

**BOROUGH OF MOUNTAIN LAKES**  
**MOUNTAIN LAKES HIGH SCHOOL, 96 POWERVILLE ROAD, MOUNTAIN LAKES**  
**973-334-3131**

[www.mtnlakes.org](http://www.mtnlakes.org)

**SEPTEMBER 14, 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 September 10, 2015) and posted in the municipal building.

Mayor McWilliams called the meeting to order at 8:00 p.m. in the high school auditorium.

**2. ROLL CALL**

Ms. Reilly called the roll. All Council members were present except for Councilman Borin, who was absent. Also present were Borough Clerk/Acting Manager Michele Reilly, and Borough Attorney Robert Oostdyk.

**3. PLEDGE OF ALLEGIANCE**

Mayor McWilliams led the salute to the flag.

**4. EXECUTIVE SESSION**

**NONE**

**5. COMMUNITY ANNOUNCEMENTS**

Mayor McWilliams reported the Borough had received a safety certificate from the MEL (Municipal Excess Liability Joint Insurance Fund) commending the Borough for being employee accident free in 2014.

Mayor McWilliams reminded residents to check the website for updates about upcoming events, such as shredding day, the blood drive, and trash day.

Councilman Happer introduced Bernie Re, candidate for the position of Chief Financial Officer.

**6. OATH OF OFFICE – POLICE DEPARTMENT**

**Daniel Cacciabeve, Patrolman**

The Oath of Office was administered to Daniel Cacciabeve by Mayor McWilliams. Patrolman Cacciabeve's father Thomas held the Bible. His badge was pinned on by his mother, Lorie.

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

No reports were presented.

**9. 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.

Mike Tucker – 115 Kenilworth Road

Mr. Tucker thanked the Council for putting sidewalks on Kenilworth. He said he had tried to coordinate the removal of his sprinkler system from the Borough's right of way between his sprinkler company and the Department of Public Works and but it hadn't worked out, and that the Borough had damaged his sprinkler system when it was removed. He said he was initially told that the town would take care of repairs but was then told differently by Ms. Reilly.

Jack Gentul – 14 Sherwood Court

Mr. Gentul identified himself as a member of the concerned citizens group and said he felt betrayed and insulted by the Council. He said the Ordinance for the King of Kings property does not reflect any of the concerns expressed by his group. He said the Council did not follow the process it had stated it would follow and that the Borough was supposed to be determining its affordable housing obligation in tandem with the development of an Ordinance. He also objected to the meeting being held on Rosh Hashanah.

Sandy Batty -15 Lockley Court

Ms. Batty said she agreed with Mr. Gentul's comments and the meeting should not have been held on Rosh Hashanah. She said the Ordinance values the input of the developer over the input of the citizens and that the Environmental Commission should have an opportunity to review the Ordinance. She claimed the provisions in this Ordinance will weaken the steep slopes and that the Ordinance was weak compared to Ordinances passed by other municipalities. She requested the Council not introduce the Ordinance.

Ellen Emr – property owner, 19 Sherwood Court

Ms. Emr said she was distressed to see the Ordinance on the agenda and had expected to see a report from the town planner and the Rutgers planner. She claimed that the King of Kings property is the single most environmentally sensitive piece of undeveloped property in the Borough, containing wetlands, steep slopes, and wellhead and aquifer recharge. She said she felt the property should be zoned for complete conservation and it would be easy to defend this property against development. She asked the Council to work in the best interest of the town.

George Jackson – 20 Sherwood Court

Mr. Jackson said he echoed the comments of the other speakers and that the Council hasn't adhered to the process it said it would. He said he felt the Ordinance came out of the clear blue sky and was a bad piece of zoning and shouldn't even be on the agenda. Mr. Jackson asked to know who wrote the Ordinance. He told the Council to think about one hundred years down the road and what would matter more, living conditions or a lawsuit.

Jim Hyson – 23 Ronarm Drive

Mr. Hyson asked who wrote the Ordinance, who participated in writing it, and why they thought this Ordinance was the most appropriate. He asked what the theory was behind cutting back the affordable housing from twenty percent (20%) to fifteen percent (15%). He also asked why the Ordinance allowed for three (3) stories when the majority of the town was at two and a half (2 ½) stories. He said that the town didn't know what the builder's proposal was for the site and that it could contain many requests for variances.

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

## **9. DISCUSSION ITEMS**

### **-JCP&L Montville – Whippany Reinforcement Project**

Mayor McWilliams said this issue was being brought forward for discussion as a matter of public interest. The consensus of the Council was that they did not wish to participate in a resolution or letter in reference to the project due to the fact that the Council typically did not pass resolutions of this type, that the project does not run through the Borough, and that not enough information had been provided to support JCP&L's assertion that the project would increase redundancy and reliability or Montville's assertion that the project was detrimental.

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

Mr. Oostdyk had nothing additional to report.

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

Ms. Reilly reported that Ms. Lane, the Recreation Director, had posted an end of summer season report on the website, as had been suggested by Council at the last meeting.

Ms. Reilly said that the implementation of Iworq was progressing and the data from PubWorks had been forwarded to Iworq for population to the new system. She said she expected to have additional updates at the next meeting.

Ms. Reilly stated that the administration would be implementing Efficient Hire, a human resources component of the payroll system, to allow for the retention of electronic documents and improved communication with employees. She said it would take approximately four to six (4-6) weeks for implementation and that the personnel policy and procedure manual would be the first communication disseminated to employees once the program was functional.

**12. ORDINANCE 08-15**

**ORDINANCE AMENDING VARIOUS CHAPTERS OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND MAKING TECHNICAL CORRECTIONS IN CONNECTION WITH THE WELLHEAD PROTECTION ORDINANCE**

**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 40, "Land Use Administration," Section 40-3, "Definitions," shall be amended by the deletion of the definition of "Prime Aquifer Area."

**Section 2.** Chapter 40, "Land Use Administration," Section 40-3, "Definitions," shall be amended by the inclusion of the following additional definition:

**WELLHEAD PROTECTION AREA (WPA)**

An area described in plain view around a well, from which groundwater flows to the well and groundwater pollution, if it occurs, may pose a significant threat to the quality of water withdrawn from the well.

**Section 3.** Chapter 102, "Environmental Factors; Soil, Water and Trees," Section 102-2, "Purposes," Subsection E shall be amended to read in its entirety as follows:

E. Limit depletion and pollution of the Borough's groundwater resources to protect the health, safety and welfare of the residents of the Borough and surrounding communities.

**Section 4.** Chapter 102, "Environmental Factors; Soil, Water and Trees," Section 102-6, "Requirement; purpose," Subsection C shall be amended to read in its entirety as follows:

C. The Planning Board may require that the applicant provide specialists to testify on important issues. If the proposed development is located in a Wellhead Protection Area, the Planning Board may require assessment by a professional geologist to ensure compliance with all applicable regulations.

**Section 5.** Chapter 102, "Environmental Factors; Soil, Water and Trees," Section 102-7, "Contents of Statement," Subsection C(2) shall be amended so that the term "Prime Aquifer Area" is changed to "Wellhead Protection Area" and Subsection C(2)(f) is amended to read in its entirety as follows:

(f) Wellhead Protection Area. Development activities in this area shall conform to Article VI.

**Section 6.** Chapter 102, "Environmental Factors; Soil, Water and Trees," Section 102-10, "Prime Aquifer Area," shall be deleted and that Section shall be "reserved."

**Section 7.** Chapter 102, "Environmental Factors; Soil, Water and Trees," Section 102-13, "Consideration guidelines," Subsection G shall be amended to read in its entirety as follows:

G. Wellhead Protection Area guidelines.

**Section 8.** Chapter 208, "Subdivision of Land and Site Plan Review," Section 208-6, "Subdivision review," Subsection B(2) shall be amended to read in its entirety as follows:

(2) Prior to issuance of preliminary subdivision approval, the Planning Board shall review the plans and reports and ascertain compliance with the provisions of the land use chapters including, but not limited to, environmental impact statement, soil erosion and sedimentation control plan, surface water management plan and Wellhead Protection Area

**Section 9.** Chapter 208, "Subdivision of Land and Site Plan Review," Section 208-7, "Subdivision submission requirements," Subsection D(4) shall be amended to substitute the term "Groundwater management in the Prime Aquifer Area" with "Wellhead Protection Area regulations."

**Section 10.** Chapter 208, "Subdivision of Land and Site Plan Review," Section 208-7, "Subdivision submission requirements," Subsection D(5)(d) shall be amended to read in its entirety as follows:

(d) Wellhead Protection Area compliance.

**Section 11.** Chapter 208, "Subdivision of Land and Site Plan Review," Section 208-17, "Site plan submission and design requirements," Subsection A(29) shall be amended to read in its entirety as follows:

(29) Wellhead Protection Area compliance.

**Section 12.** Chapter 245, "Zoning," Section 245-15, "Supplementary use regulations," Subsection E(5) shall be amended to read in its entirety as follows:

- (5) All lifts, greasing racks and other similar equipment shall be within the building. The underground storage of petroleum products shall meet the most stringent federal and state codes, as applicable, to protect the Borough's groundwater resources. Gas, fuel and other oil tanks which have been in disuse for more than one year shall be reinspected and certified prior to reuse.

**Section 13.** Chapter 245, "Zoning," Section 245-15, "Supplementary use regulations," Subsection J(6) shall be amended to read in its entirety as follows:

- (6) Petroleum storage. Any storage of petroleum products shall meet all applicable federal, state and local state codes.

**Section 14.** Chapter 245, "Zoning," Schedule IV, "Prime Aquifer Area," shall be deleted.

**Section 15.** 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 16.** All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 17.** 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 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.

Ms. Reilly mentioned that the Planning Board reviewed this Ordinance and found it is consistent with the Master Plan. She said the Board also recommended some minor changes which were endorsed by the Borough Engineer and reviewed by the Borough Attorney. Mr. Oostdyk said he felt the changes were typographical and codification errors and that an amendment to the Ordinance could be made and reintroduction was not necessary.

Councilman Lester made the motion to adopt as amended, second by Councilman Albergo.

**VOTE AS INTRODUCED JULY 27, 2015**

**VOTE AS ADOPTED WITH AMENDMENTS SEPTEMBER 14, 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						X			
Lester			X				X		X			
Holmberg			X						X			
McWilliams			X						X			

**13. ORDINANCE 10-15**

**ORDINANCE AMENDING CHAPTER 173 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES AND PERMITTING PARKING IN PARKS AND RECREATION FACILITIES ONLY DURING TIMES WHEN THE FACILITIES ARE OPEN**

**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 following amendment to subsection A. which shall read in its entirety as follows:

- A. Hours of operation. Borough owned lakes, beaches, and parks shall open at sunrise and shall close at sunset except for lighted tennis courts which shall close at 11:00 p.m. Parking shall be permitted only during hours when the park or facility is open. It shall be a violation of this Chapter to park a motor vehicle in a municipal park or recreation facility during a time when the park or facility is closed.

**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 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.

Frank Kelleher, 12 Robinhood Drive  
 Mr. Kelleher had questions about how the Ordinance would affect his ability to access Birchwood Beach.

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

Prior to the adoption of the Ordinance, Councilman Lester argued that the Ordinance should be tied to the specific times of midnight to 5:00 a.m., which would negate the need for prior parking arrangements to be made with the Police Department. Mr. Oostdyk said that this change would be substantive and that if Council voted to amend as suggested by Councilman Lester, the Ordinance would need to be reintroduced at the next meeting.

Councilman Lester made a motion to reintroduce as amended, second by Deputy Mayor Holmberg.

**VOTE TO REINTRODUCE AS AMENDED SEPTEMBER 14, 2015**

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			

**14. ORDINANCE 12-15**

**ORDINANCE AMENDING CHAPTER 245 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF MOUNTAIN LAKES BY CREATING A NEW RESIDENTIAL-AFFORDABLE HOUSING 2 (R-AH2) ZONE**

**WHEREAS**, the Borough Council of the Borough of Mountain Lakes desires to create a realistic opportunity for the creation of affordable housing within the Borough; and

**WHEREAS**, the Borough Council has determined that there is very little vacant and developable land in the Borough suitable for affordable housing; and

**WHEREAS**, the Borough Council has determined that certain lands within the RC-1 Residential – Single Family Clustering Option Zone commonly referred to as Block 116, portion of Lot 3.01 are suited for inclusionary development; and

**WHEREAS**, said lands about the RC-3 Residential Zone, where townhouses are permitted as a conditional use; and

**WHEREAS**, the Borough Council has determined that said lands are partially encumbered with slopes in excess of 15% and that limited disturbance of such slopes is necessary to foster development that provides an affordable housing set aside.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Mountain Lakes in the County of Morris and the State of New Jersey that under Chapter 245, Zoning, of the General Code the Zoning Map be changed for Block 116, portion of Lot 3.01, as depicted on the attached Exhibit A, from RC-1 Residential Zone – Single Family Residential Clustering to R-AH2 Residential Zone – Affordable Housing 2 and that the following section be added:

**§ 245-9.1. Residential — Affordable Housing 2 (R-AH2) Zone.**

**Section 1.** The purpose of the R-AH2 Zone is to provide a realistic opportunity for the construction of affordable housing as part of a comprehensively planned housing development, in conformance with the regulations of this chapter governing affordable housing. In the R-AH2 Zone, the following uses shall be permitted:

- A. Permitted principal uses. Townhouses and multi-family dwellings in accordance with the provisions below and the development standards enumerated in Subsection C:
  - (1) All of the market rate dwellings shall be townhouse units.
  - (2) Affordable dwellings may be either townhouse or multi-family units.
  - (3) Fifteen (15) percent of all dwelling units shall be set aside as affordable housing.
  - (4) Dwellings constructed for low- and moderate-income households shall be governed by deed restrictions ensuring long-term affordability controls in accordance with Article VI of this chapter.
  - (5) The development, unit distribution and marketing of all housing constructed for low- and moderate-income households shall be undertaken consistent with the rules and regulations of the New Jersey Council on Affordable Housing and the provisions of Article VI of this chapter, except that the construction of affordable housing shall be required to be undertaken upon completion and issuance of certificates of occupancy for fifty percent (50%) of the market rate units within the development.
- B. Permitted accessory uses. Same as in § 245-7B, except that all accessory structures shall be designed to serve or be developed in relation to the entire development and shall be subject to site plan approval.

C. Development standards.

<b>Type</b>	<b>Requirement</b>
Minimum tract size	7 acres
Minimum frontage on a public or private street or other right-of-way providing access to the tract	50 feet
Minimum setbacks (principal buildings) <sup>1</sup>	
From RC-3 zone boundary	50 feet
From any other tract boundary	25 feet
From internal access road	25 feet with sidewalks 22 feet without sidewalks
Minimum setbacks (accessory buildings)	Same as for principal buildings
Maximum height	3 stories/35 feet
Maximum density	5.5 dwelling units per gross acre; however in no event shall the total number of dwellings exceed 40.
Parking requirements	See N.J.A.C. 5:21-1.1 et seq. (Statewide Residential Site Improvement Standards) for total number of spaces to be provided. A minimum of one space per unit shall be provided in an enclosed garage for market rate units.
On-site rights-of-way (ROW) and pavement widths	See N.J.A.C. 5:21-1.1 et seq.
Maximum improved coverage	45%

<sup>1</sup> Dwelling unit patios, decks, elevated decks, appurtenances such as railings or stairs, privacy fencing, HVAC units and pedestrian entrance structures such as stairs, pads, roof overhangs, walkways, and railings shall be permitted to extend no more than 10 feet into any required minimum setback. No such area shall be enclosed except for overhead decks, pedestrian entrance roof overhangs and safety railings. Extensions into required minimum setbacks shall be effectively buffered by landscaping.

- D. Permitted slope disturbance. For the purpose of ensuring that there is sufficient area to reasonably accommodate the construction of townhouses/multi-family units while at the same time limit the level of disturbance within areas with slopes in excess of 15%, a proposed "building area" shall be depicted on the plans as part of the required submission. The proposed "building area" shall be inclusive of any proposed building as well as the area extending twenty (20) feet from the front of said building and ten (10) feet from the side and rear of said building.<sup>2</sup>

The maximum allowable disturbance within the "building area" shall be as follows (i.e., as a percentage of land area within the respective slope category)

<u>Slope Category</u>	<u>Maximum Allowable Disturbance</u>
0 - 14.99%	100%
15% - 24.99%	30%
25% - 34.99%	10%
35% or greater	5%

<sup>2</sup> § 245-20C. shall not apply to development in the R-AH2 Zone

- E. Homeowners' association. If a homeowners' association is formed, it shall be approved in the manner stipulated in § **245-16H(7)**.
- F. Affordable Housing 2 Zone shall be exempt from measuring to existing (original) grades as defined in Chapter **40**, § **40-3** under definitions for "Building height (residential zones)," "grade plane," and "story above grade." Measurements shall be from the first floor elevation at the front door entrance of each market rate or affordable townhouse unit to the mid-point of a sloped roof. If the affordable dwellings are multi-family units and not townhouses, then the measurement shall be from the average first floor elevation at the front of the building to the mid-point of a sloped roof.
- G. Affordable Housing 2 Zone shall be exempt from the "three-foot maximum change in average grade as measured along any wall of a building" requirement, as defined in Chapter **245** under Footnote 17 of Schedule I.
- H. Multiple principal buildings are permitted, except that no more than six units shall be permitted within any building. Buildings shall be separated from other buildings by a minimum of 50 feet, except that side to side orientations of buildings shall be separated a minimum of 25 feet and side to rear orientations of buildings shall be separated by a minimum of 40 feet.
- I. § **245-15.N** shall not apply to development in the R-AH2 Zone.
- J. § **245-15.P(2)** shall not apply to development in the R-AH2 Zone.

**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.

Prior to the introduction of the Ordinance, Mr. Oostdyk explained that Mr. Phillips, the Planner had authored the draft Ordinance based on Council direction, and that yes, the developer had participated in the process. He stated that Mr. Phillips had followed the parameters he was given and therefore recommended the draft Ordinance to the Borough Council. Mr. Oostdyk said that he, the Council, and Mr. Phillips were all concerned about a builder's remedy lawsuit as the Borough had exposure and vulnerability. He told the audience that the threat of a builder's remedy lawsuit was serious and not something to be taken lightly. Mr. Oostdyk explained that the introduction of the Ordinance is the first step in the process and that the Ordinance would be referred to the Planning Board for review. He said the Planning Board would also be reviewing amendments to the fair share plan of the Borough's Master Plan. Mr. Oostdyk reported that the Borough does not know its affordable housing obligation numbers yet but it is evident that this property will need to be included in any affordable housing plan. He stated that the public hearing on the Ordinance was scheduled for October 26<sup>th</sup> in order to give the Planning Board two (2) meetings to work on both documents and to give the public ample time to comments. He mentioned that Mr. Phillips would be at the Planning Board meeting and at the Borough Council meeting on October 26<sup>th</sup>.

Councilman Barrett echoed Mr. Oostdyk's comments that any realistic affordable housing plan presented by the Borough will include this parcel of land. He said the Council was trying hard to balance all factors of all the citizens of the Borough and that inaction was not the best course to follow. He stated that the Borough's professionals were advising the Council that introducing this Ordinance was the best direction and in the Borough's best interests and he felt the Council should listen to the recommendations of its professionals and let the Planning Board get involved. Mayor McWilliams agreed and said the professionals have given the Council clear direction.

Councilman Lester said he agreed with concerns that there is no affordable housing number and asked Mr. Oostdyk and Ms. Reilly to facilitate a meeting between the Planner and the citizens group. He also asked that Mr. Phillips provide a rough building envelope.

**VOTE AS INTRODUCED SEPTEMBER 14, 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						
Happer			X									
Lester			X									
Holmberg			X									
McWilliams			X									

**15. \*RESOLUTIONS**

- R149-15 Resolution Establishing Procedures to Monitor and Ensure Compliance With Federal Tax Law Requirements With Respect to Tax Exempt Debt of the Borough
- R154-15 Resolution Authorizing the Renewal of Liquor Licenses – Gilchrist Corp Inc
- R155-15 Resolution Authorizing the Renewal of Liquor Licenses – Olympiakos Restaurant Enterprises LLC
- R156-15 Resolution Authorizing the Appointment of Chief Financial Officer
- R157-15 Resolution Authorizing Membership in the New Jersey State Firemen’s Association – Tomaszek
- R158-15 Resolution Authorizing the Transfer of Title to an Abandoned Motor Vehicle to MJ Corigliano Towing, Inc. in Satisfaction of Vehicle Storage Charges
- R159-15 Resolution Authorizing Participation in the Morris County First Responder Identification Card Program
- R160-15 Resolution Appointing Qualified Purchasing Agent - Sheola
- R161-15 Resolution Authorizing the Payment of Bills

**16. \*MINUTES**

- August 24, 2015 (Executive)
- August 24, 2015 (Regular)

**17. \*DEPARTMENT REPORTS**

**NONE**

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

**NONE**

Prior to the Consent Agenda vote Ms. Reilly reported that Purchase Order #13429, Kansas State Bank, and Purchase Order #14417, McNerney & Associates, were being pulled from the bills list and Consent Agenda. Councilman Lester requested that Resolution 156-15, Resolution Authorizing the Appointment of Chief Financial Officer and Resolution 159-15, Resolution Authorizing Participation in the Morris County First Responder Identification Card Program, be discussed separately from the Consent Agenda.

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

**Resolution 156-15**  
**Resolution Authorizing the Appointment of Chief Financial Officer**

Councilman Lester objected to not receiving a CV, resume, or list of credentials for the Chief Financial Officer (CFO) candidate and said the Personnel Subcommittee had not discussed the appointment with Council. He said he was concerned with the process. Councilman Happer said this issue had been discussed at a prior meeting. He explained that the individual was hired by the Manager, he was a long time CFO, and that the appointment had been vetted through the Personnel Subcommittee. Councilman Happer said the new CFO was committed to a twenty (20) hour work week.

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

**Resolution 159-15**  
**Resolution Authorizing Participation in the Morris County First Responder Identification Card Program**

Councilman Lester asked about the genesis of this resolution and Ms. Reilly said the Deputy Office of Emergency Management Coordinator, Mr. Prusina had asked for an identification card. She said Chief Bennett had contacted the County Office of Emergency Management and was told that a Resolution passed by the Borough Council was necessary prior to the County issuing Attorney General approved identification cards. Councilman Lester asked about the eligibility for the cards and was able to confirm from Chief DeSantis, who was in the audience, that the Fire Department would be able to receive the cards. Ms. Reilly said there was no cost to the Borough for the cards.

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			

**19. COUNCIL REPORTS**

**Lakes Management Advisory Committee** – Deputy Mayor Holmberg reported that the lake quality is outstanding but that beavers are getting to be serious problems and have spread from Birchwood Lake.

**Public Works Advisory Committee** – Councilman Albergo said the dialog about upgrading the beach facilities is continuing and that Recreation is involved in the conversations. He mentioned that the initial architectural drawings have been received.

**20. 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.

Jim Moody – 17 Robinhood Drive

Mr. Moody objected to moving the Ordinance forward without the affordable housing numbers. He said the Council should stand behind its Master Plan and represent the constituents.

Linda Hyson – 23 Ronarm Drive

Ms. Hyson said the Council is proposing what the developer wants and not what the residents want. She said that the developer's Legacy project is building on top of building and it's very sad that that project is the first thing people see when entering Mountain Lakes.

Ellen Emr – property owner, 19 Sherwood Drive

Ms. Emr had questions about the Planning Board process. She said she was upset and distressed over the process so far and that the planner should have been in attendance this evening. She asked about the water presentation and the affordable housing numbers.

Suzanne Samson – 142 Morris Avenue

Ms. Samson questioned the motives of the Council and said it sounds like the issue is about affordable housing but it's really not and the Council just wants the income.

George Jackson – 20 Sherwood Drive

Mr. Jackson expressed that he was in a state of shock that the Ordinance had been introduced and accused the Council of dealing behind the scenes. He said he felt the process was not honest and open and that this Ordinance wasn't even a good starting point.

Jim Hyson – 23 Ronarm Drive

Mr. Hyson said it was a big mistake not to have the planner in attendance at the meeting. He wanted to know what input the Council was expecting to hear from the Planning Board.

Sandy Batty – 15 Lockley Court

Ms. Batty said she appreciated hearing opinions directly from the Council members and not just the Borough professionals. She expressed her opinion that she has seen a shift in the way the Council functions and that it's not for the better. She pointed out that Mr. Phillips, the planner who wrote the Ordinance, is also writing the amendment to the housing element. She also mentioned that the Borough's commitment to a twenty percent (20%) set aside for affordable housing predates the growth share methodology.

Mimi Kaplan – 89 Lake Drive

Ms. Kaplan asked the Council to explain what residents can expect at the Planning Board meetings.

Matt DeSantis – 12 Center Drive

Mr. DeSantis asked about the estimated cost of legal fees to defend against a builder's remedy lawsuit and expressed concern that spending taxpayer money to defend a lawsuit over a piece of private property could set a bad precedent. He said he wanted the Borough Attorney to offer an opinion as to the odds of winning a builder's remedy lawsuit. He asked the Council to not waste taxpayer money and fight just for the sake of fighting.

Bill Theel – 8 Center Drive

Mr. Theel asked for an explanation of the worst consequences of the lawsuit.

James Bailey – 111 Kenilworth Road

Mr. Bailey voiced complaints about the lack of enforcement presence at Birchwood Lake on Labor Day weekend. He said he witnessed many unsafe and dangerous acts and believes many of the individuals present were non-residents. He requested the Council consider surveillance cameras or someone to check identification.

Jeff Leman – 32 Sherwood Drive

Mr. Leman requested clarification as to what the Planning Board is going to do and what the Council expects them to do.

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

In response to resident questions, Mr. Oostdyk commented that the Borough is still anticipating receiving an affordable housing number from the affordable housing expert but the process has taken longer than expected. He said the Planning Board will be reviewing the Master Plan amendment and will also review the zoning Ordinance for consistency with the Master Plan. Mr. Oostdyk mentioned that the developer has little to no participation in the Planning Board process surrounding the Ordinance and affordable housing amendment review. He said the Ordinance review is separate and different from the review of any plan presented by the developer.

Mr. Oostdyk explained that if a builder's remedy lawsuit is filed, the options for zoning are taken out of the hands of the Borough and there is no public input in the process. He said the decisions rest solely in the hands of the judiciary and those appointed by the judiciary and the Borough loses any options for controlling the process. He mentioned that a builder's remedy lawsuit is costly and also that a builder's remedy is not strictly limited to the King of Kings property but could be filed against any parcel of land.

Councilman Lester asked Mr. Oostdyk for a sense of what has been happening in the market. Mr. Oostdyk replied that the court has stated that municipalities have affordable housing obligations and that this has led to a sense of empowerment within the development community. Councilman Barrett said he agreed with Mr. Oostdyk's assessment and mentioned he has heard of law firms holding seminars for developers and coaching them on how to target towns where there is not a lot of opportunity for affordable housing. Councilman Lester asked if it was fair to say that Mr. Phillips took these factors into account and was attempting to draft an Ordinance that was most defensible should a builder's remedy lawsuit be filed. Mr. Oostdyk said that he believed it was a fair summary. Councilman Barrett stated that Mr. Phillips had told him that any reasonable plan for affordable housing would include this site, and that Mr. Phillips mentioned that he felt his charge was to develop a defensible Ordinance while at the same time considering the challenges of the site.

**21. ADJOURNMENT at 9:51 PM**

Motion made by Councilman Happer, second by Councilman Lester, to adjourn the meeting at 9:51 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: AUGUST 24, 2015**

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Michele Reilly, RMC, Borough Clerk

G. Douglas McWilliams, Mayor