

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
January 17, 2013

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: Mayor Trzaska, Deputy Mayor Graham,  
Committeemembers Smith, Madrid and Sugden

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Trzaska 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. Committeeman Smith and the Boy Scouts led the Salute to the Flag.

4. **EAGLE SCOUT PROCLAMATION** - Jesse Andrew Smith

WHEREAS, The prestigious rank of Eagle Scout with the Boy Scouts of America has been earned by Jesse Andrew Smith; and

WHEREAS, The standards established for this honor are high and very difficult to achieve; and

WHEREAS, Those who have worked diligently to achieve this rank have exhibited excellence in leadership and a deep commitment to their community.

NOW, THEREFORE, BE IT RESOLVED That with great pride, the Montgomery Township Committee congratulates Jesse Andrew Smith on this remarkable achievement and extends its sincere wishes for continued success.

- 4-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Graham and carried unanimously.
- 4-2. Jesse Smith explained his project involved running a very large food drive. It was a one-day collection at Stop 'N Shop, the day before Superstorm Sandy. It was also run at the Upper Middle School and Orchard Hill Elementary School. His goal for this project was only 500 food items but collected over 2,500. This food went to the Crisis Ministry in Princeton and Trenton. He later learned that the majority of the food items went to the victims of Superstorm Sandy.
- 4-3. Committeeman Smith congratulated Mr. Smith on becoming one of the "Elite Group" in Boy Scouting. He stated that Mr. Smith should be proud of his achievement, and congratulated him and his parents on their tenacity.

5. **RESOLUTION** - "Chanukah for Record" - Menorah Lighting

WHEREAS, The Jewish Center of Princeton sponsored a community celebration at the Princeton Airport in Montgomery Township; and

WHEREAS, People from Montgomery and the surrounding areas gathered in the airport hangar to set a new Guinness record for the most menorahs lit at the same time and place; and

WHEREAS, After the giant menorah in front of the hangar was lit, hundreds of rabbis, school children, parents and neighbors, simultaneously lit smaller menorahs on 90 tables spread throughout the hangar; and

WHEREAS, On that fourth night of Chanukah, the Jewish Center of Princeton broke the previous record of 782 menorahs simultaneously lit, setting a new world record by lighting 834 menorahs; and

WHEREAS, This event was attended by members of area synagogues and various organizations who came together as one to celebrate Chanukah and bring joy and goodwill to everyone.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee congratulates all those involved in this massive undertaking to break the Guinness World Record and extends best wishes for future events as memorable as this one.

- 5-1. Deputy Mayor Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried unanimously.
- 5-2. Rabbi Feldman, Princeton Jewish Center, spoke about the synagogue and praised all of the families who belong. He explained that they came up with this terrific "Family Chanukah Celebration" that didn't just draw participants from the Princeton Jewish Center but drew people from the entire Princeton, Montgomery, Hillsborough community. He stated that there was an airplane which flew people in from Long Island, New York. He explained that 835 Menorahs were lit, there were 15 community judges, there were table captains, and floor monitors. One menorah was disqualified. They started planning this event in July, 2012 and the hardest part was finding a facility that could handle something this large. He thanked the Nierenberg family for offering their facility and for all that they did to make sure this was a successful event. He praised Fire Marshall Roy Mondl and the Montgomery Fire Companies for their assistance in this event. He thanked the Cheskis family of Montgomery for all of their hard work in planning and executing this event.

6. **PUBLIC COMMENT**

- 6-1. Jeff Szczepanski, Troop Leader of Boy Scout Troop #850, thanked the Township Committee's ongoing kindness towards the Troop. He stated that this was the second time having come to a Township Committee meeting, the first time was over the summer when his scouts were lauded by the Committee for their act of bravery in helping catch a thief in Florida.

7. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of December, 2012:

- 76 motor vehicle accidents;
- 12 arrests;
- 2 burglaries;
- 10 thefts;
- 3 domestic violence;
- 2 criminal mischief.

8. **ELECTRICAL AGGREGATION DISCUSSION - Gabel Associates**

Steven Gabel, President of Gabel Associates, explained that New Jersey has let customers shop for their electric power supply using the local utility as a delivery company. Historically, that has been a very large benefit for large commercial customers, large industrial customers and larger government entities, but residential customers have not had much of an opportunity to benefit from that. There is some activity in the marketplace now. Government Energy Aggregation which would allow the Township to procure power supplies through a very competitive process by going out to get the best pricing and the most protective contract terms possible for their residential customers. He spoke about the program he was involved with in Plumstead Township. He stated that one of the key factors to success is maintaining customer freedom and customer choice. Their goal is in helping municipalities implement the program. There is a large component in this called Opt-Out. Opt-Out means that customers can leave the program whenever they want and for any reason. There are residents who have involved themselves in programs like this on their own, so they are not included. If those residents who have gotten their energy elsewhere find that the Government Energy Aggregation would save them more money, they can opt into the Government Energy Aggregation program. He explained that a key factor, which they would work very closely with the Township on, is what they call a "no surprises approach". When they roll this out, they want everyone in the municipality to fully aware of it. Part of that would be designing an outreach program, which would include mailings, internet postings, leaflets, and other forms of communication to make sure there are no surprises. They would recommend that there be a public meeting to get input from the residents and they would work with the Township to make all of this happen.

Attorney Hadinger stated that there is a resolution on the agenda authorizing the application and explained that there is a multi-step process to get the program going. There are a number of regulatory processes involved.

Mr. Gabel spoke about the timeline for this program. There are a number of pieces of the timeline which they have no control over, they are part of New Jersey law, involving notice periods to Department of Community Affairs, the Board of Public Utilities and the Division of Rate Council. They also have to work with PSE&G, because this program ends up on their electric bill. There also would be all the outreach, the public meeting, a Township ordinance as well as notice requirements. There would be a 60 day notice required once a company is chosen, so that residents could opt out if they so chose. He explained that it would be approximately 5 to 6½ months until this happens.

9. **RESOLUTION #13-1-25 - AUTHORIZING AN E-PROCUREMENT WAIVER REQUEST APPLICATION WITH THE DIVISION OF LOCAL GOVERNMENT SERVICES FOR ELECTRICAL ENERGY AGGREGATION**

WHEREAS, The Township of Montgomery desires to participate in the E-Procurement Pilot Program, waiver requests and online auctions for electrical energy aggregation; and

WHEREAS, The State of New Jersey has established the E-Government for Government and the Local Unit Electronics Technology Pilot Program and Study Act P.L. 2001, c.30 overseen by the Department of Community Affairs Division of Local Government Services; and

WHEREAS, Participation in the E-Procurement Pilot Program would allow the Township of Montgomery to procure electrical energy for the citizens of Montgomery Township; and

WHEREAS, Donato Nieman, Township Administrator has reviewed the program and recommends that the Township of Montgomery, New Jersey, submit the application for the E-Procurement Pilot Program and waiver requests; and

WHEREAS, Montgomery Township desires to contract with Gabel Associates for the purpose of electrical energy aggregation.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery authorizes the Mayor to sign the application and the Qualified Purchasing Agent, John Gregory, is hereby authorized to apply for participation in the E-Procurement Pilot Program and submit Waiver Requests with the New Jersey Department of Community Affairs, Division of Local Government Services.

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

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

10. SMOKING ON TOWNSHIP PROPERTY ORDINANCE DISCUSSION

Administrator Nieman explained that this was an outgrowth of a policy the County Park Commission implemented in their parks.

Mayor Trzaska explained that the Board of Health has discussed this a bit and wants further discussions to take place before the Township Committee introduces an ordinance.

Health Officer Stephanie Carey explained that the Board was bringing this to the forefront since the Skillman Park has gone smoke-free, the school grounds and athletic fields are smoke-free and other municipalities throughout the state have gone smoke-free with their parks.

Lucille Talbot, Regional Chronic Disease Coalition of Morris and Somerset Counties Representative, updated the Committee on what neighboring towns were doing and what some other towns in New Jersey were doing. One of the Coalition's deliverables was to increase the number of municipalities with smoke-free ordinances within their communities. She related that Warren Township and Far Hills Borough in Somerset County decided to adopt smoke-free parks. She urged Montgomery Township to look into adopting such an ordinance.

Donna Drummond, UMDNJ Tobacco Free for a Healthy New Jersey Representative, stated that the Surgeon General, in the most recent report, stated that there is no safe level of second-hand smoke. She explained that children and the elderly were most affected. She urged the Township Committee to adopt a smoke-free ordinance for Township properties.

There was discussion about enforcement of the ordinance. Ms. Talbot explained that no one was looking to give out summons, but if there are signs in place it tends to be self-enforcing and people remind other people about the ordinance. She said that the Coalition would provide the signs to the Township free of charge for totally smoke-free parks, which could be customized with the Ordinance number and any other information.

Deputy Mayor Graham conveyed the concerns she heard at the last Board of Health meeting, when this subject was addressed. One point was that a health justification cannot always be found for barring smoking everywhere in a park. The other item is that smokers are residents of the town, they pay taxes and these are public parks for everyone's benefit. Another issue was adopting ordinances that are not going to be enforced. She suggested that there might be other, more limited ways to achieve the same goal. The primary goal is not having smoking around children, so couldn't there be a more limited ordinance that says "No smoking at the playground" or "No smoking during athletic events" or something like that. She stated the Board of Health members were reluctant to consider a broad, non-smoking ordinance.

Health Officer Carey stated that there was some discussion at the Board of Health meeting and subsequently it was discussed with the Board of Health President that there is a willingness to look at some of the partial ordinances, such as Somerville, Raritan, Manville ordinances targeting areas where children would tend to congregate.

Committeeman Sugden questioned whether the Township needed to adopt an ordinance to put up a sign that say "Please refrain from smoking". The answer was that an ordinance did not have to be in place.

Committeeman Smith stated that he was all for this ordinance. He did state that the partial ordinance or "Phase In" approach was the answer, but that the Township should agree to the entire ordinance.

Deputy Mayor Graham stated that there was no evidence that smoking on the pathways, etc. was a big problem. She felt that the main concern should be the athletic fields and the playgrounds.

Committeeman Sugden stated his concern was that right now it was a legal right to smoke until the Township makes it one not to be, so that would be taking someone's rights away. Ms. Talbot stated that in Somerset County the average percentage of smokers is less than 10%.

It was the consensus of the Township Committee that there be further discussion at both their level and the Board of Health level.

Gail Ernst, State of New Jersey Department of Health Office of Tobacco Control and Montgomery Township resident, stated that tobacco is the only product when used as directed will kill a person. She spoke about the social norms and how things have changed in years past. One of her concerns is the amount of litter from cigarette butts. She would like to see Montgomery Township take a leadership stand on this subject and would be very proud if the Township would join Somerset County on banning smoking on all Township properties.

11. **SIDEWALK ORDINANCE DISCUSSION**

Gail Smith, Township Engineer, spoke about sidewalk maintenance and repair. Over the years there have been quite a number of issues that have come up with respect to sidewalks, mostly regarding repairs. Most irksome is when a homeowner is having work done on the home or property, the contractor accesses the area over the sidewalk so as not to damage the driveway, breaking the sidewalk and when done leaves the site. The Township then has to go after the contractor or the homeowner to get the sidewalk repaired.

Committeeman Smith questioned if the Certificate of Occupancy or final permit could be withheld until the sidewalk is fixed. Ms. Smith stated that they do that, but she cannot begin to tell how many pools there are in the Township with no Certificate of Occupancy. In the case of a Septic tank, there is no Certification of Occupancy required, and because of the necessity of a septic tank being repaired or replaced this cannot be delayed. The problem is, there is nothing in the code that addresses sidewalks at all.

Administrator Nieman explained that Montgomery Township is the exception to the rule. Almost all the municipalities in the State of New Jersey have some type of ordinance that speak to sidewalks. Montgomery was one of only two municipalities in this area that does not have an ordinance; Rocky Hill is the other.

Deputy Mayor Graham inquired as to what the Township does at present if someone has tree roots growing and damaging the sidewalk. Ms. Smith explained that the Township has handled it a number of different ways, and not consistently. From time to time the Township has done, although not since 2006, a sidewalk project where they would pick an area of town and fix the sidewalks. Other projects included, if the Township was doing the road, fixing the sidewalks as well. She explained that Public Works has purchased a machine that grinds down the sidewalks, where if there is a small heave in the sidewalk of an inch or less, they can grind down the concrete and smooth out that area. From time to time, the Township has approached the homeowner to fix the sidewalk because it was obvious that it was damaged as part of the work on their property, and they have done the repair.

Deputy Mayor Graham inquired about a sidewalk running across her property, does the Township have an easement to put the sidewalk in. Attorney Hadinger answered that generally the sidewalk is within the municipal right-of-way for the road, meaning that the Township has the ownership of it. There is a difference between commercial and residential properties. In the State of New Jersey, commercial owners are responsible for maintaining sidewalks in front of their property and they can be held liable. In New Jersey, as to residential properties, unless the municipality by ordinance places the responsibility for snow removal, and so forth on the residential property owner, it is the municipalities' obligation to do so. In the State of New Jersey, as to liability for residential sidewalks, even in towns where there are ordinances placing the responsibility for maintenance on the resident, there is not an attachment of liability unless they have done something affirmative.

Ms. Smith stated that Montgomery has a lot of diverse situations when it comes to sidewalks. There is quite a large area of the Township with no sidewalks, then there are single family residential areas with public roads and sidewalks, and there are also communities where a majority of the roads are private and the homeowners associations pay for the repair and maintenance of the sidewalks.

The Township Committee asked that an ordinance be drafted for further discussion.

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

A. **RESOLUTION #13-1-26 - REFUND OVERPAID 2012 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2012 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
28003	18	Manfred & Roberta Hoefling	\$ 592.31
28003	161	Sharbell Building Company, LLC	\$2,392.89
28003	192	Dennis & Joanne Hancy	\$ 947.54
31009	3	Jacobus & Associates, LLC., Trustee for Myles & Mildred Kranzler	\$2,192.54
33002	9	Francis R. & Gabriella Marchetti	\$1,865.18
37002	1.107	Quian Yang	\$1,987.37

B. **RESOLUTION #13-1-27 - APPROVING AND AUTHORIZING THE EXECUTION OF A CANCELLATION AGREEMENT CANCELING A 1986 SEWER AGREEMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND MORRIS & RITA HOROWITZ REGARDING THE WESTWINDS/EAST COUNTRY ESTATES SUBDIVISION**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a cancellation agreement for the 1986 Sewer Service Agreement between Montgomery Township and Morris and Rita Horowitz regarding the Westwinds/East Country Estates Subdivision.

C. **RESOLUTION #13-1-28 - AUTHORIZATION TO BID ON ELECTRICAL SERVICES**

The Township Committee of the Township of Montgomery hereby authorizes the Purchasing Agent to solicit and receive bids in accordance with the Local Public Contracts Law for electrical services.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #13-1-29 - RESOLUTION ACCEPTING A NEW SIGN AT LUBAS FIELD AND DECLARING THE OLD LUBAS FIELD SIGN AS SURPLUS**

WHEREAS, The Lubas Family would like to remove the old memorial sign at the Theodore J. Lubas Field and replace it with a new donated sign to be erected by the Montgomery Township Public Works Department.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a gift of a 30' x 60' sign at the Theodore J. Lubas Memorial Field is hereby accepted.

BE IT FURTHER RESOLVED That the current sign at Lubas Field be declared surplus and released to the Lubas Family.

E. **RESOLUTION #13-1-30 - AUTHORIZING ACCESS AND USE AGREEMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND MONTGOMERY TOWNSHIP BOARD OF EDUCATION - Swimming Pool**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute an Access and Use Agreement between the Township of Montgomery and the Montgomery Township Board of Education with respect to use of the swimming pool located at Montgomery High School. The term of the agreement shall be from July 1, 2013 to June 30, 2014.

F. **RESOLUTION #13-1-31 - 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) Appraisal Services; 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 2013 Temporary Budget, with performance of said services after March 31, 2013 being subject to the Township's amendment of the 2013 Temporary Budget, and/or adoption of the final 2013 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 McLane Schwartz as Appraiser; and Van Note-Harvey Associates, and Malick & Scherer, PC as Consulting Engineers.
- (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, 2013 is subject to the amendment of the 2013 Temporary Budget and/or adoption of the final 2013 Budget, and certification of availability of funds by the Chief Financial Officer

(CONSENT AGENDA Cont.)

G. **RESOLUTION #13-1-32 - OPPOSITION TO THE APPROVAL PROCESS FOR NON-SHBP HEALTH INSURANCE PLANS AS PROPOSED BY N.J.A.C. 5:30-18.1 THROUGH 18.4 AND N.J.A.C. 6a:23A**

WHEREAS, The New Jersey Local Finance Board and the New Jersey Department of Education have proposed rules requiring that all labor contracts providing for health insurance outside the State Health Benefits Program need to be approved by the State and requiring that local entities and school boards perform a static comparison of health insurance costs to State Health Benefit Program costs; and

WHEREAS, These rules are in conflict with Section 42.c of Chapter. 78, which is ostensibly used as authority for the regulation, but is actually meant only to apply to public entities wishing to enter into contract that included a contribution schedule from employees that substitutes for that as laid out in the statute; and

WHEREAS, The regulations, as proposed, extends this authority to require all public entities electing not to provide health benefits through the State Health Benefits Plan (SHBP) and the School Employees' Health Benefits Program (SEHBP) to submit to the process established under the proposed regulation; and

WHEREAS, This interpretation that is contrary to the regulations is supported by:

- The plain reading of the statute;
- The explanation contained in Local Finance Notice (LFN) 2011-20R, Section VI. Alternate Employee Health Care Contribution; and
- The following language from the "Statement" found at page 121, line 35 of the Bill (underlining added)::

*The bill allows boards of education and units of local government, that do not participate in the SHBP or SEHBP, to enter into contracts for health care benefits coverage, as may be required to implement a collective negotiations agreement, and agree to different employee contribution rates if certain cost savings in the aggregate over the period of the agreement can be demonstrated. The savings must be certified to the Department of Education or the Department of Community Affairs, as appropriate.*

WHEREAS, The proposed regulation is cumbersome and places a significant burden on any public body intending to utilize the employee contribution schedule contained within the law, but wishing obtain health benefits outside the SHBP or SEHBP; and

WHEREAS, The de facto effect of this regulation, if adopted, will be to drive public bodies into the SHBP or SEHBP and stifle competition; and

WHEREAS, New Jersey already has one of the nation's most uncompetitive health insurance markets according to the Henry J. Kaiser Family Foundation (October 2011):

- In the individual market, one carrier, Horizon BCBS, controls 73% of the market with only two carriers having 5% or more of the market.
- The same carrier controls over 75% of the governmental market, largely by virtue of its relationship with the SHBP and SEHBP.
- Finally, Horizon controls 43% of the small group market; and

WHEREAS, If the regulation causes a significant number of local entities to move to the SHBP and SEHBP, a negative result will be to increase market concentration and further reduce carrier competition in the State; and

WHEREAS, This will result in an increase in fully insured costs for other persons, governmental entities, not for profits, and business in the State; and

WHEREAS, The regulations' definition of "net employer cost" is not inclusive of all relevant items and should be modified:

- For instance, members of JIFs own a proportionate share of fund surplus that should be included in a valid comparison.
- Likewise, JIF members receive dividends that reduce net employer cost.
- Finally, JIF rates could include supplemental assessments that represent a liability to the member regardless of whether it stays in the joint insurance fund or moves to the SHBP.; and

WHEREAS, Most local entity labor contracts cover multiple year periods:

- A comparison using the most current year is misleading and invalid because the comparison can change in subsequent years.
- In addition, school districts that belong to health JIFs renew on July 1 of each year.
- The differences in renewal cycles between the health JIF, the SEHBP, and the commercial market will further complicate comparisons; and

WHEREAS, The regulations do not address differences in plan design between an employer plan and the plan or plans offered by the SHBP and the SEHBP and such differences are critical to any valid comparison of plan economics; and

WHEREAS, The regulations do not address legal restraints on local entities considering their obligations to retirees, and obligations to employee groups that are not a part of the contract in question; and

(CONSENT AGENDA Item G Cont.)

WHEREAS, In situations where a local health plan has negotiated benefits that are richer than, or even different than, those provided by the SHBP and SEHBP, the local unit will be subject to sanctions for failing to honor its labor agreements; and

WHEREAS, The comparison is burdensome to local units and of limited use given that the requested details do not allow for a valid comparison of net cost and benefits; and

WHEREAS, SEHBP rates are reduced by the amount of the A4 retiree surcharge paid by entities not in the state plan and the rates for local school districts not in the SEHBP are increased by the surcharge further limiting the fairness and utility of the comparison; and

WHEREAS, SEHBP and SHBP rates in the past have been impacted by one time sources of revenue such as the Tobacco settlement and the use of one time sources of revenue that are not available to local units does not permit for a fair and valid comparison; and

WHEREAS, The regulations favor the SEHBP and SHBP to the exclusion of health joint insurance funds (JIFs) that have faithfully served New Jersey local government, under enabling statutes, for over 20 years:

- Health JIFs are a valid alternative for entities with unique plan designs, good loss experience, and a willingness to participate in JIF governance.
- Health JIFs are the largest "shared services" effort in the State for local government from a revenue standpoint.
- To the extent that the regulations operate to the disadvantage of health JIFs, the regulations are in opposition to, and indeed are hostile to, statutes that authorize JIF creation and operation.
- By extension, the regulations foster a "big government" mentality and are hostile to both "shared services" and "home rule" concepts.
- If the regulation seeks to encourage "due diligence", then members of the SEHBP and SHBP should also be required to compare their claims and cost to the health JIF and commercially insured alternatives.

NOW, THEREFORE, BE IT RESOLVED, That, for the foregoing reasons, we respectfully beseech that the Departments modify and reissue the proposed regulations to:

- Apply only when a local unit proposes an employee contribution schedule different from that contained in the statute;
- Require any comparison to take into consideration differences in plan design and eligibility;
- Require the evaluation criteria to consider dividends received from a health JIF and shares of surplus retained by the health JIF;
- Promote, rather than undermine, healthy competition among the various options available to local units shopping for health insurance;

BE IT FURTHER RESOLVED That certified copies of this resolution be forwarded to Governor Christie, the NJ Local Finance Board, the NJ Department of Education, and to local legislative representatives.

H. **RESOLUTION #13-1-33 - RELEASE OF PERFORMANCE GUARANTEE - Princeton Montessori School - Music Addition**

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WHEREAS, On December 10, 2012, the Princeton Montessori Society notified the Township Engineer that the Music Addition Project was abandoned and will not go forward; and

WHEREAS, Gail Smith, Township Engineer, inspected the project and has certified on January 7, 2013 that the Music Addition Building and the Small Addition Building as proposed on the approved plans have not been constructed; however, the site improvements as proposed have been completed in accordance with the approved plans and the Code of the Township of Montgomery and therefore she recommends that the performance guarantee be released.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$93,730.80 (Bond #S00051 in the amount of \$84,357.72 and \$9,373.08 cash) be release to the Princeton Montessori Society and a maintenance guarantee be posted as follows:

Original Construction Cost Estimate	\$93,730.80
15% Maintenance Guarantee	\$14,059.62

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

BE IT FURTHER RESOLVED That the release of the Performance Guarantee shall also be conditioned upon the posting of adequate escrow funds.

BE IT FURTHER RESOLVED That there are no roads or detention basins associated with this project.

(CONSENT AGENDA Cont.)

I. **RESOLUTION #13-1-34 - REDUCTION OF PERFORMANCE GUARANTEE** - Tapestry at Montgomery, Phase 1B-1, Without Force Main and Pump Station (3<sup>RD</sup> Reduction)

WHEREAS, Gail Smith, Township Engineer, has certified on January 15, 2013 that a performance guarantee posted for Tapestry at Montgomery, Phase 1B-1, Without Force Main and Pump Station may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a third reduced performance guarantee as specified in the Township Engineer's estimate dated January 16, 2013.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$1,436,434.20 reduced from \$1,751,764.26 (previously reduced amount) be posted as follows:

10% cash	\$ 143,643.00
90% cash, Letter of Credit, or Surety Bond	\$1,292,791.00

J. **RESOLUTION #13-1-35 - REDUCTION OF PERFORMANCE GUARANTEE** - Tapestry at Montgomery, Phase 1B-2, Without Force Main and Pump Station (2<sup>nd</sup> Reduction)

WHEREAS, Gail Smith, Township Engineer, has certified on January 15, 2013 that a performance guarantee posted for Tapestry at Montgomery, Phase 1B-2, Without Force Main and Pump Station may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a second reduced performance guarantee as specified in the Township Engineer's estimate dated January 16, 2013.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$135,109.98 reduced from \$177,592.62 (previously reduced amount) be posted as follows:

10% cash	\$ 13,511.00
90% cash, Letter of Credit, or Surety Bond	\$121,598.98

K. **RESOLUTION #13-1-36 - REDUCTION OF PERFORMANCE GUARANTEE** - Tapestry at Montgomery, Phase 1B-3, Without Force Main and Pump Station (2<sup>nd</sup> Reduction)

WHEREAS, Gail Smith, Township Engineer, has certified on January 15, 2013 that a performance guarantee posted for Tapestry at Montgomery, Phase 1B-3, Without Force Main and Pump Station may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a second reduced performance guarantee as specified in the Township Engineer's estimate dated January 16, 2013.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$298,717.20 reduced from \$407,796.48 (previously reduced amount) be posted as follows:

10% cash	\$ 29,871.72
90% cash, Letter of Credit, or Surety Bond	\$268,845.48

L. **TOWNSHIP COMMITTEE APPOINTMENTS** - Sustainable Montgomery's "Green Team" and Montgomery/Rocky Hill Municipal Alliance & Youth Services Commission

BE IT RESOLVED That Irene Stein is hereby appointed Sustainable Montgomery's "Green Team" Regular Member, replacing Malini Waghray, 1 year term expiring December 31, 2013.

BE IT FURTHER RESOLVED That Katherine Powell be appointed Montgomery/Rocky Hill Municipal Alliance & Youth Services Commission Citizen-At-Large, 1 year term expiring December 31, 2013.

BE IT FURTHER RESOLVED That Annie Michaelson be appointed Montgomery/Rocky Hill Municipal Alliance & Youth Services Commission Citizen-At-Large, 1 year term expiring December 31, 2013.

BE IT FURTHER RESOLVED That Christine Abrams be appointed Montgomery/Rocky Hill Municipal Alliance & Youth Services Commission Board of Education Representative, 1 year term expiring December 31, 2013.

12-1. Committeeman Sugden moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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



16. ORDINANCE #13-1429 - Capital - Refurbishing and Repair of Vehicle - Introduction

A. Mayor Trzaska read the title of the ordinance as follows:

ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY APPROPRIATING \$65,000 FROM THE CAPITAL IMPROVEMENT FUND FOR THE REFURBISHING AND REPAIR OF VEHICLE #522, A 1999 INTERNATIONAL HARVESTER DUMP TRUCK.

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 7, 2013 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

16-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

17. APPROVAL OF MINUTES

December 20, 2012  
Minutes were approved as printed.

January 3, 2013 - Reorganization  
Minutes were approved as printed.

18. PAYMENT OF BILLS

WHEREAS, The Township Committee of the Township of Montgomery has received bills to be paid as listed; and

WHEREAS, The Chief Finance Officer and the Township Administrator have reviewed these bills and have certified that these bills represent goods and/or services received by the Township, that these are authorized and budgeted expenditures and that sufficient funds are available to pay these bills;

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

1. That these bills are hereby authorized for payment; and
2. That checks in the proper amounts are prepared and that necessary bookkeeping entries are made; and
3. That the proper Township Officials are authorized to sign the checks.

18-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried on the following:

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

19. BUDGET SUBCOMMITTEE

Administrator Nieman stated that he and the Chief Financial Officer had started working on the draft budget and were waiting for the revenues for the year 2012. After that there would be a Budget Subcommittee meeting in February, 2013.

20. RECREATION COMMITTEE

Committeeman Smith reported that he and Administrator Nieman had a productive meeting with Recreation Director Zimmerman and he also attended the Recreation Committee meeting. The main topic was the revenues from the different programs, and how the Township can do better.

22. MUNICIPAL ALLIANCE

Deputy Mayor Graham reported that the Municipal Alliance is planning a number of events for the year 2013. The first one is the Silver Prom on February 25, 2013, which is a event for seniors at Stonebridge.

23. FIREWORKS COMMITTEE

Mayor Trzaska stated that the first Fireworks Committee meeting will take place in the near future.

24. **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 is as follows:
  - Potential acquisition of Open Space properties with public funds (Trap Rock {Block 37003, Lot 7}; Congregation Kehilat Shalom {Block 6001, Lot 24}; Pariso {Block 14001, Lot 27}; Styles {Block 10001, Lots 1, 1.01, 2, 3 & 4}; John Drake {Block 34001, Lots 44 & 46}; Thompson {Block 3001, Lots 1 & 2}; Webster {Block 33001, Lots 22 & 22.01}; Howard {Block 21007, Lots 6 & 7}; A. Dix Skillman {Blocks 4003, 4004, 4005 & 4006, various lots}; Don Matthews {Block 17004, Lots 1, 2 & 3}).
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Acquisition of land shall only be authorized by the Township Committee in a public session.

24-1. Committeeman Sugden moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

25. Deputy Mayor Graham moved to reconvene the meeting in Open Session. The motion was seconded by Committeeman Smith and carried unanimously.

26. **OPEN SPACE PROPERTIES**

Mayor Trzaska explained the following three items that were discussed in closed session:

1. The good faith terms of Styles property if they come in as presented to the Township Committee. The Township would be willing to spend up to \$180,000.00 in partnership with the D&R and Montgomery Friends of Open Space;
2. The release of the Trap Rock appraisal;
3. The authorization to obtain an appraisal on the Dix Skillman property.

26-1. **Motion #13-1-1** - Deputy Mayor Graham moved the approval of all three of the above-referenced items. The motion was seconded by Committeeman Sugden and carried unanimously.

**ADJOURNMENT** was at 10:00 p.m. on a motion by Deputy Mayor Graham. The motion was seconded by Committeeman Smith and carried unanimously.

Date of Approval:

\_\_\_\_\_  
Donna Kukla, Township Clerk