

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE  
September 4, 2008

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 Birge, Deputy Mayor Fay, Committeewoman Wilson  
Committeemembers Caliguire and Joye were absent

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 Birge 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 Birge led the salute to the flag.

4. **MONTGOMERY NIGHT AT SOMERSET PATRIOTS**

Deputy Mayor Fay stated that he and Mayor Birge were at Montgomery Night at Somerset Patriots. It was a tremendous turn-out. He reported that Montgomery Township Police Officer Bruce Heddy threw out the first pitch.

5. **ECONOMIC DEVELOPMENT COMMISSION**

Deputy Mayor Fay mentioned that on September 16 at the Elks Club, the Economic Development Commission, with the Somerset County Business Partnership will be presenting the results of the local business survey.

6. **SHARED SERVICES STUDY**

Administrator Nieman stated that he received word through the Somerset County Business Partnership that the Ethicon Foundation of Johnson & Johnson is giving the Township \$20,000.00 to work on a Shared Services study. The Township is looking into the consolidation or regionalization of some or all of Health Services.

7. **EAGLE SCOUT PROJECT**

DJ Bilsky explained his Eagle Scout project which was to install three (3) wooden boardwalks and two (2) hawk houses on the trails on Cherry Hill Road. He estimated that the cost for the project will be approximately \$640.00.

Township Attorney Hadinger explained that when the Township does support a project such as this in one of its own park, the Township would purchase the supplies.

- 7-1. **Motion #08-9-1** - Committeewoman Wilson moved to support this project and cover costs up to \$640.00 after that Committee knows what the final Township cost after donations are secured. Deputy Mayor Fay seconded the motion and carried on the following:

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

8. **9/11 BLOOD DRIVE**

Health Officer Stephanie Carey spoke about the Blood Drive that had been scheduled for September 11. In the past it has been a tremendously successful event.

9. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of July, 2008:

-- 1409 calls for service;  
-- 62 motor vehicle accidents;  
-- 28 arrests;  
-- 8 domestic violence;  
-- 7 criminal mischief;  
-- 9 thefts;  
-- 2 burglaries.

Police Director Palmer spoke about impending Tropical Storm Hanna and possible other tropical storms which were heading up the east coast and could effect the New Jersey area.

10. **PUBLIC COMMENT**

- 10-1. Nancy Terrenger, East Ridge Road, expressed her concern about 9-1-1 calls to the Police Department and the problem with the automated telemarketing calls that do not disconnect after the person hangs up.
- 10-2. Eric Weitze, Viburnum Drive, spoke about Weston Solutions spaghetti area. He also spoke about Dutchtown-Zion Road.
- 10-3. Steven Sachs-Wilner, Dutchtown-Zion Road, spoke about the paving of Dutchtown-Zion Road.

11. **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 #08-9-246 - REFUND OVERPAID 2008 SEWER PAYMENT**

BE IT RESOLVED That a refund in the amount of \$8,100.00 be given to Bloomberg LP, c/o Accounts Payable, 800 Third Avenue, New York, NY 10022 for the overpayment of 2008 sewer payment on Block 34001, Lot 38.01.

B. **RESOLUTION #08-9-247 - REFUND UNUSED PORTION OF SPECIAL DUTY SERVICES**

BE IT RESOLVED That a refund be given to the following business/companies for monies owed by the Township of Montgomery for Private Duty Services:

J. Fletcher Creamer & Son, Inc. 101 East Broadway Hackensack, NJ 07601 \$405.00	Waters & Bugbee, Inc. 75 South Gold Drive Hamilton, NJ 08691 \$652.50
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Traffic Safety Signs, Inc.  
703 Terminal Way  
Kennett Square, PA 19348  
\$1,075.00

C. **RESOLUTION #08-9-248 - TEMPORARY ROAD CLOSING - Block Party - Canady Court**

BE IT RESOLVED By the Montgomery Township Committee that authorization is hereby given for the temporary closing of Canady Court to accommodate a neighborhood block party scheduled for September 14, 2008 from approximately 2:00 - 7:00 p.m. The Montgomery Township Police have no objection to the road closing provided that:

The roadway must be made accessible to emergency vehicles.

The roadway must be made accessible to traffic originating and terminating on the closed section.

Block party organizers should provide advance courtesy notification to those residents that will be affected by the closure.

D. **RESOLUTION #08-9-249 - AWARD OF BID - Venison Processing Services - 2008**

WHEREAS, The following bids for Venison Processing Services were received and publicly opened on August 19, 2008:

<u>BIDDER</u>	<u>AMOUNT</u>
Country Meats of Washington	\$43.00 per deer
V. Roche & Sons	\$55.00 per deer
John B. Person	Rejected - no Business Registration Certificate

WHEREAS, It is the recommendation of the Purchasing Agent that Country Meats of Washington be awarded the bid; it being the lowest responsible bidder; and

WHEREAS, There exists an account, Township Committee Special Projects (01-201-20-102-2-096), which will fund this service; 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.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for the Venison Processing Services is hereby awarded to Country Meats of Washington, 51 South Lincoln Avenue, Washington, NJ 07882 in an amount of \$43.00 per deer and not exceed \$6,450.00;

BE IT FURTHER RESOLVED That the Administrator and Purchasing Agent are hereby authorized to sign said Contracts.

E. **RESOLUTION #08-9-250 - AUTHORIZING EXECUTION OF AN AGREEMENT WITH NJ TRANSIT TO ARRANGE FOR THE PURCHASE AND INSTALLATION OF BUS SHELTERS - Route 206**

WHEREAS, NJ Transit has funds for the purchase of bus shelters throughout the State of New Jersey; and

WHEREAS, The governing body of a municipality in New Jersey or the Board of Chosen Freeholders of a county may apply to the New Jersey Transit Corporation for the purchase and installation of bus shelters at legally designated bus stops; and

(CONSENT AGENDA Item E Cont.)

WHEREAS, The Township of Montgomery, in the interest of promoting public transportation, conservation of energy, traffic safety, and for the convenience of the public, endorses the concept of providing bus shelters within its jurisdiction.

NOW, THEREFORE, BE IT RESOLVED That the application is hereby made by the Township of Montgomery to the New Jersey Transit Corporation for the purchase and installation of three (3) bus shelters at the following locations:

Route 206 southbound at Airpark Road, near side;  
Route 206 southbound at Route 518, mid-block (400' north);  
Route 206 southbound at Cherry Valley Road, mid-block (60' north).

BE IT FURTHER RESOLVED That the Mayor and Township Clerk be authorized to execute an agreement or agreements with NJ Transit to arrange for the purchase and installation of the shelters.

F. **RESOLUTION #08-9-251 - RELEASE OF PERFORMANCE GUARANTEE - Pike Run VII (Tract 7)**

WHEREAS, Gail Smith, Township Engineer, has certified on July 30, 2008 that all public improvements in a project known as Pike Run VII (Tract 7) have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore 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 \$857,205.60 (Bond #S04846 in the amount of \$771,485.04 and \$85,720.56 cash) be released to Pike Run, LLC and a maintenance guarantee be posted as follows:

Construction Cost Estimate	\$857,205.60
15% Maintenance Guarantee	\$128,580.84

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the following improvements shall be deemed accepted and the performance guarantee may be released.

Goldenrod Drive and Walters Lane.

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 RESOLVED That the developer must post a bond for the unresolved fence issues for Block 5014, Lots 7, 8, 12, 13, 18 and 22.

The Township will not need to accept the detention basin improvements as the Homeowners Association will maintain the basins.

G. **RESOLUTION #08-9-252 - RELEASE OF MAINTENANCE GUARANTEE - Pike Run, Phase I, Tract 10**

WHEREAS, Gail Smith, Township Engineer, has certified on July 30, 2008 that all public improvements in a project known as Pike Run, Phase I, Tract 10 have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #S04150-M in the amount of \$128,389.73 be released to Pike Run, LLC., 90 Woodbridge Center Drive, Woodbridge, NJ 07095-0457.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

H. **RESOLUTION #08-9-253 - RELEASE OF MAINTENANCE GUARANTEE - Pike Run, Phase III, Tract 9**

WHEREAS, Gail Smith, Township Engineer, has certified on July 31, 2008 that all public improvements in a project known as Pike Run, Phase III, Tract 9 have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #S04395-M in the amount of \$228,723.84 be released to Pike Run, LLC., 90 Woodbridge Center Drive, Woodbridge, NJ 07095-0457.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

(CONSENT AGENDA Cont.)

I. **RESOLUTION #08-9-254 - RELEASE OF MAINTENANCE GUARANTEE -**  
Pike Run, Phase IV, Tract 2

WHEREAS, Gail Smith, Township Engineer, has certified on July 30, 2008 that all public improvements in a project known as Pike Run, Phase IV, Tract 2 have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #S03187-M in the amount of \$159,910.51 be released to Pike Run, LLC., 90 Woodbridge Center Drive, Woodbridge, NJ 07095-0457.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

J. **RESOLUTION #08-9-255 - RELEASE OF MAINTENANCE GUARANTEE -**  
Pike Run, Phase VI, Tract 8

WHEREAS, Gail Smith, Township Engineer, has certified on July 30, 2008 that all public improvements in a project known as Pike Run, Phase VI, Tract 8 have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #S03155-M in the amount of \$129,288.16 be released to Pike Run, LLC., 90 Woodbridge Center Drive, Woodbridge, NJ 07095-0457.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

K. **RESOLUTION #08-9-256 - RELEASE OF MAINTENANCE GUARANTEE -**  
Pike Run Road/Off-Site Sanitary Sewer

WHEREAS, Gail Smith, Township Engineer, has certified on July 31, 2008 that all public improvements in a project known as Pike Run, Pike Run Road/Off-Site Sanitary Sewer have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #S03218-M in the amount of \$269,774.40 be released to Pike Run, LLC., 90 Woodbridge Center Drive, Woodbridge, NJ 07095-0457.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

L. **RESOLUTION #08-9-257 - RELEASE OF MAINTENANCE GUARANTEE -** Montgomery Green a/k/a Grayson Estates III, Section II

WHEREAS, Gail Smith, Township Engineer, has certified on July 24, 2008 that all public improvements in a project known as Montgomery Green a/k/a Grayson Estates III, Section II have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #929372615 in the amount of \$17,361.60 be released to Toll Brothers Development, 1915 Swarthmore Avenue, Suite 2, Lakewood, NJ 08701.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

L. **RESOLUTION #08-9-258 - RELEASE OF MAINTENANCE GUARANTEE -** Montgomery Green a/k/a Grayson Estates III, Section III

WHEREAS, Gail Smith, Township Engineer, has certified on July 24, 2008 that all public improvements in a project known as Montgomery Green a/k/a Grayson Estates III, Section III have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that Maintenance Bond #929372616 in the amount of \$16,873.20 be released to Toll Brothers Development, 1915 Swarthmore Avenue, Suite 2, Lakewood, NJ 08701.

BE IT FURTHER RESOLVED That the release of the Maintenance Bonds shall be conditioned upon the posting of adequate escrow funds.

M. **RESOLUTION #08-9-259 - RELEASE OF ESCROW FEE -** Frank Cumsky -  
Street Opening Permit 06-R-52

WHEREAS, On August 26, 2008, Gail Smith, Township Engineer, recommended the release of an Escrow Fee to Frank Cumsky because all work has been satisfactorily completed with respect to a street opening permit for 298 Spring Hill Road.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that an Escrow Fee in the amount of \$2,376.00 be released to Frank Cumsky, 298 Spring Hill Road, Skillman, NJ 08558.

(CONSENT AGENDA Cont.)

**N. RESOLUTION #08-9-260 - APPROVAL OF SALES AND MANAGEMENT AGREEMENTS - Nicolaysen -  
With Montgomery Friends of Open Space**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a sales agreement and management agreement between the Township of Montgomery and Montgomery Friends of Open Space with regard to the Nicolaysen Tract.

**O. RESOLUTION #08-9-261 - AUTHORIZING TOWNSHIP ADMINISTRATOR TO SIGN A NO FURTHER  
ACTION LETTER - 36 Kildee Road**

BE IT RESOLVED That the Township Administrator is hereby authorized to sign a No Further Action Letter regarding 36 Kildee Road.

**P. RESOLUTION #08-9-262 - TO AUTHORIZE AUCTION OF UNUSED TOWNSHIP VEHICLES**

WHEREAS, The Township of Montgomery has determined that certain personal property, as described below, is no longer needed for public purposes; and

WHEREAS, N.J.S.A. 40A:11-36 requires that such personal property be sold at public auction to the highest bidder.

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

1. The below listed schedule of Township property is declared surplus and no longer needed for public purposes;
2. The Purchasing Agent is hereby authorized and directed to advertise public sale of said personal property to be sold on GovDeals.com, a State of New Jersey authorized web based auction. Said sale shall commence within ten days of approval by the Township Committee.
3. The Township reserves the right to reject any and all bids if it determines such rejection to be in the public interest.
4. Said sale shall be in the manner of a public auction and in accordance with the procedures to be announced.

VEHICLES

1998 Ford Crown Vic, white	2FAFP71W0XX207894
1995 Chevy Caprice, white	1G1BL52P6SR189185
1998 Ford Crown Vic -green	2FAFP71W4WX163297
1995 Ford Crown Vic, silver	2FALP72WISX181672
1999 Ford Crown Vic, black	2FAFP71W2XX207895
2001 Ford Crown Vic, white	2FAFP71WX1X182543
1995 F150 white truck	2FTEF14NXSCA33986
1999 Ford Expedition XLT, white	1FMFU18L0XLB99434
2001 Ford Crown Vic, white	2FAFP71W61X182541
1996 Dodge Mason dump truck, yellow	1B6MF36COTJ193532
1993 Chevy Blazer, white	1GNDD13W9P2209757
1994 Ford F150 P/U, yellow	1FTEF15NXRNB67819
1995 Ford Superduty Mason dump, yellow	1FDLF47F4SEA38507
1996 Ford Ranger P/U, yellow	1FTCR10A6TTA50664
1993 Ford Ranger P/U, yellow	1FTCR10U7PTA84502
2003 Ford Crown Vic, white	2FAFP71WX3X135628
2003 Ford Crown Vic, white	2FAFP71W63X135626
1996 Ford F350 Crew Cab, yellow	1FTJW36H4TEB217021
2001 Ford Crown Vic, white	2FAFP71W81X182542
2005 Ford Crown Vic, white	2FAHP71W24X116002

**Q. RESOLUTION #08-9-263 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) -  
Over the Limit Under Arrest 2008**

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special items of revenue in the budget of any County or Municipality when such item shall have been made by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, Said Director may also approve the insertion of any item of appropriation for an equal amount

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery hereby requests the Director of the Division of Local Government Services to approve the insertion of items of revenue in the budget of the year 2008, in the amounts listed below, which item is now available as a revenue from the State of New Jersey;

Over The Limit Under Arrest 2008 \$ 5,000.00

BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That two copies of this document with handwritten ink signature of the Clerk on certification be forwarded to the Division of Local Government Services.

(CONSENT AGENDA Cont.)

11-1. Deputy Mayor Fay moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Wilson and carried on the following:

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

12. **RESOLUTION #08-9-264 - ABC LICENSE #1813-33-002-013 -  
Dakota of Skillman, Inc. (Tusk Fusion)** \_\_\_\_\_

WHEREAS, Based on the following information regarding the renewal of ABC License #1813-33-002-013 for Dakota of Skillman, Inc.:

- a. The submitted application form is complete in all aspects;
- b. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or division-approved conditions; and
- c. The applicant previously disclosed and the Township Committee from the authority previously reviewed the source of funds used in connection with the initial purchase of the license and licensed business and additional financing obtained in connection with the licensed business;
- d. No reports of violations have been filed by the Health Officer, Police Department and Fire Prevention Official.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that a renewal of Alcoholic Beverage Control License #1813-33-002-013 is hereby granted for the year 2008-2009.

12-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

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

13. **RESOLUTION #08-9-265 - ABC LICENSE #1813-33-009-001 -  
MTC Restaurant I, LLC** \_\_\_\_\_

WHEREAS, Based on the following information regarding the renewal of ABC License #1813-33-009-001 for MTC Restaurant I, LLC:

- e. The submitted application form is complete in all aspects;
- f. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or division-approved conditions; and
- g. The applicant previously disclosed and the Township Committee from the authority previously reviewed the source of funds used in connection with the initial purchase of the license and licensed business and additional financing obtained in connection with the licensed business;
- h. No reports of violations have been filed by the Health Officer, Police Department and Fire Prevention Official.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that a renewal of Alcoholic Beverage Control License #1813-33-009-001 is hereby granted for the year 2008-2009.

13-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Fay and carried on the following:

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

14. **ORDINANCE #08-1294 - LDO - Submission Requirements - Public Hearing**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVI, "LAND DEVELOPMENT", OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) COUNTY OF SOMERSET, STATE OF NEW JERSEY AND SPECIFICALLY SUBSECTIONS 16-4.6 e.5., 16-4.7 e.4. AND 16-4.8 e.5 REGARDING BUFFERS, SECTION 16-5.6, ENTITLED "NATURAL FEATURES", SUBSECTION 16-8.3 b. REGARDING "DETAILS REQUIRED FOR MINOR SUBDIVISION PLATS AND MINOR SITE PLANS", SUBSECTION 16-8.4 b. REGARDING DETAILS REQUIRED FOR PRELIMINARY MAJOR SUBDIVISION PLATS AND PRELIMINARY MAJOR SITE PLANS, SUBSECTION 16-8.5 b. REGARDING DETAILS REQUIRED FOR FINAL MAJOR SUBDIVISION PLATS AND FINAL MAJOR SITE PLANS, AND APPLICABLE CHECKLISTS

B. Township Clerk Donna Kukla read the following report from the Planning Board:

"On August 11, 2008 the Planning Board reviewed the above referenced ordinance. The Board found the ordinance consistent with the Master Plan and recommended adoption."

(Item #14 Cont.)

- C. Mayor Birge opened the hearing to the public. There being no comment, Deputy Mayor Fay moved that the public hearing be closed. The motion was seconded by Committeewoman Wilson and carried unanimously.
- D. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 4<sup>th</sup> day of September, 2008 and that notice thereof be published in an official newspaper as required by law.

14-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Fay and carried on the following:

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

15. **ORDINANCE #08-1295 - BOND - Various Capital Acquisitions - Public Hearing**  
**(to be continued to September 18, 2008)**

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

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL ACQUISITIONS IN AND FOR THE TOWNSHIP OF MONTGOMERY, IN THE COUNTY OF SOMERSET, NEW JERSEY, APPROPRIATING \$544,000 THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$516,800 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the public hearing for the foregoing ordinance be continued to September 18, 2008 in an official newspaper as required by law.

15-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

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

16. **ORDINANCE #08-1296 - Wismer Donation (Block 27001, Lot 19) - Public Hearing**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY AUTHORIZING THE ACQUISITION OF A PORTION OF BLOCK 27001, LOT 19 LOCATED ON OPOSSUM ROAD PURSUANT TO N.J.S.A. 40A:12-5

B. Mayor Birge opened the hearing to the public. There being no comment, Deputy Mayor Fay moved that the public hearing be closed. The motion was seconded by Committeewoman Wilson and carried unanimously.

D. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 4<sup>th</sup> day of September, 2008 and that notice thereof be published in an official newspaper as required by law.

16-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Fay and carried on the following:

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

17. **ORDINANCE #08-1297 - Nicolaysen-Montgomery Friends of Open Space - Introduction**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, PROVIDING FOR THE CONVEYANCE OF AN UNDIVIDED 27.7% INTEREST IN LOT 37.02, BLOCK 34001 "NICOLAYSEN PROPERTY" ON CHERRY VALLEY ROAD IN THE TOWNSHIP OF MONTGOMERY TO MONTGOMERY FRIENDS OF OPEN SPACE, INC.

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 September 18, 2008 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

17-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

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

18. JOINT TOWNSHIP COMMITTEE/PLANNING BOARD MEETING FOR COAH

18-1. Planning Board Chair Tom Lee 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."

PLANNING BOARD - Tom Lee, Cecilia Birge, Louise Wilson, Sarah Roberts, Ann Piehl, Tony Glockler, Milt Charbonneau, Bill Rodgers

Also present were:

PLANNING DIRECTOR - Lori Savron

TOWNSHIP PLANNER - Richard Coppola

18-2. Planning Director Lori Savron gave an overview on the Affordable Housing rules and the Township's compliance. She stated that there were currently 327 existing units. New Jersey is one of only a few States in the country that requires the development of Affordable Housing and is the only State that has taken it to be a Constitutional obligation that each Town has to provide Affordable Housing.

18-3. Township Planner Richard Coppola went over his presentation regarding COAH's rules and their implication for Montgomery Township. He stated that Montgomery Township was a champion in this State in terms of compliance, the Township actually complied voluntarily before COAH was formed. He spoke about the new rules that COAH had adopted/proposed and how he felt they were impractical; punitive to municipalities and land developers, arbitrary and capricious since they are premised upon faulty and unverifiable data, would effectively discourage municipal alliances with private developers; would negatively impact the State's economy; and would be a burden to taxpayers, since the rules would result in substantial increases in the real property tax burden in direct contravention with the "Fair Housing Act" which prohibits COAH from forcing municipalities "to raise or expend municipal revenues to provide low and moderate income housing". He explained that COAH was basing their projections on growth rate from January 1, 2004 through December 31, 2018.

18-4. Sarah Roberts, Harlingen Road, stated that she knew some people who lived in affordable housing units and she assumed they qualified for it based on their income and she spoke about them owning two housing units in another state and asked how that could be.

Committeewoman Wilson explained that two people who qualified for affordable housing and were accepted could live in that unit forever without ever having to re-qualify no matter how much their income increased.

18-5. James Herring, Castle Howard Court, questioned the concern of COAH wanting more units if the assessment of the growth of the Township grew.

Planner Coppola explained that if the growth actually turns out to be larger than projected, the more additional development is added and that in turn is added to the obligation.

18-6. Patricia Graham, Wilshire Drive, asked about developing Skillman Village in accordance with the Town's vision plan, and what the additional COAH requirements would be.

Planner Coppola explained the way the Master Plan sets up Skillman Village is that the private developers have to satisfy at least the obligation they are creating.

18-7. Ms. Graham asked Attorney Hadinger about the two COAH lawsuits brought by the League of Municipalities and other New Jersey towns.

Attorney Hadinger explained them and about a third one from other towns in the area.

18-8. Steven Sacks-Wilner, Dutchtown-Zion Road, asked Attorney Hadinger about a re-file by the Township.

18-9. Committeewoman Wilson asked why the Skillman Village additional obligation is over and above the 426 number.

Attorney Hadinger responded that because it is a redevelopment area, it is the subject of potentially new rules.

18-10. Sarah Roberts, Harlingen Road, stated that she assumed that the Township was making a plan because it will save a lot of trouble, and it would be the best way to meet the obligations.

18-11. Milt Charbonneau, River Road, asked if larger projects were planned

18-12. Sue Repko, Northshore Court, stated that the new rules are pushing towns to come up ways to do municipally-sponsored or non-profit projects.

18-13. The Planning Board portion of the meeting was adjourned at 9:50 p.m. and the Township Committee meeting reconvened.

19. **APPROVAL OF MINUTES**

19-1. Deputy Mayor Fay moved the adoption of the Regular Session minutes of May 1, 2008. The motion was seconded by Committeewoman Wilson and carried on the following:

**ROLL CALL:** Ayes - Wilson, Fay  
Nays - None  
Absent - Caliguire, Joye  
Abstain - Birge

19-2. Committeewoman Wilson moved the adoption of the Regular Session minutes of May 15, 2008 and June 5, 2008. The motion was seconded by Deputy Mayor Fay and carried on the following:

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

20. **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.

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

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

21. **TRAFFIC SIGNAL AT ROUTE 206 AND HARLINGEN ROAD**

Committeewoman Wilson stated that the Transportation Advisory Committee had been trying to work with the Department of Transportation regarding the design for the new traffic signal at Route 206 and Harlingen Road. She asked permission from the rest of the Township Committee to request contact with higher ups in the Department of Transportation. She would like to write a letter to the Deputy Commissioner requesting well marked pedestrian crossings with a "Walk/Don't Walk" count-down pedestrian light head as well as a reduction in the size of the lights that face Harlingen Road from 12 inches to 8 inches.

21-1. **Motion #08-9-2** - Deputy Mayor Fay moved to authorized Committeewoman Wilson to write such a letter. The motion was seconded by Mayor Birge and carried unanimously.

21-2. **Motion #08-9-3** - Deputy Mayor Fay moved to authorize Committeewoman Wilson to draft a letter to the Commissioner of the Department of Transportation regarding a developer's request to effect a land swap and to explain that the Township has an interest in this transaction. The motion was seconded by Mayor Birge and carried unanimously.

22. **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:
  - Advice of counsel concerning Selody Farm;
  - Advice of counsel concerning Amendment to Agreement with State regarding NPDC Waterline Extension.
3. It is unknown precisely when, if ever, the matters discussed in this session may be disclosed to the public. Approval of agreements shall only be authorized by the Township Committee in a public session. 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.

22-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried unanimously.

23. Meeting reconvened in Open Session.

24. **AMENDMENT TO AGREEMENT WITH STATE REGARDING NPDC WATERLINE EXTENSION**

Attorney Hadinger asked that the Township Committee authorize and approve clarification of the terms and conditions of the purchase and sale agreement with the State with respect to the Skillman Village project and, more particularly the waterline provisions of the agreement that called for each party to deposit the sum of \$100,000.00 each, at this point and time with a refinement of the plans to the installation. The proposal is for the Township to deposit an additional \$25,000.00 and the State to deposit an additional \$35,000.00.

- 24-1. **Motion #08-9-4** - Deputy Mayor Fay moved to authorize and approve clarification of the terms and conditions of the purchase and sale agreement with the State of New Jersey with respect to the Skillman Village project and, more particularly waterline provisions of the agreement. The motion was seconded by Committeeman Wilson and carried on the following:

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

25. **SELODY FARM**

Attorney Hadinger asked that the Township Committee authorize for the filing, which has taken place, of the requested case hearing in the Selody Farm water diversion application.

- 25-1. **Motion #08-9-5** - Committeewoman Wilson moved the authorization for filing of case hearing for Selody Farm. The motion was seconded by Deputy Mayor Fay and carried unanimously.

**ADJOURNMENT** was at 10:30 p.m. on a motion by Committeewoman Wilson, seconded by Deputy Mayor Fay and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk