category of those municipalities against which a builders remedy could not be filed. He stated that the Borough still had the option to file a plan, and that if a builder's remedy lawsuit was filed, the courts would take the builder's complaint and the Borough's plan and view them together before issuing a decision.

After much discussion the consensus of the Council was to proceed with Mr. Hoffmann's recommendations, starting with authorizing the Borough Planner to draft an Ordinance for introduction at the May 11th Council meeting. The Council noted that flexibility on the timeline as stated by Mr. Hoffmann might be necessary in order to have appropriate conversations with all parties noted in recommendation #4. The Council consensus was also to simultaneously seek out potential open space grant funding, and to move forward with an update to the affordable housing plan to be submitted by the July deadline.

Councilman Happer asked Mr. Sheola to request the Planner's presence at the next meeting. Deputy Mayor Holmberg was tasked with continuing discussions with the Board of Education regarding the impact of development on the school system. Councilman Lester asked Mr. Sheola to create and manage a master list of all the questions relating to the issues. Deputy Mayor Holmberg thanked the audience for their attendance and thoughtful comments.

22. COUNCIL REPORTS

Personnel Subcommittee – Councilman Happer said the Subcommittee had reviewed submissions for the annual awards. He asked for a moment of silence for Janice Hunts, who recently passed away. Following the moment of silence, Councilman Happer stated that the Subcommittee had solicited nominations and had received two (2) nominations for each award. He mentioned that the Subcommittee had also reviewed submissions received in previous years for the Janice Hunts award. He said both candidates were very qualified and therefore it had not been an easy decision but the Subcommittee was recommending Candidate A receive the Citizen of the Year Award and Candidate B receive the Janice Hunts Award. The Council consensus was to act on the recommendation of the Subcommittee.

Environmental Commission – Councilman Albergo stated that the Commission was working on drafting a letter to the Council regarding the recent Jersey Central Power and Light multi-permit application. In addition, he said the Commission would be responding to the questions received from the Council on the King of Kings property.

Public Works Advisory Committee – Councilman Albergo reported that the Midvale boat docks would be rebuilt by Memorial Day. In addition, he said the Committee discussed paving, curb and catch basin repairs, and updates on PubWorks software. He said there would be a meeting about the beach venue project on May 8th.

Recreation Commission – Councilman Lester mentioned that the Commission was discussing expanded use of the turf fields and modifications to the lights policy. He said the Commission would be refreshing the fee schedule. Councilman Lester reported that the Commission would be drafting a letter to Chief Bennett regarding police patrols at Birchwood and Island Beach and would also be discussing opening the Trout Derby to municipal employees and their families.

Planning Board – Deputy Mayor Holmberg said the Park Lakes Tennis Club had expressed concern about preserving the old trolley path which runs from St. Catherine's Church up to the Club. He said the Club is attempting to identify grants they could pursue as preservation of the path would cost between ten and twelve thousand dollars (\$10,000-\$12,000). Deputy Mayor Holmberg said the Club would be working with the Historic Preservation Committee on this issue.

Mr. Sheola asked if the consensus of the Council was to follow the recommendations outlined in Mr. Hoffmann's memo and he received an affirmative reply.

Mr. Hoffmann thanked the Council and said it had been an honor and a privilege to work on behalf of the residents of Mountain Lakes and the Governing Body. He wished Mr. Sheola, the Governing Body, and the staff much success in 2015 and beyond. Mr. Hoffmann expressed thanks to the Borough Clerk and to Ms. Shaw for their work done on behalf of the residents. He said Ms. Shaw deserved much credit for the research she did on the King of Kings lot and that her efforts helped him to prepare a thorough memo. He said his time in the Borough had helped him to become a better Manager and a better leader.

23. ADJOURNMENT at 10:40 PM

Motion made by Councilman Barrett, second by Deputy Mayor Holmberg, to adjourn the meeting at 10:40 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: APRIL 27, 2015

Michele Reilly, RMC, Borough Clerk

G. Douglas McWilliams, Mayor