

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE  
February 5, 2009

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 Wilson, Deputy Mayor Birge, Committeemembers Caliguire, Fay and Dyer

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Wilson 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. **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:
  - Acquisition of Open Space (Potter) with public funds for farmland, open space and other purposes, and negotiation of terms and conditions agreements therefor.
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.

- 3-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Birge and carried unanimously.

4. Deputy Mayor Birge stepped down from the dais.

5. **APPRAISAL OF POTTER PROPERTY ON GRANDVIEW ROAD FOR POTENTIAL OPEN SPACE PURCHASE**

**Motion #09-2-1** - Committeeman Caliguire moved to authorize an appraisal of the Potter property on Grandview Road, for potential Open Space purchase. The motion was seconded by Committeeman Fay and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Caliguire, Wilson  
Nays - None  
Absent - Birge

6. The meeting reconvened in Open Session and Eagle Scout Marcell Zimanyi led the Salute to the Flag.

7. **EAGLE SCOUT MARCELL ZIMANYI**

Eagle Scout Marcell Zimanyi spoke about his second proposal for his Eagle Scout project, which was a trail on Cherry Hill Road. He was going to install wooden walkways on the side of the trail and install a bench at a vista point along the trail that overlooks the creek and the horse farm. He had received help from a couple of sources, in the form of funding and materials. The total cost of the project, with the donations, would be \$290.00. He stated that the Montgomery Friends of Open Space has stated their intention to split the cost with the Township.

- 7-1. **Motion #09-2-2** - Committeeman Caliguire moved the acceptance of the Eagle Scout Project as proposed by Marcell Zimanyi and to spend the money to complete the project. The motion was seconded by Committeewoman Dyer and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Caliguire, Wilson  
Nays - None  
Absent - Birge

8. **CSX RAILROAD**

Mayor Wilson spoke about a New Jersey Department of Transportation update regarding CSX Railroad planning to double track a section of rail through Montgomery from just northeast of Route 601 to just southwest of Hollow Road. This would be a two (2) mile stretch that will allow for CSX to pull over a full length train and idle while another train passes. She explained that the New Jersey Department of Transportation will be meeting with CSX toward the end of February and the Department of Transportation invited both County and Montgomery representatives to attend that meeting to be able to pose questions. The County was very interested in pursuing some intersection upgrades at the Route 601 crossing to permit them to establish a Quiet Zone at that crossing. It had been suggested that Montgomery and the County together, if both express an intent to designate a Quiet Zone, could say to CSX that there was an intent to create a Quiet Zone and there was a need for CSX to upgrade the intersection such that it will meet the standard to become a Quiet Zone. It was asked if the Quiet Zone was worth the potential downside of the idling trains. It was explained that the Township really had no jurisdiction when it came to the railroad tracks. Mayor Wilson stated that she felt the Township should be looking at what the different alternatives are.

Committeeman Caliguire asked if there was precedence for CSX to pay for these types of crossings. Mayor Wilson stated that the Safer Trains Crossings Citizens Group sent around a couple of articles about a location in Florida where they have spent approximately \$1 million dollars at a couple of at-grade intersections to help establish Quiet Zones. It was suggested that CSX be asked at the time of their doing this double track work and the upgrades to the Route 601 crossing that they consider helping with the other at-grade intersections in town.

Mayor Wilson explained that the Department of Transportation representative stated that if the Township had filed a letter of intent to establish a Quiet Zone, then it has been demonstrated that this was not just something that had been recently decided. She stated that the County would have to file such a letter of intent for the Route 601 crossing and the Township would have to file for just Hollow Road or the other three (3) roads.

- 8-1. **Motion #09-2-3** - Committeeman Fay moved that the Township move forward with the Letter of Intent on establishing a Quiet Zone. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Dyer, Fay, Caliguire, Wilson  
Nays - None  
Absent - Birge

9. **COUNTY PURCHASE OF PROPERTY FOR OPEN SPACE**

Mayor Wilson reported that Somerset County just purchased a 25 acre piece of property in Montgomery Township for the purpose of Open Space. This property was almost surrounded by County parkland already and they had been trying to acquire this parcel for years.

10. **PENSION DEFERRAL**

Attorney Hadinger stated that as of about Noon on February 5, the Pension Deferral was being considered as optional. It was the consensus of the Township Committee that if it were not optional, they still wanted to continue opposition.

11. **PUBLIC COMMENT**

- 11-1. Mike Stachowicz, Robin Drive, asked when one purchases a liquor license in Town, how long was the license good for.

Attorney Hadinger explained that there was a multi-step process, and it depends on the process. Generally a liquor license was good for a year and then it gets renewed on an annual basis.

- 11-2. Mr. Stachowicz also commented on seeing an emergency vehicle, fire truck or Chief's car at an establishment that services alcohol which is not proper.

- 11-3. Mr. Stachowicz spoke about the reduction of the hourly wages for the three (3) building inspectors from 40 hours to 25 hours. He stated that he could not understand why it was done. He asked if there was a way to give these people their hours back and find another way to save money.

Mayor Wilson stated that a lot of thought had gone into the lay-offs of the four (4) part time employees and the reduction of hours of the four (4) positions in the Code office. This was something that had been agonized over.

Administrator Nieman stated that eleven (11) positions were eliminated through attrition over the past two (2) years and when you add in the four (4) lay-offs of part-timers, the Township was up to fifteen (15) eliminated positions and there were reductions of hours for five (5) people in both Code and GIS. He explained why these positions were eliminated and/or reduced.

12. **PROCLAMATION - "Go Red For Women" Heart Health Day - February 6, 2009**

WHEREAS, The residents and employees of Montgomery Township recognize that women have unique health concerns which deserve special attention and therefore support observances that raise public awareness about serious medical concerns such as heart disease, the leading cause of death among women aged 35 and older; and

WHEREAS, Annually, 53% of all deaths due to cardiovascular disease (CVD) occur among females, compared to 47% occurring among males, with CVD claiming the lives of approximately 460,000 American females (about one death per minute) and stroke causing 32,500 deaths in women - a disproportionately larger number than in men; and

WHEREAS, There are factors that directly influence women's health, with lifestyle, diet and exercise habits cumulatively affecting their risk for developing heart disease; while smoking is the number one controllable risk factor, lack of physical fitness and poor nutrition can have dangerously harmful effects on a woman's cardiovascular system and overall health; and

WHEREAS, The economic implications of heart and cardiovascular disease on our society are likewise staggering and, in 2008, the direct and indirect cost of cardiovascular diseases in the United States, including stroke, is estimated to be \$448.5 billion; and

WHEREAS, More women die of heart disease, stroke, and all other cardiovascular diseases than the next five leading causes of death combined, including all cancers, yet only 21% of women consider CVD as their greatest health risk; and

WHEREAS, February is designated as American Heart Month and the "Go Red For Women" campaign celebrated on Friday, February 6<sup>th</sup>, is the American Heart Association's national call to increase awareness about heart disease as the leading cause of death among women, and to inspire women everywhere to take charge of their heart health; and

WHEREAS, All Montgomery Township residents and employees are encouraged to show their support for women and the fight against heart disease by wearing the color red as a symbol that traditionally represents the heart and also expresses love; in joining forces to advance the goals of this observance, we can speak with one strong voice to raise awareness of heart and cardiovascular diseases and empower women to adopt a "heart healthy" lifestyle, have regular check-ups that include cardiovascular disease testing, and to take responsibility in reducing their risk for cardiovascular disease, all of which will certainly add years to their lives;

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby proclaims February 6, 2009 as "Go Red For Women" Heart Health Day.

12-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried unanimously.

13. **PROCLAMATION - MONTGOMERY NIGHT OFF - March 3, 2009**

WHEREAS, The quality of our community life begins within the homes of individual families; and

WHEREAS Families are indispensable to a stable and free society. They pass along the traditions and principles that help make America compassionate, decent, and hopeful; and

WHEREAS, Strong families make strong communities, and everyone has a role to play in building strong families, including neighborhood organizations, businesses, nonprofit agencies, policymakers and schools, as well as families themselves; and

WHEREAS, Strong families help to protect our children from making harmful choices with respect to alcohol and drugs, which is a mission of Montgomery's Municipal Alliance and Youth Services Commission; and

WHEREAS, Montgomery Night Off is meant to highlight the importance of family bonds, while providing an extra opportunity for families to share in activities together without distractions such as political, civic, or organizational meetings, sports practices, games or competitions, youth club activities or private lessons, and even school homework.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee, in coordination with the Montgomery Township Board of Education, hereby urges all local organizations, youth clubs, and athletic teams to cancel scheduled events on Tuesday, March 3 and to encourage families to spend the evening together to celebrate Montgomery Night Off by spending quality time with each other.

13-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried unanimously.

14. **WILDLIFE MANAGEMENT COMMITTEE UPDATE**

Bruce Perone, Wildlife Management Committee Chairman, updated the Governing Body on the works of the Wildlife Management Committee. He stated that their main job was to manage the deer population in Montgomery on the Open Space properties. He thanked the Township Committee for their consideration to continue a very successful program. He stated that this was the seventh season for this program and they had a 100% safety record. He stated that since the program's beginning, the hunters have culled approximately 2,000 deer.

Mr. Perone spoke about a proposed Assembly Bill, A-595, that is proposing the 450 foot safe rule that is now in effect, be reduced to 150 feet for bow hunting only.

15. **CAPITAL BUDGET REVIEW**

Walter Sheppard, Temporary Chief Financial Officer, reviewed the 2008 and 2009 Capital Budgets. He explained the Capital Projects implemented and stated that these were the projects that the Township Committee authorized through Ordinances to be implemented in 2008. He stated that the "Capital Improvement Fund" consists of the projects or Capital requests that have an average life of somewhere between five (5) and seven (7) years. He explained that the Capital Projects pending were the projects that the Township Committee had approved that no action had been taken on as yet.

There was discussion of the sewer budget and if there were alternatives to the upgrades of several sewage treatment plants.

16. Deputy Mayor Birge returns to the dais.

17. **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 #09-2-41 - REFUND OVERPAID 2007 AND 2008 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2007 and 2008 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>	<u>Year</u>
5024	8.02	Mah, C&P, Zhao, J, Pan & Ma, K	\$1,949.67	2007
37004	6.56	Narayan, Ramesh	\$2,118.60	2008

B. **RESOLUTION #09-2-42 - RAFFLE LICENSE #669 - American Diabetes Association**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for the American Diabetes Association to conduct a Raffle under License #669 on May 18, 2009 at the Cherry Valley Country Club, 125 Country Club Drive, Skillman, NJ. The time for this Raffle will be approximately 7:30 p.m.

C. **RESOLUTION #09-2-43 - APPROVAL OF FIRE HYDRANTS - North Hill Estates**

BE IT RESOLVED By the Township Committee of the Township of Montgomery that authorization be given to New Jersey American Water Company to install a hydrant in the following location of North Hill Estates, Project #2008088:

Hydrant #1 - To be installed on Rockledge Court, approximately 400 feet from corner of Hills Drive and Rockledge Court.

All locations are shown on filed map in Fire Marshall's office. All locations are in accordance with the recommendations made by the Montgomery Township Fire Marshall.

D. **RESOLUTION #09-2-44 - APPROVAL TO MOVE FIRE HYDRANT - Route 518**

BE IT RESOLVED By the Township Committee of the Township of Montgomery that authorization be given to New Jersey American Water Company to move Hydrant east 55 feet from existing location on Route 518 for the proposed intersection improvements to Route 518 and Research Road.

All locations are shown on filed map in Fire Marshall's office. All locations are in accordance with the recommendations made by the Montgomery Township Fire Marshall.

E. **RESOLUTION #09-3-45 - AUTHORIZATION TO EXECUTE NJDOT GRANT APPLICATION AND AGREEMENT FOR STATE AID TO COUNTIES AND MUNICIPALITIES - Safe Corridors**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a grant application and agreement with NJDOT Division of Highway Safety for the enforcement of Safe Corridors.

(CONSENT AGENDA Cont.)

F. **RESOLUTION #09-2-46 - EXTENDING FLEET MAINTENANCE SERVICES CONTRACT TERM -  
First Vehicle Services**

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WHEREAS, On August 4, 2005, the Township Committee awarded a contract to First Vehicle Services for the management and maintenance of a portion of the Township's vehicles and equipment for a term of three (3) years ("Fleet Maintenance Services Contract" or "contract"); and

WHEREAS, The contract was due to expire on August 14, 2008; and

WHEREAS, By Resolution No. 08-7-224 adopted on July 24, 2008, the Township Committee indicated that it sought to extend the term of the contract until February 28, 2009 (a total extended term of six and one-half (6½) months), so that this contract would expire at the same time as a second Township contract for the management and maintenance of the balance of the Township's vehicles and equipment; and

WHEREAS, At that time, however, the Township only had funds to extend the contract for two (2) months (from August 15, 2008 to October 15, 2008) and therefore, by Resolution No. 08-7-224, the Township Committee approved a two-month extension, which included a 6% increase in the original contract price; and

WHEREAS, Subsequent to the Township Committee's initial two-month extension of the contract, the Township continued to have a need to extend the contract until February 28, 2009, but because it only had funds to do so through separate contract extensions for a portion of this period, the Township Committee extended said term until January 15, 2009 by adoption of two separate resolutions: Resolution No. 08-10-299 adopted on October 16, 2008, which extended the contract for two (2) months (from October 16, 2008 to December 15, 2008), and Resolution No. 08-12-368 adopted on December 18, 2008, which extended the contract for one (1) month (from December 16, 2008 to January 15, 2009); and

WHEREAS, The Township still seeks to extend the term of the contract until February 28, 2009 for the reasons previously set forth and has the funds to extend this contract from January 16, 2009 to February 28, 2009, that is, for a term of one and one-half (1½) months; and

WHEREAS, First Vehicle Services has offered to continue to provide the services under the contract; and

WHEREAS, First Vehicle Services has been performing the services under the contract in an effective and efficient manner; and

WHEREAS, The maximum amount of the contract, as extended, for services from January 16, 2009 to February 28, 2009 will not exceed \$14,601.76, which amount includes a 6% increase in the original contract price; and

WHEREAS, The Temporary Chief Financial Officer has certified that sufficient funds are available for this contract extension.

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

1. The Fleet Maintenance Services Contract is hereby further extended from January 16, 2009 to February 28, 2009, that is, for an additional one and one-half (1½) months.
2. Based on the existing contract, the total not-to-exceed contract amount for the term of the extension shall be \$14,601.76, which includes:
  - a. A base contract amount of \$14,016.64 and
  - b. An amount not to exceed \$585.12 (up to 12 hours at \$48.76/hour) for non-basic services when directed by the Township.
3. All remaining provisions of the Fleet Maintenance Services Contract, as extended by Resolutions No. 08-7-224, 08-10-299 and 08-12-368 not inconsistent herewith shall remain the same, except that instead of submitting monthly invoices for 1/12 of the contract amount, First Vehicle Services shall submit two (2) monthly invoices based on the base contract amount for the prorated period (i.e., the first invoice for one month of services (\$9,344.43) and the second invoice for the remaining ½ month of services (\$4,672.21)), along with costs for non-basic services.
4. This contract extension is awarded pursuant to N.J.S.A. 40A:11-15 because First Vehicle Services has performed the services in an effective and efficient manner.
5. This Resolution, when countersigned by First Vehicle Services, shall serve as an amendment to the original Fleet Maintenance Services Contract, as amended by Resolutions No. 08-7-224, 08-10-299 and 08-12-368, for the purpose of confirming the extension of the contract term until February 28, 2009 and the not-to-exceed contract price of \$14,601.76 for the extended period.
6. A copy of this Resolution shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection.

(CONSENT AGENDA Cont.)

G. **RESOLUTION #09-2-47 - TO INCREASE THE BID THRESHOLD**

WHEREAS, N.J.S.A. 40A:11-3a permits an increase in the bid threshold if a Qualified Purchasing Agent is appointed; and

WHEREAS, The Township of Montgomery desires to take advantage of the increased bid threshold.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the bid threshold is increased to \$29,000.

H. **RESOLUTION #09-2-48 - PROFESSIONAL SERVICES AGREEMENT - Alcohol & Drug Testing Services - Conner Strong Risk Control Services**

WHEREAS, There exists a need for Alcohol and Drug Testing Services; and

WHEREAS, There exists a need to acquire these services without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay to Play Law"; and

WHEREAS, The firm of Conner Strong Risk Control Services has submitted a proposal offering to provide the sought-after service to the Township on an as-needed basis; and

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, Conner Strong Risk Control Services has completed and filed with the Township of Montgomery a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying that Conner Strong Risk Control Services has not made any prohibited contributions to a candidate committee or municipal committee representing elected officials of the Township of Montgomery; and

WHEREAS, The New Jersey Local Public Contracts Law N.J.S.A. 40A: 11-1 et seq. authorizes the award of a contract for "professional services" without competitive bidding on the basis that the services are to be performed by persons who are recognized as licensed and regulated professionals.

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 an agreement with Conner Strong Risk Control Services for the provision of alcohol and drug testing services. The terms of the agreement shall be subject to the approval of the Township Attorney.
2. Conner Strong Risk Control Services shall be paid a fee at the specified rate, of \$66.34 per CDL holder or other participants
3. A copy of this Resolution, the Campaign Contributions Affidavit, and the executed Agreement shall be placed on file in the office of the Township Clerk.
4. A notice of this action shall be published in the official newspaper as required by law.

Performance of services and payment for services are subject to the certification of availability of funds by the Temporary Chief Financial Officer.

I. **RESOLUTION #09-2-49 - APPROVAL OF SEWER PARTICIPATION AGREEMENT FOR ADDITIONAL CAPACITY - Richard Grosso (Block 7019, Lot 61)**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Richard Grosso related to additional capacity in the Riverside Sewage Treatment Plant for Block 7019, Lot 61.

J. **RESOLUTION #09-2-50 - AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE TOWNSHIP OF SOUTH BRUNSWICK FOR KENNEL SERVICES FOR 2009**

WHEREAS, Montgomery Township and South Brunswick Township each provide animal control services to their respective municipalities, which, at times, requires the impoundment and housing of animals at a kennel; and

WHEREAS, Montgomery maintains its own municipal facility for the impoundment and housing of animals; and

WHEREAS, Montgomery Township and South Brunswick Township wish to renew its Interlocal services agreement for 2009 to share the cost of said kennel, thereby allowing both to utilize the kennel for impoundment and housing of animals as the need arises.

NOW, THEREFORE, BE IT RESOLVED On this 5<sup>th</sup> day of February, 2009, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that:

1. The Mayor and Township Clerk shall be and are hereby authorized to execute an Interlocal Services Agreement for 2009 with the Township of South Brunswick to share in the cost of said kennel services, thereby allowing both to utilize the kennel for impoundment and housing of animals as the need arises.
2. A copy of said agreement shall remain on file in the office of the Township Clerk.

(CONSENT AGENDA Cont.)

**K. RESOLUTION #09-2-51 - AWARD OF BID - Used Bucket Truck**

WHEREAS, The following bids for a Used 50' Bucket Truck were received and were publicly opened on February 3, 2009:

<u>BIDDER</u>	<u>AMOUNT</u>
W.E. Timmerman Co., Inc.	\$30,400.00*
Route 23 Automall	\$34,495.00

WHEREAS, It is the recommendation of the Purchasing Agent and Superintendent of Public Works that W.E. Timmerman Co., Inc. be awarded the bid; it being the lowest responsible bidder; and

WHEREAS, A certificate as to the availability of funds has been signed by the Temporary Chief Financial Officer and is on file in the office of the Township Clerk.

WHEREAS, There exists an account 04-216-55-901-1295C which will fund this vehicle; and

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the order for the Used 50' Bucket Truck is hereby awarded to W.E. Timmerman Co., Inc., 3554 Route 22 West, Whitehouse, NJ 08888 in the amount of \$30,400.00.

BE IT FURTHER RESOLVED That the Purchasing Agent is hereby authorized to sign said Purchase Order.

**L. TOWNSHIP COMMITTEE APPOINTMENT - Alternate Prosecutor, Airport Advisory Committee**

BE IT RESOLVED That Miles S. Winder III is hereby appointed Alternate Prosecutor, 1 year term expiring December 31, 2009.

BE IT FURTHER RESOLVED That Michael Gebhardt is hereby appointed to the Airport Advisory Committee, 5 Mile Radius, 3 year term expiring December 31, 2010.

17-1. Deputy Mayor Birge moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Caliguire and carried on the following:

**ROLL CALL** - Ayes - Fay, Dyer, Birge, Caliguire, Wilson  
Nays - None

**18. MAYORAL APPOINTMENTS - Energy Audit Team**

BE IT RESOLVED That the following people are hereby appointed to the Energy Audit Team:

Cecilia Birge, Committeeperson  
Brad Fay, Committeeperson  
Donato Nieman, Township Administrator  
Ron Prykanowski, Purchasing Agent  
Michelle Mistretta, Public Works Secretary  
Walter Sheppard, CFO  
Lauren Wasilauski, Open Space Coordinator & Environmental Commission Secretary  
Kim Giles, Environmental Commission member & Sustainability Committee member

**19. RESOLUTION #09-2-52 - AWARING CONTRACT FOR EXTRAORDINARY UNSPECIFIABLE SERVICE - JM Sorge, Inc.**

WHEREAS, The Township has a need to procure the services of a firm with expertise and proven reputation in environmental remediation to provide technical environmental oversight services to ensure that the remediation completed pursuant to the Guaranteed Fixed Price Environmental Liability Transfer Agreement ("ELTA") between the Township and Weston Solutions, Inc. complies fully with New Jersey Department of Environmental Protection ("NJDEP") and Township requirements; and

WHEREAS, JM Sorge, Inc., Environmental Consultants, has submitted a proposal dated January 28, 2009 to provide the services to the Township; and

WHEREAS, The Township has a need to acquire these services without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"; and

WHEREAS, JM Sorge, Inc. has completed and filed with the Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying that JM Sorge, Inc. has not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township, along with a Certification Regarding Political Contributions as required by N.J.S.A. 19:44A-20.26 and an Affidavit Prerequisite to Execution of Agreement Exempt from Public Bidding and in Excess of \$5,000.00 as required by Subsection 2-22.2 of the Code of the Township of Montgomery (1984) (collectively "Pay-to-Play Forms"); and

WHEREAS, The Township Administrator has determined and certified in writing that the value of the acquisition over the course of the contract 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 this contract as an extraordinary unspecifiable service without competitive bidding; and

(Item #19 Cont.)

WHEREAS, The Temporary Chief Financial Officer has certified that sufficient funds are available for this purpose.

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

1. The Mayor and Clerk are authorized and directed to execute an agreement with JM Sorge, Inc. for the provision of technical environmental oversight services to ensure that the remediation completed pursuant to the ELTA complies fully with NJDEP and Township requirements.
2. JM Sorge, Inc. shall be paid a fee not to exceed \$100,000.00 to provide these services based on the rates set forth in JM Sorge, Inc.'s proposal. The contract amount may be increased by change order as permitted by law.
3. The contract term shall be two years from the effective date of the contract. The contract term may be extended as permitted by law.
4. This contract is awarded without competitive bidding as an extraordinary unspecifiable service in accordance with N.J.S.A. 40A:11-5(1)(a)(ii) of the Local Public Contracts Law for the reasons set forth in the Township Administrator's Certification of Extraordinary Unspecifiable Service, which reasons are incorporated herein as if fully restated.
5. A copy of this Resolution, the Certification of Contract Value, the Township Administrator's Certification of Extraordinary Unspecifiable Service, the Pay-to-Play Forms and the Agreement shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection.
6. A notice of this action shall be published in the official newspaper as required by law.

19-1. Deputy Mayor Birge moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

**ROLL CALL** - Ayes - Fay, Dyer, Birge, Caliguire, Wilson  
Nays - None

20. **RESOLUTION #09-2-53 - TRANSFER OF FUNDS**

WHEREAS, There is a need to transfer funds to areas where there are insufficient funds to meet the demands of the Township, and

WHEREAS, there are sufficient funds to be transferred to those accounts as stated to meet the needs of the Township,

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that in accordance with the provisions of N.J.S.A. 40A:4-58 and N.J.S.A. 40A:4-59 hereby authorizes the Chief Finance Officer to make the following transfers:

<u>TO</u>	<u>FROM</u>	<u>AMOUNT</u>
Long Term Disability (OE)		\$430.00
Water (OE)		\$716.00
	Workman's Compensation (OE)	(\$430.00)
	Solid Waste Disposal (OE)	(\$716.00)

20-1. Deputy Mayor Birge moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

**ROLL CALL** - Ayes - Fay, Dyer, Birge, Caliguire, Wilson  
Nays - None

21. ORDINANCE #09-1308 - To Exceed Index Rate - Introduction

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

ORDINANCE PROVIDING FOR A 3.5% "CAP" FOR THE 2009  
BUDGET PURSUANT TO NJSA 40A:4-45.14

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 19, 2009 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

21-1. Deputy Mayor Birge moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

ROLL CALL - Ayes - Fay, Dyer, Birge, Caliguire, Wilson  
Nays - None

22. ORDINANCE #09-1309 - Kid Connection Fees - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN  
SOMERSET COUNTY, NEW JERSEY INCREASING FEES FOR  
KID CONNECTION PROGRAMS AND AMENDING CHAPTER II OF  
THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

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 19, 2009 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

22-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

ROLL CALL - Ayes - Fay, Dyer, Caliguire, Wilson  
Nays - None  
Abstain - Birge

23. PAYMENT OF BILLS

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

WHEREAS, The Temporary Chief Financial 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.

23-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Fay and carried on the following:

ROLL CALL - Ayes - Fay, Dyer, Birge, Caliguire, Wilson  
Nays - None

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:

4. 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.
5. The general nature of the subjects to be discussed in this session is as follows:
  - Terms and conditions of negotiations of potential agreement with Somerset County with regard to Skillman Village;
  - Advice of Counsel with regard to possible settlement of Brahaney litigation.
6. 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. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of that litigation.

24-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Caliguire and carried unanimously.

25. The meeting reconvened in Open Session and **ADJOURNMENT** was at 10:00 p.m. on a motion by Committeeman Caliguire. The motion was seconded by Committeeman Fay and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk