

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
January 16, 2014

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 7:00 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Deputy Mayor Sugden, Committeemembers Trzaska, Graham and Madrid  
Mayor Smith was absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Deputy Mayor Sugden stated the following: "Under the provisions of the Open Public Meetings Act, notice of the time and place of this meeting has been posted and sent to the officially designated newspapers."

3. Deputy Mayor Sugden led the Salute to the Flag.

4. **PUBLIC COMMENT**

Deputy Mayor Sugden opened the public comment portion of the meeting. There being no public comment, Deputy Mayor Sugden closed this portion of the meeting.

5. **POLICE REPORT**

- 5-1. Administrator Nieman reported that there had been a fatal motor vehicle accident this morning on Route 206 near Sunset Road. He complimented the Montgomery Township Police Department, the New Jersey Department of Transportation and the New Jersey State Police for working hand in hand with each other and for getting the road reopened expeditiously.

- 5-2. Police Deputy Director Curry reported on the following activities of the Police Department for the month of October, 2013:

- 53 motor vehicle accidents;
- 20 arrests;
- 3 burglaries;
- 6 thefts;
- 1 motor vehicle theft;
- 9 domestic violence;
- 3 criminal mischief.

Police Deputy Director Curry reported on the following activities of the Police Department for the month of November, 2013:

- 80 motor vehicle accidents;
- 12 arrests;
- 5 burglaries;
- 10 thefts;
- 1 domestic violence;
- 5 criminal mischief.

Police Deputy Director Curry reported on the following activities of the Police Department for the month of December, 2013:

- 62 motor vehicle accidents;
- 29 arrests;
- 5 burglaries;
- 7 thefts;
- 5 domestic violence;
- 6 criminal mischief.

6. **BACKGROUND CHECKS FOR PART-TIME/SEASONAL EMPLOYEES**

Administrator Nieman explained that Recreation Director Karen Zimmerman has been working with attorneys at Mason, Griffin and Pierson and with Police Captain James Curry to develop a policy for background checks on part-time seasonal Recreation Department employees.

Ms. Zimmerman explained that these part-time seasonal people may only work in the summer for one week. The majority are teachers. She found that other towns exempt teachers from background checks because they have already gone through a background check that entails finger-printing. For part-time seasonal employees, she recommends conducting a "name check" through the New Jersey State Police. The Township submits the name, Social Security number, and other items to be checked. It is all done through the mail and the cost is \$18.00. She stated that she had been told by the State Police that this is an extremely thorough check. She explained that background checks with fingerprints are done through appointment only and the results might not be returned in time for college students coming home in May to begin working in the camps in June. Also, background checks cannot be done on minors. She recommended that teachers be exempt.

(Item #6 Cont.)

Committeewoman Graham stated that the reason checks are done is to protect the children from people who have some kind of criminal background. In her mind she felt that the Township should be doing fingerprint checks of all adults, but she would exempt teachers or anyone else who has had a fingerprint check in the last 10 years. She suggested this because of the safety of the children and liability issue. Attorney Hadinger explained that conducting background checks through the State Police, using names is reasonable, and, under present state of the law, the Township would not be exposed to liability. Captain Curry explained that the only difference between the name check and the fingerprint check is that the fingerprinting is a positive form of identification. As far as a background check goes, whether there is fingerprinting or no fingerprinting, it is all going to determine the same information. A fingerprint check is not going to be any more thorough.

Committeewoman Graham stated that it was her opinion that the Township should go the route of the school districts when doing background checks. Attorney Hadinger explained that those checks go through the FBI and are more expensive. She did not know if that service would be available to the Township. Deputy Mayor Sugden stated that from his experience this kind of background check is a lot more expensive. He stated that it was not a legal liability if the applicant will sign off on a full background check but it will take at least two weeks and the cheapest that can be done will cost \$1,000.00.

Deputy Mayor Sugden inquired as to who is going to get the final report to make the determination if something is serious enough not to hire. Ms. Zimmerman stated that the results go to the person, and they are responsible for bringing those results to the Township before they can start working. She explained that the Township had done something like this for volunteer coaches and there had been a panel of the Police Director, the Township Administrator and herself set up to make these determinations. Originally, the results went to the Police Director and then, if there was a questionable offense, the panel would meet to discuss and make the determination.

- 6-1. **Motion #14-1-1** - Committeeman Trzaska motioned to accept the Recreation Director's recommendation to conduct a background name check for part-time seasonal employees, with the exception of current teachers and minors. The motion was seconded by Committeewoman Madrid and carried on the following:

**ROLL CALL** - Ayes - Madrid, Trzaska, Sugden  
Nays - Graham  
Absent - Smith

7. **CONSENT AGENDA** - All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any Township Committeeperson may request that an item be removed for separate consideration.

A. **RESOLUTION #14-1-29 - APPROVAL OF CONSERVATION AND PEDESTRIAN EASEMENT - DeRochi**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Conservation and Pedestrian Easement with Steven and Loretta DeRochi with respect to Block 27001 Lots 8.01, 9 and 10.

B. **RESOLUTION #14-1-30 - APPROVAL OF STORMWATER DETENTION FACILITIES MAINTENANCE AGREEMENT AND ACCESS EASEMENT - DeRochi**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Stormwater Detention Facilities Maintenance Agreement and Access Easement with Steven and Loretta DeRochi with respect to Block 27001 Lots 8.01, 9 and 10.

C. **RESOLUTION #14-1-31 - APPROVAL OF TRANSCO REIMBURSEMENT AGREEMENT**

BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Transco Reimbursement Agreement is hereby approved and that the Township Clerk and the Township Administrator are hereby authorized to sign said agreement.

D. **RESOLUTION #14-1-32 - AUTHORIZATION TO BID FOR SOLID WASTE DISPOSAL**

BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby authorizes the Superintendent of Public Works to solicit and receive bids in accordance with the Local Public Contracts Law for Solid Waste Disposal.

E. **RESOLUTION #14-1-33 - DECLARING CERTAIN PERSONAL PROPERTY AS SALVAGE FOR DISPOSAL**

WHEREAS, The Montgomery Township Public Works Department desires to declare certain property as salvage for disposal; and

WHEREAS, The Township desires to dispose of said items.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee does hereby dispose of a 1968 sign machine.

(CONSENT AGENDA Cont.)

F. **RESOLUTION #14-1-34 - PROFESSIONAL SERVICES RESOLUTION**

WHEREAS, There exists a need to acquire the following professional services for 2013 without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law":

- (1) Tax Map Official; and
- (2) Consulting Engineering Services.

WHEREAS, The Montgomery Township Purchasing Agent has determined and certified in writing that the value of the services over the course of the contracts is anticipated to exceed \$17,500.00; and

WHEREAS, The New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of professional services contracts without competitive bidding; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for the aforesaid services in accordance with the amounts set forth in the 2014 Temporary Budget, with performance of said services after March 31, 2014 being subject to the Township's amendment of the 2013 Temporary Budget, and/or adoption of the final 2014 Budget.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery as follows:

- (1) The Mayor and Clerk are hereby authorized and directed to execute proper agreements with Charles Saladin as Tax Map Official; and Malick & Scherer, PC as Consulting Engineer.
- (2) These contracts are awarded for a period of one year, for the amounts set forth in each contract, and without competitive bidding as "Professional Services" under the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(a) as contracts for services to be performed by persons authorized by law to practice recognized professions that are regulated by law and because the services to be performed are not susceptible of quantifying in bid specifications.
- (3) These contractors have completed and filed with Montgomery Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying they have not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township.
- (4) A copy of this Resolution, the Certifications of Contract Value, the Campaign Contributions Affidavit, and the executed Agreements shall be placed on file in the office of the Township Clerk.
- (5) A notice of this action shall be published once in the official newspaper as required by law.
- (6) Performance of services under the terms of these contracts, and payment for the services, after March 31, 2014 is subject to the amendment of the 2014 Temporary Budget and/or adoption of the final 2014 Budget, and certification of availability of funds by the Chief Financial Officer

G. **TOWNSHIP COMMITTEE APPOINTMENTS - Zoning Board of Adjustment**

BE IT RESOLVED That Dave Cheskis is hereby appointed Zoning Board of Adjustment Regular Member, replacing Jerry Walker, 4 year term expiring December 31, 2017.

BE IT FURTHER RESOLVED That Alison Covello is hereby appointed Zoning Board of Adjustment Alternate I, replacing Dave Cheskis, 2 year term expiring December 31, 2015.

7-1. Committeeman Trzaska moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

**ROLL CALL** - Ayes - Madrid, Graham, Trzaska, Sugden  
Nays - None  
Absent - Smith

8. ORDINANCE #14-1457 - Speed Limit-Salisbury Road - Introduction

A. Deputy Mayor Sugden read the title of the ordinance as follows:

AN ORDINANCE AMENDING SCHEDULE XVII OF CHAPTER VII OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ESTABLISH A SPEED LIMIT ON SALISBURY ROAD.

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing February 6, 2014 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

8-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

ROLL CALL - Ayes - Madrid, Graham, Trzaska, Sugden  
Nays - None  
Absent - Smith

9. ORDINANCE #14-1456 - Vehicle Lease - Public Hearing

A. Deputy Mayor Sugden read the title of the ordinance as follows:

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY AUTHORIZING THE TOWNSHIP TO ENTER INTO A LEASE AGREEMENT FOR A TOWNSHIP MOTOR VEHICLE WITH MONTGOMERY EMERGENCY MEDICAL SERVICES, INC.

B. Deputy Mayor Sugden opened the hearing to the public. There being no comment, Committeeman Trzaska moved that the public hearing be closed. The motion was seconded by Committeewoman Madrid and carried unanimously.

C. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 16<sup>th</sup> day of January, 2014 and that notice thereof be published in an official newspaper as required by law.

9-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Madrid, Graham, Trzaska, Sugden  
Nays - None  
Absent - Smith

10. APPROVAL OF MINUTES - January 6, 2014 Reorganization Meeting

The minutes of January 6, 2014 were approved as printed.

11. AUTOMATED BROADCAST STATION

Administrator Nieman explained that the first year cost for the Cable TV broadcasting of meetings would be \$14,836.00. He reported that Swagit is the apparent low quote. He indicated that it would take anywhere from 2 to 5 hours of staff time to operate and maintain the scrolling bulletin board. He asked for Township Committee authorization to move forward with the purchase. He reported that Chief Financial Officer Sheppard has identified an existing Capital Ordinance from which funds can be encumbered to make this purchase. Committee concurred with Administrator Nieman's request.

12. RESOLUTION TO CLOSE MEETING TO THE PUBLIC

BE IT RESOLVED by the Township Committee of the Township of Montgomery in Somerset County, New Jersey as follows:

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session are as follows:
  - Pending Country Club Meadows litigation and COAH proceedings matters, together with advice of counsel regarding these matters.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

12-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

13. The meeting reconvened in Open Session and ADJOURNMENT was at 8:05 p.m. on a motion by Committeeman Trzaska. The motion was seconded by Committeewoman Graham and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk