

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
May 16, 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: Deputy Mayor Graham, Committeemembers Smith, Madrid and Sugden
Absent: Mayor Trzaska

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. Mayor Trzaska led the Salute to the Flag.

4. **PUBLIC COMMENT**

- 4-1. Walter Beadling, Thornton Way, spoke about no smoking in Township parks. He expressed his concerns that a law banning smoking and involving the police was unnecessary, overreaching and excessive. He expressed his opinion that signs in parks saying, "Please respect the rights of others, do not smoke" should suffice.

Mr. Beadling also commented on the energy aggregation program and stated that, despite the merits of the program, a free enterprise process is in place which makes such a program unnecessary. He remarked that there was a large turn-out at the public hearing and each party who spoke objected to the program on principal.

5. **APPOINTMENT OF KID CONNECTION DIRECTOR - Andrea McKenna**

BE IT RESOLVED that Andrea McKenna is hereby appointed Director of Montgomery Kid Connection effective June 3, 2013.

- 5-1. 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,
Nays - None
Absent - Trzaska

6. **NATIONAL POLICE WEEK**

WHEREAS, The police officers of America have worked devotedly and selflessly on behalf of the people of this Nation, regardless of the peril or hazard to themselves; and

WHEREAS, These officers have safeguarded the lives and property of their fellow Americans; and

WHEREAS, By their enforcement of our laws, these same officers have given our country internal freedom from fear of violence and civil disorder to preserve both democracy and decency and to protect a national treasure that we call the American Dream; and

WHEREAS, These men and women by their patriotic service and their dedicated efforts have earned the gratitude of the Montgomery Township Committee.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery recognizes May 15 of each year as Police Officers Memorial Day in honor of Federal, State and Municipal officers who have been killed or disabled in the line of duty, and designating the calendar week during which May 15 occurs as Police Week, in recognition of the service given by men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws which divide anarchy from democracy, on this 16th day of May, 2013, and expresses the gratitude of the entire Township.

- 6-1. 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,
Nays - None
Absent - Trzaska

7. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of March, 2013:

-- 49 motor vehicle accidents;
-- 11 arrests;
-- 1 burglaries;
-- 5 thefts;
-- 5 domestic violence;
-- 5 criminal mischief.

(Item #7 Cont.)

Police Director Palmer reported on the following activities of the Police Department for the month of April, 2013:

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

8. **CROWN CASTLE RIGHT OF WAY**

Peter Broy of Crown Castle, a cellular service infrastructure provider was in attendance to explain that his company would like to place small distributed antennas that aid cellular signal strength in the public right of way, usually on utility poles. There are 30 'node' installations in Princeton and three years ago, Somerset County issued permits for one of these small antennas in Montgomery. Each node can serve two carriers without any increase in cabinets or antennas. Mr. Broy explained the standard agreement of 5% which they are offering as well as the very low power radio frequency emissions, at highest 2% of Federal limit on the ground.

Mr. Broy stated that Crown Castle places 90% of its antennas on existing utility poles. They need to abide by agreements with PSE&G. If there is a transformer or a switching box on a pole or primary electrical service on top of pole, for safety reasons, they cannot use it and must put in their own pole. Usually the Township Engineer reviews each location and guides Crown Castle on appropriate locating, working under a memorandum of agreement.

The Committee thanked Mr. Broy for his presentation.

9. **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 #13-5-117 - REFUND OVERPAID 2012 & 2013 TAXES**

BE IT RESOLVED That a refunds be given to the following for the overpayment of 2012 and 2013 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Amount</u>
21012	6	Fifth Third Bank	2012	\$3,660.17
31007	43	Ricardo Alessandri & Jodi Mayo	2013	\$4,211.09

B. **RESOLUTION #13-5-118 - REFUND OVERPAID 2013 SEWER CHARGES**

BE IT RESOLVED That a refund in the amount of \$493.92 be given to Karen Brett, 780 Greenwich Street, Apt. 4G, New York, NY 10014 for the overpayment of 2013 sewer charges on Block 37003, Lot 6.44.

C. **RESOLUTION #13-5-119 - SUPPORTING CLICK IT OR TICKET MOBILIZATION**

Whereas, There were 591 motor vehicle fatalities in New Jersey in 2012; and

Whereas, A large percentage of the motor vehicle occupants killed in traffic crashes were not wearing a seat belt; and

Whereas, Use of a seat belt remains the most effective way to avoid death or serious injury in a motor vehicle crash; and

Whereas, The National Highway Traffic Safety Administration estimates that 135,000 lives were saved by safety belt usage nationally between 1975-2000; and

Whereas, The State of New Jersey will participate in the nationwide *Click It or Ticket* seat belt mobilization from May 20 - June 2, 2013 in an effort to raise awareness and increase seat belt usage through a combination of enforcement and education; and

Whereas, The Division of Highway Traffic Safety has set a goal of increasing the seat belt usage rate in the state from the current level of 88.29% to 90%; and

Whereas, A further increase in seat belt usage in New Jersey will save lives on our roadways.

NOW, THEREFORE, BE IT RESOLVED That the Township of Montgomery declares it's support for the *Click It or Ticket* seat belt mobilization both locally and nationally from May 20 - June 2, 2013 and pledges to increase awareness of the mobilization and the benefits of seat belt use.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #13-5-120- APPROVAL OF OUTDOOR ASSEMBLY/RODEO -**
Montgomery Business Association

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Montgomery Business Association has requested approval of the Township Committee to conduct an Outdoor Assembly/Championship Rodeo on the property of Frank and Noel Drift, Sunset Road, Block 16001, Lot 6Q on June 8 and 9, 2013.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations and shall employ one (1) Private Duty Police Officer at each event.
4. The organizers have obtained the required health certificates from the Township Health Department.
5. The organizers will obtain the required construction permits and Fire Prevention inspections from the Township Code/Construction and Fire Prevention Departments.

E. **RESOLUTION #13-5-121 - APPROVAL OF OUTDOOR ASSEMBLY - WALK OUT ON DRUGS -**
Montgomery/Rocky Hill Municipal Alliance Committee

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Montgomery/Rocky Hill Municipal Alliance Committee has requested approval of the Township Committee to conduct an Outdoor Assembly to Walk Out On Drugs at Montgomery Park on June 2, 2013.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
 - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Committee approval.
 - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations.
4. The organizers will obtain the required health certificates from the Township Health Department.
5. The organizers will obtain the required construction permits and Fire Prevention inspections from the Township Code/Construction and Fire Prevention Departments.

F. **RESOLUTION #13-5-122 - AUTHORIZING FIREWORKS PERMIT**

BE IT RESOLVED That authorization is granted for the Recreation Department to conduct a fireworks display on June 27, 2013 (raindate - July 11, 2013) at Montgomery High School. Approvals of the Police Department and Fire Protection Inspector Roy Mondt have been received.

G. **RESOLUTION #13-5-123 - WAIVER FROM FIRE INSPECTION FEES - Fireworks Display**

BE IT RESOLVED That fire inspection fees, totaling \$100.00 in connection with the fireworks display to be conducted June 27, 2013 (raindate - July 11, 2013) is hereby waived.

H. **RESOLUTION #13-5-124 - AUTHORIZING CLOSING OF SKILLMAN ROAD - Fireworks**

BE IT RESOLVED That Skillman Road between County Route 601 to Hollow Road, be closed to all vehicle traffic between the hours of 6:00 p.m. and 10:00 p.m. on June 27, 2013 (raindate - July 11, 2013) for fireworks.

(CONSENT AGENDA Cont.)

I. **RESOLUTION #13-5-125 - AUTHORIZING RIGHT-OF-ENTRY AGREEMENT - East Mountain Road Improvement Project**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Entry Agreement with Carrier Clinic Inc. for the East Mountain Road Improvement Project.

9-1. Committeeman Smith moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Sugden and carried on the following:

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

10. **RESOLUTION #13-5-126 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, the 2013 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2013 Budget being adopted, in order to maintain operations until such time as the Township Budget is in place; and

WHEREAS, N.J.S.A. 40A:4-20 provides for approval of emergency temporary appropriations prior to the Municipal Budget being adopted, by a confirming vote of two-thirds of the full governing body.

NOW, THEREFORE, BE IT RESOLVED, by confirmation of two-thirds of the full governing body, that the Chief Finance Officer is authorized to increase the temporary emergency appropriations as follows:

Current Fund

Liability Insurance	
Other Expenses	\$180,400.00
Employee Group Insurance	
Other Expenses	\$200,000.00

10-1. 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
Nays - None
Absent - Trzaska

11. **RESOLUTION #13-5-127 - AUTHORIZING CONVEYANCE OF BLOCK 26001, LOT 1.07 LOCATED ON BURNT HILL ROAD, SOMETIMES REFERRED TO AS THE "PINE KNOLL" HOUSE TO ALLIES, INC. IN FURTHERANCE OF THE FAIR HOUSING ACT, N.J.S.A. 52:27D-301 ET SEQ. AND THE MT. LAUREL DOCTRINE**

WHEREAS, the Township of Montgomery ("Township") and Allies, Inc. ("Allies") entered into an agreement dated January 25, 2010 ("Agreement") wherein the Township agreed to convey to Allies an unused residence located on Burnt Hill Road that had been part of a larger facility ("NPDC") once owned by the State of New Jersey;

WHEREAS, said unused residence has been known as the "Pine Knoll" residence and is situated on Block 26001, Lot 1.07 comprising one acre of land (the "Property"); and

WHEREAS, Allies is a not-for-profit organization dedicated to providing a variety of services, including residential services, to individuals with disabilities and, as part of its residential services, Allies creates and operates affordable housing supportive and special needs group homes consistent with the regulations promulgated by the New Jersey Council on Affordable Housing ("COAH") pursuant to the Fair Housing Act, N.J.S.A. 52:27D-301 et seq. and Mt. Laurel Doctrine requiring municipalities to provide opportunities for the development of low and moderate income housing, and Allies intends to operate Pine Knoll consistent with said laws and regulations.

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

1. Consistent with the Agreement, the Mayor and Clerk are hereby authorized to execute a deed, affidavit of title, and such other customary closing documents as approved by the Township Attorney conveying the Property to Allies;
2. Said deed shall contain a thirty-year extendable restriction consistent with the Agreement restricting the use of the Property to a six-bedroom COAH-qualifying supportive and special needs dwelling;
3. The Mayor, Clerk, Township Administrator, Planning Director and Township Attorney are hereby authorized to attend the closing on the Property on behalf of the Township.

11-1. Attorney Hadinger explained that this is an administrative approval because the substantive agreement to sell to Allies, Inc. dates back several years. The deed conveyance included restrictions that the property must be operated and maintained in keeping with Fair Housing COAH regulations.

11-2. 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
Nays - None
Absent - Trzaska

12. ORDINANCE #13-1436 - Accepting Pike Run Pump Station Lot - Introduction

- A. Title: AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY NEW JERSEY ACCEPTING PROPERTY KNOWN AS BLOCK 5008, LOT 120 (PIKE RUN PLANNED RESIDENTIAL DEVELOPMENT PUMP STATION LOT) FOR GENERAL MUNICIPAL PURPOSES, INCLUDING SANITARY SEWERAGE.
- 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 June 6, 2013 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

12-1. Attorney Hadinger explained that when Pike Run development was approved by the Planning Board it included a sanitary pump station which has been operating. Conveyance of the property and improvements to the Township must be done by ordinance.

12-2. 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
Nays - None
Absent - Trzaska

13. ORDINANCE #13-1437 - Acquisition of Pariso Farm Farmland Easement - Introduction

- A. Title: AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, AUTHORIZING THE EXPENDITURE AND CONTRIBUTION OF FUNDS FROM THE OPEN SPACE TRUST TO THE ACQUISITION BY SOMERSET COUNTY OF INTERESTS IN PROPERTY DESIGNATED AS BLOCK 14001, LOT 27, MONTGOMERY TOWNSHIP MUNICIPAL TAX ASSESSMENT MAPS (REV. 2011), ON SKILLMAN ROAD AND FAIRVIEW ROAD, IN THE TOWNSHIP OF MONTGOMERY, IN CONJUNCTION WITH THE STATE AGRICULTURE DEVELOPMENT COMMITTEE AND SOMERSET COUNTY, AND AUTHORIZING THE ACQUISITION BY THE TOWNSHIP OF A RIGHT OF WAY FOR ROADWAY PURPOSES ON THE PROPERTY.
- 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 June 6, 2013 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

13-1. Attorney Hadinger explained that this 12-acre property near the northeast corner of Camp Meeting Road and Fairview Road and has been on the Township's Open Space list for some time. The property is being acquired for farmland purposes and this ordinance, upon adoption, would authorize a Township cost share with SADC and the Somerset County Agricultural Development Board. The Township's cost share portion would be 20% or \$45,343. Somerset County would hold the easement but should the property be condemned the Township would receive its contribution back. The Township is also getting a portion of a right-of-way for Township roads.

13-2. Committeeman Sugden 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
Nays - None
Absent - Trzaska

14. APPROVAL OF MINUTES

The April 18, 2013 minutes were approved as printed.

15. PAYMENT OF BILLS - Posted

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.

15-1. Committeewoman Madrid moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried on the following:

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

16. **SIDEWALK POLICY UPDATE**

Attorney Hadinger explained that she is working on this with Engineer Smith.

17. **SMOKE FREE AREAS**

Attorney Hadinger reported that the Board of Health would like the Township Committee to consider adopting a policy establishing certain areas within the parks to be designated as smoke-free. Ms. Hadinger noted that the current no smoking ordinance needs clarification due to the fact that under the penalty provisions of the State statute, penalties cannot exceed \$200. The Township code allows for higher penalties and should be corrected.

18. **FARM SERVICES AGREEMENTS**

Attorney Hadinger explained that there are many properties acquired by the Township for open space or other purposes. For many years, the Township has had agreements with various farmers to farm these properties, which aids in maintenance and preserves the farming view sheds. The farmers' consideration for this service has been that the farmers are allowed to take the crop and sell it.

Ms. Hadinger explained that the five year term agreements for these services are now expiring and the contracts for the next five year period would exceed the bid threshold. Green Acres has discussed doing short-term agreements throughout 2013 and then going out to bid before the end of 2013 for the next 5 years. If acceptable, staff would approach Green Acres formally with the proposed agreements. One property is an exception due to the spraying of herbicide possibly beyond the property boundaries by the farmer, which is being reviewed by NJDEP. No formal approval from the Governing Body was needed at this time but when agreements are drawn up, this would come before Township Committee for approval.

19. **MUNICIPAL ALLIANCE REQUEST FOR WAIVER OF FIRE PREVENTION TYPE I PERMIT FEE**

Administrator Nieman explained that the Municipal Alliance is asking for a waiver of the fire prevention permit fee for their upcoming Walk-Out on Drugs event to be held on June 2nd. Because Municipal Alliance is a municipal body the \$63.00 fee can be waived.

19-1. Committeeman Sugden 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
Nays - None
Absent - Trzaska

20. **LIQUOR LICENSE**

Township Clerk Donna Kukla reported that the attorney for the potential purchaser of Cherry Valley Country Club, applied to the State directly to switch from a Club license to a Golf Facility Special license. They have also expressed their interest in bidding on the retail consumption liquor license the Township recently put out to bid.

21. **INFLATABLE RIDES AT FIREWORKS**

Attorney Hadinger reiterated that there are two recommendations of means for inflatable ride vendors to obtain the requested insurance.

22. **ENVIRONMENTAL COMMISSION/SUSTAINABLE MONTGOMERY**

Administrator Nieman reported that the Environmental Commission met a week ago. They were very pleased with the attendance at the Township Earth Day Fair on April 21st as well as the quantity of metal and electronic devices recycled. They wish to discuss with Governing Body, in September, the diversity survey issue which was recommended by Sustainable New Jersey. They are continuing with their green mapping initiative, also recommended by Sustainable New Jersey, which would incorporate all of the Township's GIS data. There is a girl scout working on this project, as well.

23. **ECONOMIC DEVELOPMENT COMMISSION**

Committeeman Smith reported that there will be an open house function for businesses at Honda of Princeton and also at a new business opening at Montgomery Shopping Center this weekend. They are making good progress on getting information out to local businesses and are moving forward with developing a new business directory.

24. **MUNICIPAL ALLIANCE**

Deputy Mayor Graham reported that the Municipal Alliance is working on the June 2nd Walk Out on Drugs. The group also met with Captain Palmer to discuss possible grants for ways to work with Police on drug and alcohol abuse prevention.

25. **BOARD OF HEALTH**

Deputy Mayor Graham reported that the Board of Health gave an update on the smoke free parks proposal and noted that there was no draft ordinance before the Governing Body at this time. Princeton adopted an ordinance for this and was able to obtain free signs for the parks. She noted that there is also an application for a cigar tasting room at the Montgomery Shopping Center.

26. **ADMINISTRATOR'S VACATION**

The Administrator will be on vacation from May 24 to June 4. Donna Kukla, Township Clerk will be in charge during his absence.

27. **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:
 - COAH
 - Advice of Counsel with respect to Hunter Farms, pending CADB and other legal proceedings relative thereto.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. It is possible that at the conclusion of the closed session, the Township Committee will reconvene in open session for the purpose of taking action.

27-1. Committeeman Sugden moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried unanimously.

28. The meeting reconvened in Open Session and Adjournment was at 9:12 p.m. on a motion by Committeeman Sugden. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk