

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
September 15, 2011

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 Caliguire, Deputy Mayor Dyer, Committeemembers Carter (via speaker telephone), Graham and Trzaska

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TOWNSHIP CLERK - Donna Kukla

2. Mayor Caliguire 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 Caliguire led the Salute to the Flag.

4. **POLICE REPORT**

Police Director Palmer reported on the following activities of the Police Department for the month of July, 2011:

- 48 motor vehicle accidents;
- 18 arrests;
- 15 thefts;
- 1 burglary;
- 3 domestic violence;
- 3 criminal mischief.

Police Director Palmer reported on the following activities of the Police Department for the month of August, 2011:

- 50 motor vehicle accidents;
- 22 arrests;
- 14 thefts;
- 5 burglaries;
- 5 domestic violence;
- 8 criminal mischief.

Director Palmer reported on a Public Assistance meeting he attended at Somerset County Emergency Services Training Academy conducted by FEMA and the New Jersey State Police. He submitted a Public Disaster Relief application with FEMA. The next thing that will occur is a kick-off meeting with the disaster evaluator to discuss the full range of assorted projects that the Township has to do to recuperate some of the losses in the municipal government such as material, labor and permanent loss by nature.

5. **PRESENTATION BY CABLEVISION/LIGHTPATH**

Don Viapree, representative of Cablevision/Lightpath, stated that Cablevision does not serve Montgomery but they do own the Lightpath division which offers tremendous advanced services for businesses in Montgomery. He gave a brief background of Lightpath. He stated that they were looking for approval of a Rights-of-Way Use agreement.

6. **RESOLUTION #11-9-232 - APPROVING RIGHTS-OF-WAY USE AGREEMENT WITH CABLEVISION-LIGHTPATH NJ, INC.**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute Rights-of-Way Use agreement with Cablevision-LightPath NJ, Inc.

- 6-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Carter, Dyer, Caliguire
Nays - None

7. **PUBLIC COMMENT**

- 7-1. John Kumpf, Monroe Avenue, announced that he was video-taping the meeting and it would be available on the www.themontgomeryteaparty.org website. He spoke about previous conversations with the Township Committee about linking their website to the Township's website so people could easily access these meeting videos. He stated that he had understood that the Township Committee was going to set criteria that could be consistent for all people who wanted to be linked to the Township website.

Attorney Hadinger stated that the Township does have a set of policies or practices. There are certain linkages that are made insofar as concerns the Economic Development Commission, the Recreation Department, and, in general, the Township Committee and Clerk's office. Those links relate to related governmental entities. The policies do not provide for linkages to political organizations, whatever the political organization may be.

Mayor Caliguire stated that the audio file of Township Committee meetings would be placed on the website from now on.

(Item #7 Cont.)

- 7-2. Liz Palius, River Road, discussed flooding and stormwater management.

Mayor Caliguire stated that a group was recently formed by Mayor Zuzza of Manville to address this issue.

Ms. Palius stated that the detention basins have to become retention basins.

Administrator Nieman explained that the problem was that the Millstone Valley and the waters that feed into the Millstone River inundate the area. The rainfall was less than Floyd but there had been rainfall before Irene hit which caused the massive amounts of flooding.

Mayor Caliguire requested that Ms. Palius speak to Township Engineer Gail Smith and Committeewoman Graham suggested that when Ms. Palius meets with Engineer Smith, there might also be someone from the Environmental Commission present.

Mayor Caliguire asked what Ms. Palius would like the Governing Body to do? He stated that he could introduce a resolution that says that the Township is against stormwater that we can't handle, but it won't solve the problem.

Ms. Palius explained that she thought the resolution should say that the Township was going to deal with the Federal government, the State, various Counties and all the communities.

Administrator Nieman stated that everyone in the County is well aware of the problem and Montgomery was one of the first municipalities to avail itself of a grant available through the US Department of Agriculture where the Township instituted the Stormwater Management Committee and developed a plan. He stated that Montgomery had already started changing detention basins, and there were approximately 60 of them that were becoming rain gardens.

Ms. Palius suggested that she invite an expert from the Stony Brook Watershed to speak to the Township Committee at the next meeting.

- 7-3. Committeeman Carter concluded his participation.

- 7-4. Robert Kress, Meadow Run Drive, spoke about his being an advocate for some flood-free crossings in Montgomery. He spoke about the bridge right outside the Municipal Building, which has been the subject of discussions since 2005. He felt that the State needed to fix or replace the bridge soon. He stated that the Township should take some proactive initiatives, because after Hurricane Irene, residents were unable to reach any of the local hospitals. This could have been a real problem if there had been a dire emergency. He suggested that the Township start to think of a place where a satellite "hospital" could be placed, whether it be through Princeton Medical Center, Somerset Medical Center, etc.

Mayor Caliguire stated that both he and Administrator Nieman had discussions with two hospitals about doing just that sort of thing and they are actively pursuing this idea.

Mr. Kress spoke about some of the roads that were falling apart, specifically Opossum Road south of the bridge.

Mayor Caliguire suggested that Mr. Kress make a list of priorities and submit it to Administrator Nieman. He explained that the Township could only do so much, as the budget is extremely tight.

- 7-5. Walter Beadling, Thornton Way, spoke about the video taping of meetings. He still does not understand why the Township will not put the videos of the meeting up on the website.

Administrator Nieman stated that, as per his telephone conversation with Mr. Beadling, it was not a document that the Township controls and the Township Clerk is uncomfortable having it. He explained that the Township will be putting a certified copy of the audio tape on the website, starting this week.

Mr. Beadling stated that he had spoken to representatives at Comcast and reviewed the Township's ordinance. He found that Comcast is bound by the ordinance to supply a mobile studio for 12 hours per month, at the request of the Township Committee. The representative stated that there were many different options in terms of how to do this.

Mayor Caliguire stated that if Comcast wants the Township to do this, the Governing Body needs to pass a resolution allowing it. Committee concurred that this would be acceptable.

- 7-6. John Kumpf, Monroe Avenue, asked when the road triage was announced, it would be published and therefore on the Tea Party's website for people to see. He also commended the Township Committee for be financially responsible when deciding which roads to improve, etc.

He said that was glad that the Township Committee would be putting the audio recording of the meeting on the Township's website.

(Item #7 Cont.)

- 7-7. William Randolph, Boulder Brook Court, commended the Township Committee on the fact that the buildings are all demolished in Skillman Village.

He explained that the Montgomery Tea Party was not a political entity. He stated that just about every surrounding community video tapes and broadcasts their meetings and he thought it would be great if Montgomery could do the same.

- 7-8. Brett Borowski, York Drive, spoke about the outcome regarding the air cannons. He thanked the Township Committee for their help in this situation.

- 7-9. Donald Matthews, Rutland Road, spoke about the potholes on Route 206. He stated that the New Jersey Department of Transportation approved the design for the bridge over Crusier Brook, in front of the Municipal Building, back in 1989. He wondered when they were going to replace this bridge.

Administrator Nieman stated that the Department of Transportation pushed the repair of Route 206 back a year. They were going to finish the work to the CSX Bridge and then they would work on the Crusier Brook Bridge. He stated that he would call the Department of Transportation about the dates.

- 7-10. Nick Hladick, Woodview Drive, brought the huge pothole on Red Oak Drive to the attention of the Township Committee. He stated that it had been repaired not too long ago, but it had returned.

Administrator Nieman stated that he would bring it to the attention of the Public Works Superintendent.

- 7-11. Robert Kress, Meadow Run Drive, suggested, as a policy statement to the Township, that all utility companies' wires be over the ground and not underground or if underground is necessary they be placed in conduits.

8. **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 #11-9-233 - CANCEL 2010 SEWER UTILITY CHARGES**

BE IT RESOLVED That as a result of an agreement between the State of New Jersey and Montgomery Township, \$5,398.32 in 2010 sewer utility charges be cancelled on property owned by the New Jersey Department of Corrections located on Burnt Hill Road (Block 27001, Lot 7.01).

B. **RESOLUTION #11-9-234 - REFUND OVERPAID 2011 TAXES**

BE IT RESOLVED That a refund in the amount of \$2,232.20 be given to The Provident Bank, 100 Wood Ave South, Iselin, NJ 08830 for the overpayment of 2011 taxes on Block 8001, Lot 43.

C. **RESOLUTION #11-9-235 - SHARED SERVICES AGREEMENT BETWEEN THE TOWNSHIP OF MONTGOMERY AND THE TOWNSHIP OF FRANKLIN FOR THE USE OF A DITCH MASTER MODEL 300**

WHEREAS, N.J.S.A. 40A:65-1 et seq., Uniform Shared Services and Consolidation Act, permits municipalities to enter into contracts for the purposes of sharing services; and

WHEREAS, The Townships of Montgomery and Franklin desire to continue to achieve financial efficiency by continuing to share the use and ownership of a 1988 Ford Diesel 8000 Ditch Master Model 300; and

WHEREAS, The Townships of Montgomery and Franklin deem it to be in their in best interests to enter into a shared services arrangement to provide for continuation of the sharing of the use and ownership of the aforesaid equipment at an approximate annual maintenance cost (including parts and labor) of \$4000.00, to be shared equally by Montgomery and Franklin.

NOW THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County, New Jersey, that the five-year Shared Services Agreement, effective date October 1, 2011, between the Townships of Montgomery and Franklin for the continued use and ownership of the Ditch Master equipment described above is hereby approved and the Mayor and Clerk are authorized to sign the same; and

BE IT FURTHER RESOLVED That the agreement shall take effect upon the adoption of a concurrent resolution by Franklin Township.

(CONSENT AGENDA Cont.)

D. **RESOLUTION #11-9-236 - SHARED SERVICES AGREEMENT - UCC Inspection and Support Staff Services**

WHEREAS, N.J.S.A. 40A:65-1 et seq., Uniform Shared Services and Consolidation Act, permits municipalities to enter into contracts for the purposes of sharing services; and

WHEREAS, From time to time the Townships of Montgomery, Franklin and Branchburg have a need for additional Uniform Construction Code inspectors and support staff; and

WHEREAS, The Townships of Montgomery, Franklin and Branchburg deem it to be in their best interests to enter into a Shared Services arrangement to provide for the sharing of services of Uniform Construction Code inspectors and support staff.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County, New Jersey, that the Shared Service Agreement between the Townships of Montgomery, Franklin and Branchburg for Uniform Construction Code inspection and support staff services is hereby approved and the Mayor and Clerk are authorized to sign the same; and

BE IT FURTHER RESOLVED That the agreement shall take effect upon the adoption of concurrent resolutions by all parties to the agreement.

E. **RESOLUTION #11-9-237 - AUTHORIZING EXECUTION OF AN AGREEMENT TO ACCEPT PUBLIC WORKS COMMODITIES AND SERVICES THROUGH COOPERATIVE AND JOINT PURCHASING AND SERVICES WITH SOMERSET COUNTY - JANUARY 1, 2012 THROUGH DECEMBER 31, 2021**

WHEREAS, The County of Somerset is a leader in the concept of shared services as evidenced by a history of Shared Services Agreements pursuant to N.J.A.C. 40A:65-1 et seq. and Cooperative Pricing System #2-SOCCP pursuant to N.J.S.A. 40A:11-11(5) and N.J.A.C. 5:34-7 et seq.; and

WHEREAS, The County of Somerset is desirous of contracting public works services to the county municipalities and public units in accordance with N.J.S.A. 40A:65-1 et seq. and the terms of an agreement, copy of which is on file with the Clerk of the Board; and

WHEREAS, The County of Somerset is desirous of implementing a Commodity Resale System in accordance with N.J.A.C. 5:34-7 for the resale of gasoline, diesel fuel, snow removal chemicals, and public works materials and supplies and will act as lead Agency for the County municipalities and public units desiring membership; and

WHEREAS, The Township of Montgomery wishes to enter into this Master Agreement for services as described above.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that we do hereby authorize execution of the agreement by the Mayor and Clerk to accept public works commodities and services through cooperative and joint purchasing and services with Somerset County for the period January 1, 2012 to December 31, 2021.

F. **RESOLUTION #11-9-238 - APPROVING EXECUTION OF FY 2012 NEW JERSEY DEPARTMENT OF TRANSPORTATION MUNICIPAL AID GRANT APPLICATIONS - East Mountain Road Improvement Project and Fairview Road Improvement Project, Phase II**

BE IT RESOLVED That the appropriate officials are hereby authorized to execute FY 2012 New Jersey Department of Transportation Municipal Aid Grant Applications for the following projects:

East Mountain Road Improvement Project
Fairview Road Reconstruction Project, Phase II

G. **RESOLUTION #11-9-239 - DECLARING CERTAIN TOWNSHIP EQUIPMENT AS SURPLUS PERSONAL PROPERTY**

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 (10) days of approval by the Township Committee.

(CONSENT AGENDA Item G Cont.)

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 procedure to be announced.

APPENDIX

9 Nortel phones model #NT8B27AABB Quantity 1 of Nortel phone
model #NT8B42AC-03
1 Nortel wireless phone model #NT8B45AAAC
1 Nortel Meridian Norstar Plus Compact ICS phone system
model #NNTM0409ZY2C
1 Nortel Norstar Flash voicemail system model #NNTM845566PB3

H. **RESOLUTION #11-9-240 - RELEASE OF ESCROW FEE - Skillman Village -
Street Opening Permit - 10-R-30**

WHEREAS, George Remboske, Assistant to the Township Engineer, recommended the release of the cash Escrow Fee to Robert V. Brown, Code Environmental Services, Inc. because all work has been satisfactorily completed with respect to a street opening permit at Block 26001, Lot 1 (Skillman Village).

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash Escrow Fee in the amount of \$125.00 be released to Code Environmental Services, Inc., Robert V. Brown, Vice President, 400 Middlesex Avenue, Carteret, NJ 07008.

BE IT FURTHER RESOLVED That a Maintenance Guarantee is not required.

I. **RESOLUTION #11-9-241 - RELEASE OF MAINTENANCE GUARANTEE - Pike Run, Phase VII**

WHEREAS, Gail Smith, Township Engineer, has certified on September 6, 2011 that all public improvements in a project known as Pike Run, Phase VII 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 #S04846-M in the amount of \$128,580.84 be released to Pike Run, LLC, 40 Pike Run Road, Belle Mead, NJ 08502.

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

- 8-1. Deputy Mayor Dyer moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

9. **DRAKE PROPANE CANNONS**

Mayor Caliguire updated the Township Committee on Mr. Drake's use of propane cannons on his property to scare deer and other animals. He stated that the Township supports and respects Mr. Drake's right to farm his property, but there are hundreds of residents who had been inconvenienced by these cannons. He reported that the Department of Environmental Protection met with Mr. Drake and they are allowing him to aggressively hunt the deer on the property in question. In return for that, Mr. Drake agreed to silence the cannons.

Attorney Hadinger explained that Resolution #11-9-242 was put on the agenda because a new permit was issued on August 25, after the Township Committee met and passed a resolution on August 22. The new permit left in place the permitted activities on the Drake property and disallowed those activities on the Carnevale property.

Bill Randolph, Boulder Brook Court, stated that there is a procedure in place that was established by Montgomery Township when they adopted the Farmland Preservation Plan as a prerequisite to the Planning Incentive Grant proposal. Part of that process was to establish an Agricultural Advisory Committee in town. He explained that the Township blatantly ignored the procedure that is established by the State to address a conflict with a farmer.

Attorney Hadinger stated that she respectfully disagreed with Mr. Randolph's comment that the Township blatantly disregarded the procedures, and explained the Township followed the procedures established by the statutes governing noisemaking permits issued by DEP.

10. **RESOLUTION #11-9-242 - RESOLUTION FINDING CONTINUED UNDUE HARDSHIP RESULTING FROM ISSUANCE OF NOISEMAKING DEVICE PERMIT BY THE STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF FISH AND WILDLIFE AND REQUESTING CANCELLATION OF RIGHT TO USE NOISEMAKING DEVICES**

WHEREAS, The Township Committee of the Township of Montgomery in Somerset County, New Jersey makes the following findings:

1. On August 22, 2011, the Township adopted resolution #11-8-216 finding undue hardship resulting from the operation of propane cannons under a noisemaking device permit issued by the State of New Jersey, Department of Environmental Protection, Division of Fish and Wildlife and requesting cancellation of right to use noisemaking devices (hereinafter "August 22, 2011 Resolution").
2. The Township's August 22, 2011 Resolution, all reports referenced therein, and attachments thereto are incorporated in this resolution as if set forth at length herein.
3. The Township's August 22, 2011 Resolution requested the Division of Fish and Wildlife ("Division") to cancel a noisemaking device permit issued to John Drake effective from July 19, 2011 to October 15, 2011 to use a noisemaking device, specifically a propane cannon, to scare or repel marauding birds or other wildlife, i.e., deer, to prevent damage and destruction of crops and property on the following two properties:
 - 889 County Route 518, Montgomery Township, Block 34001/Lots 44 and 46 comprising 57.4 ± acres ("Drake Property");
 - 585 County Route 518, Montgomery Township, Block 33001/Lots 18.01, 18.07, 18.08 and 18.10 comprising 15.86 ± acres ("Carnevale Property").
4. Following the Township's adoption of the August 22, 2011 Resolution and the submission of same to the Division, the Division issued a new noisemaking device permit to John Drake permitting the use of a noisemaking device on the Drake Property. Said new permit dated August 25, 2011 (hereinafter "Second Permit"), does not permit the use of a noisemaking device on the Carnevale Property.
5. The continued use of propane cannons pursuant to said Second Permit at the Drake Property continues to constitute an undue hardship upon residents of the Township and nearby communities.
6. Sound level readings taken by the Somerset County Department of Health at the Drake Property confirmed that the decibel levels of the propane cannons do exceed decibel levels standards in the State's Model Noise Ordinance and Township's noise ordinance, though the readings did not exceed the level established by Division's permits.
7. In addition to resolution #11-8-216 and the materials that accompanied the submission of said resolution to the Division, on August 24, 2011 the Township Attorney submitted correspondence objecting to the Division's deferral of the hardship presented to Township's residents to the State Agricultural Development Committee ("SADC") and an analysis of that action under the Right to Farm Act. In addition, in said correspondence which is incorporated herein as if set forth at length herein, the Township Attorney called the Division's attention to the results of scientific research confirming the inefficacy of noisemaking devices.
8. The SADC has confirmed that there is no approved agricultural management practice addressing use of propane cannons in the manner in which they are being used by John Drake.
9. When the Somerset County Health Department conducted noise level testing on the cannons being used on the Drake Property, it determined that four cannons were being used on the Drake Property and that they were being exploded every seven minutes.
10. Residents in the vicinity of the Drake Property have continued to report extreme sleep interruption and deprivation.
11. Protection of the public health, safety and welfare is the foremost duty of government.
12. The Division has the legal authority to cancel permits issued for noisemaking devices when the governing body of a municipality submits a resolution to the Division pointing to the undue hardship on nearby residents resulting from the use of noise making devices (N.J.S.A. 23:4-63.6).

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

1. As set forth in the foregoing preamble, which the Township Committee incorporates at length in this determination, the continued use of propane cannons under the Second Permit issued by the Division to John Drake constitutes an excessive and undue hardship for residents and represents a continued threat to their health;
2. In accordance with N.J.S.A. 23:4-63.6, the Township Committee requests that the Division immediately cancel the permittee's rights to use propane cannons at the Drake Property.

(Item #10 Cont.)

3. The Second Permit states that the device "will only be used when actually necessary on lands owned by the permittee." Use of propane cannons is not necessary as the excessive frequency with which the propane cannons are being used, *i.e.*, as confirmed by the Somerset County Health Department every seven minutes, evinces their utter lack of effectiveness. It is not necessary for anyone to use devices that are ineffective. The ineffectiveness of propane exploders has also been confirmed by independent, scientific studies and permittees should not be allowed to use ineffective devices that create undue hardships for residents.
4. Montgomery Township officials and staff, including without limitation, members of the police, planning and health departments, together with such other staff members and consultants as the Township Administrator and Township Attorney deem appropriate, are authorized to provide continuing evidence of the hardships created by the use of said propane cannons on residents to the Division, and to take any and all other actions as may be necessary to ensure the cancellation of the Second Permit and otherwise effectuate the purposes hereof.
5. A certified, true copy of this resolution shall be forwarded by the Township Clerk to David Chanda, Director of the Division of Fish and Wildlife, and Larry Herrightly, Assistant Director.

10-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

11. **RESOLUTION #11-9-243 - EMERGENCY APPROPRIATIONS (Hurricane Irene)**

WHEREAS, An emergency has arisen with respect to damage inflicted by the effects of Hurricane Irene, and it was necessary to expend monies to cover the costs of materials, salary and wages, and other necessary expenses due to flooding, tree damage and other significant damage to the Township infrastructure including severe damage to the Stage II Sewage Treatment Plant; and

WHEREAS, No adequate provision was made in the 2011 budget for the aforesaid purpose, and N.J.S.A. 40A:4-46 provides for the creation of an emergency appropriation for the purpose above-mentioned; and

WHEREAS, The total amount of emergency appropriation created including the appropriation to be created by this resolution is \$700,000.00 and three (3) percent of the total operating appropriations (including utility operations) in the budget for the year 2011 is \$723,653.56; and

WHEREAS, The foregoing appropriation together with prior appropriations does not exceed three (3) percent of the total operating appropriations (including utility operations) in the budget year for 2011.

NOW, THEREFORE BE IT RESOLVED That in accordance with N.J.S.A. 40A:4-48,

1. An emergency appropriation be and the same is hereby made for:

Police, Salaries & Wages	\$50,000.00
Public Works, Salaries & Wages	\$50,000.00
Public Works, Other Expenses	\$50,000.00
Gasoline, Other Expenses	\$30,000.00
Social Security, Other Expenses	\$15,000.00
Vehicle Maintenance, Other Expenses	\$15,000.00
Police, Other Expenses	\$ 5,000.00
Health Department, Other Expenses	\$ 5,000.00
Solid Waste Disposal, Other Expenses	\$ 5,000.00
Plant B (Stage II), Other Expenses	\$425,000.00
Plant B (Stage II), Salaries & Wages	\$ 50,000.00

2. That said emergency appropriation shall be provided in full in the 2012 budget.

3. That two certified copies of this resolution be filed with the Director of Local Government Services.

11-1. Administrator Nieman stated that Hurricane Irene had a tremendous financial impact on the community, particularly the Police and Public Works budgets, solid waste disposal, Health Department and the Stage II Sewage Treatment Plant. Those costs were not anticipated in the 2011 budget and FEMA will not be reimbursing the Township until 2012. If the Federal government decides not to fund FEMA and the Township does not receive reimbursement, he will come back to the Township Committee and amend this to reflect what is called a Deferred Charge.

Mayor Caliguire asked for a very detailed description of damages and monies spent.

11-2. It was decided, by the Township Committee, to pull this resolution and put it on the October 6 agenda.

12. **RESOLUTION #11-9-244 - AWARDING 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 conduct confirmatory air monitoring and coordination of demolition activities during the second phase of building demolition of the North Princeton Developmental Center (NPDC) site; and

WHEREAS, JM Sorge, Inc., Environmental Consultants, has submitted a proposal dated September 2, 2011 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

WHEREAS, The 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 conduct confirmatory air monitoring and coordination of demolition activities during the second phase of building demolition of the North Princeton Developmental Center (NPDC) site.
2. JM Sorge, Inc. shall be paid a fee not to exceed \$70,000.00 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 one year 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.

12-1. Administrator Nieman explained the contract with JM Sorge dated 2011 did not include the air monitoring provision that the Township needed to do when the demolition was done. This is to amend the contract to include that.

12-2. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Dyer and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

13. **RESOLUTION #11-9-245 - AWARDING A PROFESSIONAL SERVICES CONTRACT TO VAN NOTE-HARVEY ASSOCIATES**

WHEREAS, The Township of Montgomery desires to engage Van Note-Harvey Associates, with offices located at 777 Alexander Road, Princeton, New Jersey 08540 to perform professional surveying services related to the Township's sale of Skillman Village to the Somerset County Improvement Authority consistent with a proposal dated September 14, 2011; and

WHEREAS, The Van Note-Harvey prepared the survey for the Township when it acquired Skillman Village (formerly called "NPDC") from the State of New Jersey and is very familiar with Skillman Village; and

(Item #13 Cont.)

WHEREAS, The Township Administrator has determined and certified in writing that the value of the contract may exceed \$17,500; and

WHEREAS, The amount of the contract shall not exceed \$45,000.00 without prior authorization; and

WHEREAS, The anticipated term of this contract is for the year ending December 31, 2011, but, in any event, shall not exceed one year from today's date; 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-Pay Law;" and

WHEREAS, The above-mentioned firm has submitted a Campaign Contributions Affidavit as required by N.J.S.A.19A:44A-20.2 et seq. verifying it has not made any reportable contributions to a candidate or municipal committee representing the elected officials in the Township of Montgomery in the previous one year, and that the contract will prohibit the aforementioned from making any reportable contributions through the term of the contract; and

WHEREAS, The aforementioned Professional Services Agreement is contingent upon Township Attorney Review; and

WHEREAS, The Business Disclosure Entity Certification and the Determination of Value shall be filed with this resolution of award;

WHEREAS, The Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. authorizes the award of the aforesaid contract without public bidding as a professional services contract; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for these purposes in account #01-201-20-155-2-048, it being also noted that the Somerset County Improvement Authority bears responsibility for the costs of said services, and will pay the same not later than the time of the closing on the Skillman Village sale, and hold the Township harmless for said costs.

NOW, THEREFORE, BE IT RESOLVED, That the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey authorizes the execution of contract as described herein:

1. The Mayor and Township Clerk are hereby authorized to execute the above-referenced contract with Van Note-Harvey Associates for an amount not to exceed \$45,000 without prior authorization.
2. This contract is awarded without competitive bidding as a "professional services" contract and without competitive bidding under the provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a) as a contract for services to be performed by persons authorized by law to practice a recognized profession regulated by law and the contract shall terminate one year after its execution, or when the services are no longer required by the Township, whichever occurs first.
3. A copy of this Resolution, the Certification of Contract Value, the Campaign Contributions Affidavit, and the executed Agreement shall be placed on file in the office of the Township Clerk and shall be available for public inspection.
4. Notice of the award of this contract shall be published in the official Township newspaper as required by law.

13-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

14. **ORDINANCE #11-1397 - Speed Limit-Blue Spring Road - Public Hearing**

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

AN ORDINANCE AMENDING ORDINANCE #11-1393 WHICH WAS ENTITLED: "AN ORDINANCE AMENDING SCHEDULE XVII OF CHAPTER VII OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ADD SPEED LIMITS ON CERTAIN PUBLIC ROADS"

B. Mayor Caliguire opened the hearing to the public. There being no comment, Deputy Mayor Dyer moved to close the public hearing. The motion was seconded by Committeeman Trzaska and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 15th day of September, 2011 and that notice thereof be published in an official newspaper as required by law.

14-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

15. ORDINANCE #11-1398 - Amendment to Deer Management Ordinance - Public Hearing

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY CONCERNING DEER MANAGEMENT PERMIT FEES AND AMENDING CHAPTER IX OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

B. Mayor Caliguire opened the hearing to the public. There being no comment, Deputy Mayor Dyer moved to close the public hearing. The motion was seconded by Committeeman Trzaska and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 15th day of September, 2011 and that notice thereof be published in an official newspaper as required by law.

15-1. Deputy Mayor Dyer moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

16. ORDINANCE #11-1399 - LDO - Planned Behavioral Health Complex - Introduction

A. Mayor Caliguire 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 16-3.3 REGARDING THE ZONING MAP, 16-3.2 & 16-6.5 REGARDING OPTIONAL DEVELOPMENT ALTERNATIVES, AND 16-4.2 REGARDING "PRINCIPAL PERMITTED USES" IN THE "MR" MOUNTAIN RESIDENTIAL DISTRICT, ALL TO ESTABLISH AN OPTIONAL DEVELOPMENT ALTERNATIVE FOR A "PLANNED BEHAVIORAL HEALTH COMPLEX" IN RECOGNITION OF THE EXISTING CARRIER CLINIC FACILITIES

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 October 6, 2011 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

17. APPROVAL OF MINUTES

September 1, 2011 - Regular Session

Minutes were approved as printed.

18. PAYMENT OF BILLS

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

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

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

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

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

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

19. WILDLIFE MANAGEMENT COMMITTEE

Committeeman Trzaska reported that the Wildlife Committee proposed that the Township Committee include the new portion of the Cherry Brook Preserve in the hunting program, possibly rolling it into the Nicolaysen tract. There would be no new hunters on the property.

It was the consensus of the Township Committee to consider including this property in the 2012-2013 Deer Hunting Resolution.

20. OPEN SPACE COMMITTEE

Committeewoman Graham reported that the Open Space Committee has reiterated to her that they wish to be involved in the discussions and planning with respect to the uses for Skillman Village.

21. VETERANS MEMORIAL COMMITTEE

Deputy Mayor Dyer reported that all of the monuments had arrived for the Veterans Memorial. She thanked all of the people in the Municipal Building who have been supportive.

23. SKILLMAN VILLAGE

MOTION #11-9-1 - Committeewoman Graham moved to amend the agreement between Montgomery Township and Somerset County to add the addendum that the County will pay for the survey they requested for the sale of Skillman Village, with the operative wording being, "the SCIA has agreed that the purchase price shall be increased by the actual cost of the Van Note-Harvey survey work in an amount not to exceed \$45,000.00 and if for any reason closing does not occur, the SCIA shall reimburse the Township for the actual cost of the survey." The motion was seconded by Committeeman Trzaska and carried on the following:

ROLL CALL - Ayes - Trzaska, Graham, Dyer, Caliguire
Nays - None
Absent - Carter

24. RESOLUTION TO CLOSE MEETING TO THE PUBLIC

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

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session is as follows:
 - Terms and conditions of NPDC (Skillman Village) agreement of sale, and possible amendments thereto.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. No amendments to the agreement shall be authorized except by action of the Township Committee.

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

25. Meeting reconvened in Open Session and ADJOURNMENT was at 9:00 p.m. on a motion by Committeeman Trzaska. The motion was seconded by Committeewoman Graham and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk