

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
November 5, 2009

1. Montgomery Township Committee met at the Municipal Building, 2261 Van Horne Road, Belle Mead, NJ at 7:00 p.m. on the above date. Those present were:

TOWNSHIP COMMITTEE: Mayor Wilson, Committeemembers Fay and Dyer
Deputy Mayor Birge and Committeeman Caliguire were absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

2. Mayor Wilson stated the following: "Under the provisions of the Open Public Meetings Act, notice of the time and place of this meeting has been posted and sent to the officially designated newspapers."

3. Mayor Wilson led the Salute to the Flag.

4. **APPOINTING DONATO NIEMAN TEMPORARY DEPUTY TOWNSHIP CLERK**

- 4-1. **Motion #11-1-09** - Committeeman Fay moved to appoint Donato Nieman as the Temporary Deputy Township Clerk for the meeting of November 5, 2009. The motion was seconded by Committeewoman Dyer and carried unanimously.

5. **SOMERSET COUNTY BUSINESS PARTNERSHIP PRESENTATION**

Michael Kerwin, Somerset County Business Partnership, presented their ideas for organizing and planning for Economic Development at the local level and provided a toolkit for the Township to use as a guide.

6. **ECONOMIC DEVELOPMENT COMMISSION WEBSITE UPDATE**

Lori Savron, Planning Officer, updated the Committee on the progress of the Economic Development Commission website and presented a draft Economic Development Commission Links Page Policy for consideration.

- 6-1. **Motion #11-2-09** - Committeeman Fay moved that the draft Economic Development Commission Links Page Policy be adopted. The motion was seconded by Committeewoman Dyer and carried unanimously.

7. **RESOLUTION #09-11-321 - REAUTHORIZATION OF SERGEANT PROMOTIONAL PROCESS**

BE IT RESOLVED That the Montgomery Township Committee approves a promotional process to select a candidate for the position of Sergeant of Police for the Montgomery Township Police Department.

- 7-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

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

8. **RESOLUTION #09-11-321A - TRANSFER OF FUNDS**

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

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

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

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Township Committee (OE)		\$ 8,500.00
Streets & Roads (OE)		\$20,000.00
Adult School (OE)		\$30,000.00
Gasoline (OE)		\$24,500.00
Data Processing (OE)		\$ 400.00
Salary Adjustment (SW)		\$ 4,000.00
	Revenue Administration (OE)	\$ 5,000.00
	Workers Compensation (OE)	\$ 400.00
	Community Services (OE)	\$ 3,500.00
	Electricity (OE)	\$50,000.00
	Water (OE)	\$ 4,500.00
	Fire Department (SW)	\$ 4,000.00
	Streets & Roads (SW)	\$20,000.00

- 8-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

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

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 #09-11-322 - REFUND TAX SALE PREMIUM**

BE IT RESOLVED That a payment in the amount of \$1,500.00 be given to American Tax Funding, LLC, P.O. Box 862658, Orlando, FL 32886-2658 for the premium paid on Tax Sale Certificate #2004-16 on Block 31008, Lot 21. Premium was not previously refunded when tax lien was redeemed.

B. **RESOLUTION #09-11-323 - APPROVAL OF FIRE HYDRANT - Tapestry at Montgomery**

BE IT RESOLVED By the Township Committee of the Township of Montgomery that authorization be given to New Jersey American Water Company to install a fire hydrant at the following location in Tapestry at Montgomery, Project #2009997.

Hydrant #1 - To be installed at corner of Charles Terrace and Opossum Road.

The above locations are in accordance with recommendations of the Montgomery Township Fire Marshall.

C. **RESOLUTION #09-11-324 - AUTHORIZING SOLICITATION OF BIDS - Skillman Village Wastewater Treatment Plant Upgrade**

WHEREAS, The Township of Montgomery seeks construction services for the Skillman Village Wastewater Treatment Plant Upgrade; and

WHEREAS, The Township seeks to solicit bids from qualified contractors for this purpose in the manner set forth by the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that the Township Purchasing Agent, in coordination with the Township Administrator and Township Clerk, is hereby authorized and directed to draft the necessary specifications and contract documents and advertise for the construction of the Skillman Village Wastewater Treatment Plant Upgrade.

D. **RESOLUTION #09-11-325 - REDUCTION OF CONTRACT AMOUNT - ROAD AND PAVING MATERIALS**

WHEREAS, The Township Committee of the Township of Montgomery awarded the contract for ROAD AND PAVING MATERIALS to Trap Rock Industries in the amount of \$91,700.00; and

WHEREAS, Said contract was awarded on May 7, 2009 by Resolution #09-05-154; and

WHEREAS, It is the opinion of the Superintendent of Public Works that \$20,750.00 is no longer needed for road materials in the current budget year.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the Chief Financial Officer is hereby authorized and directed to reduce the contract for ROAD AND PAVING MATERIALS from \$20,750.00 to \$70,950.00.

E. **RESOLUTION #09-11-326 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - 2009 Highway Safety Fund Program - Safe Corridors Act**

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 2009, in the amounts listed below, which item is now available as revenue from the New Jersey Department of Transportation;

2009 Highway Safety Fund Program - Safe Corridors Act \$48,000.00

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.

F. **RESOLUTION #09-11-327 - AUTHORIZATION TO EXECUTE A GRANT AGREEMENT WITH THE SOMERSET COUNTY BOARD OF CHOSEN FREEHOLDERS FOR THE 2009 YOUTH ATHLETIC AND RECREATION FACILITY GRANT PROGRAM**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor is hereby authorized to enter into a grant agreement with the Somerset County Board of Chosen Freeholders for the 2009 Somerset County Youth Athletic and Recreation Facility Grant.

(CONSENT AGENDA Cont.)

G. **RESOLUTION #09-11-328 - APPROVING A SEWER CAPACITY AGREEMENT WITH SHARBELL PLAINSBORO, INC., FOR SUB-PHASES 1B-3 AND 1B-4 OF TAPESTRY AT MONTGOMERY**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Sewer Capacity Agreement with Sharbell Plainsboro, Inc, for the reservation of "Remaining Capacity" in the NPDC Sewage Treatment Plant for Tapestry at Montgomery, Sub-Phases 1B-3 and 1B-4.

H. **RESOLUTION #09-11-330 - RESOLUTION OF SUPPORT FOR LEFT TURN PROHIBITION - Route 206 and Princeton North Shopping Center**

BE IT RESOLVED That the Montgomery Township Committee supports the following Left Turn Prohibition and authorizes the Clerk to submit a certified copy of this resolution to New Jersey Department of Transportation Bureau of Traffic Engineering and Investigations:

LEFT TURN PROHIBITION:

No Person shall make a turn at any location listed and only in the manner described:

<u>Intersection</u>	<u>Turn Prohibited</u>	<u>Time</u>	<u>Movement Prohibited</u>
Route US 206 and the Princeton North Shopping Center (northerly driveway) (Milepost 58.0)	Left	All	Westbound from the Princeton North Shopping Center (northerly driveway) to southbound onto Route US 206

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

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

10. **RESOLUTION #09-11-331 - APPROVING SETTLEMENT AGREEMENT - New Jersey Department of Environmental Protection - Cherry Valley Sewage Treatment Plant**

BE IT RESOLVED That Donato Nieman, Township Administrator is hereby authorized to execute a Settlement Agreement with the New Jersey Department of Environmental Protection with regard to the Cherry Valley Sewage Treatment Plant.

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

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

11. **RESOLUTION #09-11-332 - APPROVING SHARED SERVICES AGREEMENT WITH MILLSTONE BOROUGH Leaf Pick Up**

BE IT RESOLVED That Donato Nieman, Township Administrator, is hereby authorized to execute a Shared Services Agreement with Millstone Borough with respect to leaf pick up in the Borough.

11-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried on the following:

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

12. **ORDINANCE #09-1339** - Amending 2009 Salary and Wage Plan (To Reduce Township Committee Salaries) - Public Hearing

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

AN ORDINANCE ESTABLISHING A COMPREHENSIVE SALARY AND WAGE PLAN FOR THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, AND TO PROVIDE FOR ITS ADMINISTRATION IN 2009.

B. Mayor Wilson opened the hearing to the public.

There being no comment, Committeeman Fay moved that the public hearing be closed. The motion was seconded by Committeewoman Dyer and carried unanimously.

C. BE IT RESOLVED By the Township Committee that the foregoing ordinance be hereby adopted this 5th day of November, 2009 and that notice thereof be published in an official newspaper as required by law.

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

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

13. **APPROVAL OF MINUTES**

13-1. Committeeman Fay moved the adoption of the Regular Session minutes of April 16, 2009. The motion was seconded by Committeewoman Dyer and carried unanimously.

13-2. Committeeman Fay moved the adoption of the Regular Session minutes of May 7, 2009. The motion was seconded by Committeewoman Dyer and carried on the following:

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

13-3. Committeewoman Dyer moved the adoption of the Regular Session minutes of May 21, 2009 and July 1, 2009. The motion was seconded by Committeeman Fay and carried unanimously.

14. **PAYMENT OF BILLS**

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

WHEREAS, The 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.

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

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

15. **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 subject to be discussed in this session is as follows:
 - Advice of counsel with regard to tax appeal settlements (DeLucia & Cashman).
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Approval of settlement agreements shall only be authorized by the Township Committee in a public session. It is possible that at the conclusion of the Executive Session, the Township Committee may take action authorizing the settlement of certain tax appeals.

15-1. Committeeman Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Dyer and carried unanimously.

16. Meeting reconvened in Open Session.

17. **RESOLUTION #09-11-334 - AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (DELUCIA V. TOWNSHIP OF MONTGOMERY; BLOCK 32001, LOT 28; 108 MOUNTAINVIEW ROAD)**

WHEREAS, Louis and Rachel DeLucia, the owners of 108 Mountainview Road, Block 32001, Lot 28 in the Township of Montgomery ("the Property") have filed an appeal of their 2009 real property taxes in the New Jersey Tax Court, DeLucia v. Township of Montgomery, Tax Court Docket No. 008917-2009; and

WHEREAS, The parties have reached a settlement of the tax appeal, subject to approval by the Township's governing body, as follows:

<u>CURRENT ASSESSMENT (2009)</u>		<u>REQUESTED ASSESSMENT (2009)</u>	
LAND	\$ 370,000	LAND	\$ 370,000
IMPROVEMENT	<u>\$1,597,100</u>	IMPROVEMENT	<u>\$1,130,000</u>
TOTAL	\$1,967,100	TOTAL	\$1,500,000

together with a credit to be applied to the Property's taxes resulting from any overpayment in 2009, and other salient terms; and

WHEREAS, The Township's Tax Assessor has reviewed the proposed terms of settlement, and find that same will result in the assessment of the Property at the fair assessable value consistent with assessing practices generally applicable in the taxing district as required by law; and

WHEREAS, It is equitable and just, and in the best interest of the citizens of the Township, to authorize the settlement of the tax appeal;

NOW THEREFORE BE IT RESOLVED By the Mayor and Township Committee of the Township of Montgomery, in Somerset County, in the State of New Jersey, that the Township's attorney be and hereby is authorized to formalize the settlement of the subject tax appeal pursuant to the parties' agreed terms, and execute and file with the Tax Court any and all documents necessary to accomplish said settlement.

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

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

18. **RESOLUTION #09-11-335 - AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (CASHMAN V. TOWNSHIP OF MONTGOMERY; BLOCK 4001, LOT 44.14; 19 SCENIC HILLS COURT)**

WHEREAS, John Cashman, the owner of 19 Scenic Hills Court, Block 4001, Lot 44.14 in the Township of Montgomery ("the Property") has filed an appeal of his 2009 real property taxes in the New Jersey Tax Court, Cashman v. Township of Montgomery, Tax Court Docket No. 010036-2009; and

WHEREAS, The parties have reached a settlement of the tax appeal, subject to approval by the Township's governing body, as follows:

<u>CURRENT ASSESSMENT (2009)</u>		<u>REQUESTED ASSESSMENT (2009)</u>	
LAND	\$ 337,000	LAND	\$ 313,000.00
IMPROVEMENT	\$ <u>458,900</u>	IMPROVEMENT	\$ <u>325,000.00</u>
TOTAL	\$ 795,900	TOTAL	\$ 638,000.00

together with a credit to be applied to the Property's taxes resulting from any overpayment in 2009, and other salient terms; and

WHEREAS, The Township's Tax Assessor has reviewed the proposed terms of settlement, and find that same will result in the assessment of the Property at the fair assessable value consistent with assessing practices generally applicable in the taxing district as required by law; and

WHEREAS, It is equitable and just, and in the best interest of the citizens of the Township, to authorize the settlement of the tax appeal;

NOW THEREFORE BE IT RESOLVED By the Mayor and Township Committee of the Township of Montgomery, in Somerset County, in the State of New Jersey, that the Township's attorney be and hereby is authorized to formalize the settlement of the subject tax appeal pursuant to the parties' agreed terms, and execute and file with the Tax Court any and all documents necessary to accomplish said settlement.

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

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

ADJOURNMENT was at 10:00 p.m. on a motion by Committeeman Fay, seconded Committeewoman Dyer and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk