

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
November 14, 2013

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

TOWNSHIP COMMITTEE: Deputy Mayor Graham, Committeemembers Smith, Madrid and Sugden
Mayor Trzaska was absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Deputy Mayor Graham 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. Deputy Mayor Graham led the Salute to the Flag.

4. **PUBLIC COMMENT**

4-1. Dan Greenhouse, Sycamore Lane, commented and posed some questions with regard to Resolution #13-11-270. He stated that his property backed up to one of the properties on the list. This was the first time owning a home next to a piece of farmland and his family loved it. Last year before the farmer applied the combination of herbicide and nitrogen, he was asked that he let the family know so they could not be in the backyard when this was being done. The farmer explained the procedure and what actually happened was totally different from what he said. He asked that the Township watch the environmental issues very carefully and to limit more strictly or prohibit the use of chemical fertilizers, insecticides, pesticides, herbicides, fungicides and any other chemicals on Township-owned lands adjacent to residential properties because the DEP's standards are not sufficient.

4-2. Walt Beadling, Thornton Way, spoke about the televising the Township meetings, public notices and emergency information on Comcast Channel 29. His first interest in this was a desire for more open, accessible government. Following a series of notable disasters, notably Hurricanes Irene and Sandy that severely impacted the Township, he also came to realize that having another means of communicating information to the community was an important and vital health and safety issue. He did some research and found out that the Township receives over \$3,000.00 a month in fees from Comcast Cable subscribers that go into the General Fund. He also determined that it would cost less than \$10,000.00 to upgrade the existing Internet based system to broadcast on Channel 29. On October 24 the following question was posed to the candidates at the Candidate's Night Forum, "the Township collects over \$40,000.00 a year in fees from Comcast Cable TV subscribers. These fees are intended to be used for the purpose of broadcasting Township meetings on Channel 29, which has been set aside for this purpose. Instead, they are put into the General Fund and as such, constitute a hidden tax on Comcast Cable TV subscribers. It will cost less than \$10,000.00 to buy the equipment needed to broadcast Township meetings on Channel 29. Would you support broadcasting Township meetings on Channel 29, and if so, when? If not, why and would you agree these fees should be refunded to Comcast Cable TV subscribers." He stated that Ms. Graham offered the following answer: "We do have completely transparent government. Township meetings are public and webcast. I don't think it is necessary to televise the meetings. I think they are public enough." She went on to say that she would not commit to giving the money back or televising Township meetings until she knew more of the details and is convinced of the cost. He asked if Deputy Mayor Graham stood by her response and what additional information did she need to decide whether to televise the meetings or give cable fees back to subscribers.

Deputy Mayor Graham stated that she felt the Township government was completely transparent. The meetings are webcast and public. In terms of the fees, she didn't know exactly what the purpose of it is. She commented that the Board of Health is undertaking a review of the Township's Emergency Management Plan.

Attorney Hadinger explained that there was nothing in the Statute or in the Township's agreement that assumes that the fees are supposed to be used for the purpose Mr. Beadling stated.

Committeeman Sugden suggested that this topic be put on the next agenda under New Business so that every Committeeperson can have a say in whether he or she agrees or disagrees with televising meetings.

5. **CONSENT AGENDA** - All matters listed hereunder are considered to be routine in nature and will be enacted in one motion. Any Township Committeeperson may request that an item be removed for separate consideration.

A. **RESOLUTION #13-11-250 - REFUND OVERPAID 2012 AND 2013 TAXES**

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

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Amount</u>
7012	19	Mikel Sadek, Executor Of Estate of Maged H. Sadek	2012	\$4,303.89
15023	9	Cortes & Hay, Inc.	2013/3 rd	\$3,436.58
21009	90	Mary Jocelyn Burchfield	2013	\$5,408.71
37002	5.31	Cortes & Hay, Inc.	2013/1 st	\$2,457.34

B. **RESOLUTION #13-11-251 - TO CANCEL CHECKS FROM THE TOWNSHIP CLERK PETTY CASH FUND**

WHEREAS, There exists outstanding unpaid checks on the books for the Township Clerk Petty Cash Fund account; and

WHEREAS, The checks are all over one year old and should be cancelled.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee and the Chief Financial Officer that the following checks be cancelled from the Township Clerk Petty Cash Fund account:

<u>Check #</u>	<u>Amount</u>
5824	\$35.00
5863	\$20.00
5864	\$ 4.27
5871	\$11.99
5872	\$10.00
5909	\$25.00
5917	\$41.00
5923	\$ 7.27
5930	\$27.14
5933	\$ 1.54

C. **RESOLUTION #13-11-252 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) - 2013 Sustainable Jersey Small Grant

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 2013, in the amounts listed below, which items is now available as a revenue from the NJLM Educational Foundation, Inc.

2013 Sustainable Jersey Small Grant	\$10,000.00
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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 the certification and shall be forwarded to the Division of Local Government Services.

D. **RESOLUTION #13-11-253 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) - Child Passenger Safety

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 2013, in the amounts listed below, which item is now available as revenue from the New Jersey Department of Law and Public Safety - Division of Highway Traffic Safety;

Child Passenger Safety	\$1,500.00
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(CONSENT AGENDA Item D Cont.)

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.

E. **RESOLUTION #13-11-254 - APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DIVISION OF HIGHWAY TRAFFIC SAFETY - 2014 Year End Holiday Drive Sober Grant**

BE IT RESOLVED That the Township Committee of the Township of Montgomery formally approves the grant application for a 2014 Year End Holiday Drive Sober Grant.

BE IT FURTHER RESOLVED That the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of Montgomery Township and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

F. **RESOLUTION #13-11-255 - AUTHORIZING THE GOVERNOR'S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FISCAL GRANT EXTENSION JANUARY 1, 2014 TO JUNE 30, 2014 - Municipal Alliance**

WHEREAS, The Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, The Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and

WHEREAS, The Township was approved for a Municipal Alliance grant for the January 1, 2013 through December 31, 2013 grant term; and

WHEREAS, The Governor's Council on Alcoholism and Drug Abuse has extended the 2013 grant term until June 30, 2014, in order to transition the grant to a fiscal year rather than calendar year cycle; and

WHEREAS, Funding has been made available to Montgomery Township Municipal Alliance in the amount of 50% of its approved 2013 grant total for the six-month extension period of January 1, 2014 to June 30, 2014, contingent upon meeting the 25% Cash Match and 75% In-Kind Match grant requirement for the extension funding.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee does hereby authorize the submission of the grant extension for the Montgomery Township Municipal Alliance grant in the amount of:

DEDR	\$9,584.50
Cash Match	\$2,396.13
In-Kind	\$7,188.38

The Montgomery Township Committee acknowledges the terms and conditions for administering the Municipal Alliance Grant, including the administrative compliance and audit requirements.

G. **RESOLUTION #13-11-256 - AUTHORIZING AGREEMENT BETWEEN MONTGOMERY TOWNSHIP AND THE NEW JERSEY DEPARTMENT OF TRANSPORTATION - Scenic Byway Identification Signs Along the Millstone Valley Scenic Byway**

BE IT RESOLVED That the Mayor and Township Clerk are hereby authorized to sign a Scenic Byway Sign Agreement between the Township of Montgomery and the New Jersey Department of Transportation for scenic byway identification signs along the Millstone Valley Scenic Byway.

H. **RESOLUTION #13-11-257 - APPROVAL OF 2014 RECYCLING AGREEMENT WITH SOMERSET COUNTY BOARD OF CHOSEN FREEHOLDERS**

WHEREAS, Pursuant to its duly approved Solid Waste Management Plan and amendments thereto, the County of Somerset has established a mandatory countywide recycling program; and

WHEREAS, The duly approved Solid Waste Management Plan and amendments thereto call for the execution of agreements by and between Somerset County and municipalities located within the County; and

WHEREAS, The Township of Montgomery desires to participate in the recycling program; and

WHEREAS, The execution of a contract with Somerset County for the provision of recycling services pursuant to N.J.S.A.13:1E-99.14 is, pursuant to N.J.S.A. 40A:11-5(2), an exception to the public bidding requirements established by the Local Public Contracts Law; and

(CONSENT AGENDA Item H Cont.)

WHEREAS, The Chief Finance Officer has certified the extent to which funds for this contract are available pursuant to the temporary budget (Somerset County Mandatory Recycling Program).

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County that the Mayor and Clerk are hereby authorized to execute an agreement with Somerset County for the provision of recycling services for a one-year term beginning January 1, 2014 through and including December 31, 2014.

I. **RESOLUTION #13-11-258 - AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT PURSUANT TO N.J.S.A. 40A:65-1, et seq., WITH THE BOROUGH OF HOPEWELL FOR FULL SERVICE ANIMAL CONTROL AND SHELTERING**

WHEREAS, The governing bodies of the Township of Montgomery and the Borough of Hopewell desire to execute a shared services agreement pursuant to N.J.S.A. 40A:65-1, et seq., for full service animal control and sheltering; and

WHEREAS, A shared services agreement, setting forth the rights and responsibilities of Montgomery and Hopewell Borough, has been prepared and circulated for approval by the governing bodies of Montgomery and Hopewell Borough.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, Somerset County, New Jersey, that the Township Committee approves the Township's participation in the shared services agreement with the Borough of Hopewell for full service animal control and sheltering; and further that the Mayor and Clerk are authorized and directed to execute the shared services agreement; and

BE IT FURTHER RESOLVED That a copy of the shared services agreement will be available, pursuant to N.J.S.A.40A:65-5.b., at the offices of the Township Clerk for public inspection.

J. **RESOLUTION #13-11-259 - AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT PURSUANT TO N.J.S.A. 40A:65-1, et seq., WITH THE BOROUGH OF PENNINGTON FOR FULL SERVICE ANIMAL CONTROL AND SHELTERING**

WHEREAS, The governing bodies of the Township of Montgomery and the Borough of Pennington desire to execute a shared services agreement pursuant to N.J.S.A. 40A:65-1, et seq., for full service animal control and sheltering; and

WHEREAS, A shared services agreement, setting forth the rights and responsibilities of Montgomery and Pennington Borough, has been prepared and circulated for approval by the governing bodies of Montgomery and Pennington Borough.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, Somerset County, New Jersey, that the Township Committee approves the Township's participation in the shared services agreement with the Borough of Pennington for full service animal control and sheltering; and further that the Mayor and Clerk are authorized and directed to execute the shared services agreement; and

BE IT FURTHER RESOLVED That a copy of the shared services agreement will be available, pursuant to N.J.S.A.40A:65-5.b., at the offices of the Township Clerk for public inspection.

K. **RESOLUTION #13-11-260 - AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE BOROUGH OF HOPEWELL FOR PUBLIC HEALTH SERVICES**

WHEREAS, The Borough of Hopewell wishes to enter into a formal shared services agreement with the Township of Montgomery for public health services.

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

1. The Mayor and Clerk shall be and are hereby authorized to execute a Shared Services Agreement with the Borough of Hopewell for public health services for a 3 year period, beginning January 1, 2014 and ending December 31, 2016.
2. A copy of said agreement shall be kept on file with the Township Clerk and available for public inspection during normal business hours.
3. This agreement is contingent upon both parties executing a resolution authorizing the agreement.

(CONSENT AGENDA Cont.)

L. **RESOLUTION #13-11-261 - AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE BOROUGH OF PENNINGTON FOR PUBLIC HEALTH SERVICES**

WHEREAS, The Borough of Pennington wishes to enter into a formal shared services agreement with the Township of Montgomery for public health services.

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

1. The Mayor and Clerk shall be and are hereby authorized to execute a Shared Services Agreement with the Borough of Pennington for public health services for a 3 year period, beginning January 1, 2014 and ending December 31, 2016.
2. A copy of said agreement shall be kept on file with the Township Clerk and available for public inspection during normal business hours.
3. This agreement is contingent upon both parties executing a resolution authorizing the agreement.

M. **RESOLUTION #13-11-262 - AUTHORIZATION TO ENTER INTO A CONSTRUCTION SEQUENCE AGREEMENT - S.A.V.E.- A Friend to Homeless Animals**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Construction Sequence Agreement with S.A.V.E. - A Friend to Homeless Animals.

N. **RESOLUTION #13-11-263 - AUTHORIZING SEWER CAPACITY AGREEMENT - S.A.V.E.-A Friend to Homeless Animals**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Sewer Capacity Agreement with S.A.V.E. - A Friend to Homeless Animals.

O. **RESOLUTION #13-11-264 - AUTHORIZING AN AMENDMENT TO A CONSTRUCTION SEQUENCE AGREEMENT - Village Shopper III, LLC - Bank Pad Site (PB-11-12)**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute an amendment to a Construction Sequence Agreement with Village Shopper III, LLC for the Bank Pad Site.

P. **RESOLUTION #13-11-265 - APPROVAL OF QUIT CLAIM DEED - JER/Herring Orchard, LLC (Block 28001, Lots 5.01 and 5.02)**

BE IT RESOLVED That a quit claim deed releasing covenants and restrictions with respect to Block 28001, Lots 5.01 and 5.02 owned by JER/Herring Orchard, LLC is hereby approved and the Mayor and Clerk are authorized to sign the same.

Q. **RESOLUTION #13-11-266 - CORRECTING THE AMOUNT OF AN AFFORDABILITY ASSISTANCE LOAN TO THE TENANT OF AN AFFORDABLE HOUSING UNIT LOCATED AT 1223 MCKINLEY COURT**

WHEREAS, Via Resolution #13-10-246 adopted on October 17, 2013, the Township Committee approved an affordability assistance loan to the tenant of an affordable housing unit located at 1223 McKinley Court, Princeton, New Jersey ("Tenant") in the amount of one thousand sixty-six dollars (\$1,066.00); and

WHEREAS, Resolution #13-10-246 contained an error pertaining to the amount of the affordability assistance loan provided to Tenant and the correct amount of the loan is one thousand six dollars (\$1,006.00); and

WHEREAS, The Township Committee now seeks to amend Resolution #13-10-246 to reflect that the correct loan amount is one thousand six dollars (\$1,006.00).

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that an affordability assistance loan shall be provided to Tenant in the amount of one thousand six dollars (\$1,006.00) from the Montgomery Township Affordable Housing Trust Fund upon the same terms and conditions as set forth in Resolution #13-10-246.

R. **MAYORAL APPOINTMENT WITH TOWNSHIP COMMITTEE CONSENT - Economic Development Commission**

BE IT RESOLVED That Anthony Gatto is hereby appointed Economic Development Commission Regular Member, replacing Eric Kainer, unexpired 3 year term expiring December 31, 2014.

BE IT FURTHER RESOLVED That Todd Royer is hereby appointed Economic Development Commission Regular Member, replacing Rick Cavelli, unexpired 3 year term expiring December 31, 2014.

BE IT FURTHER RESOLVED That Heidi Shegoski is hereby appointed Economic Development Commission Regular Member, replacing Bill Froelich. unexpired 3 year term expiring December 31, 2015.

5-1. Committeeman Smith moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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

6. **RESOLUTION #13-11-267 - 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:

- 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 #1813-33-009-001 is hereby granted for the year 2013-2014.

- 6-1. Committeeman Sugden suggested that the Township contact the owner of MTC Restaurant I and the Division of Alcoholic Beverage Control and let them know that the Township does not plan to approve this and the licenses for MTC Restaurants II and III next year without some kind of plan as to using the licenses.
- 6-2. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

7. **RESOLUTION #13-3-268 - AWARD OF BID - Mason Dump Truck**

WHEREAS, The following bid for a Mason Dump Truck for Montgomery Township was received and publicly opened on October 31, 2013:

<u>BIDDER</u>	<u>AMOUNT</u>
Route 23 Automall LLC	\$84,589.00

WHEREAS, It is the recommendation of the Purchasing Agent and the Superintendent of Public Works that Route 23 Automall LLC be awarded the bid for the Mason Dump Truck for Montgomery Township; it being the lowest responsible bidder; and

WHEREAS, There exists an account 04-216-55-901-1443D which will fund this item; and

WHEREAS, A certificate as to the availability of funds has been signed by the 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 order for the Mason Dump Truck is hereby awarded to Route 23 Automall LLC, 1301 Route 23, Butler, NJ 07405 in the amount of \$84,589.00.

BE IT FURTHER RESOLVED That the Mayor and Clerk are hereby authorized to sign said contracts.

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

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

8. **RESOLUTION #13-11-269 - 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>
Sewer Legal (OE)		\$140,000.00
	Sewer Plant E - Electricity (OE)	\$ 50,000.00
	Sewer Int. on NJEIT (OE)	\$ 90,000.00
Code - Finance Adj. (OE)		\$ 5,000.00
	Code - Overtime (SW)	\$ 5,000.00

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

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

9. **RESOLUTION #13-11-270 - RESOLUTION AUTHORIZING LEASE OF FOURTEEN (14) PARCELS OF TOWNSHIP-OWNED FARMLAND BY OPEN PUBLIC AUCTION**

WHEREAS, The Township owns fourteen (14) parcels of real property situate in the Township of Montgomery, most of which has been designated either as Green Acres funded or unfunded parkland, said real property being identified on the Township's tax map as follows:

- Property #1 Block 14001/Lot 37 (Skillman Road between Otto Kaufman and Skillman Post Office) - 24 tillable acres
- Property #2 Block 22001/Lots 10 & 11 (Bridgepoint Road) - 7.5 tillable acres
- Property #3 Block 29001/Lots 5 & 5.01 (Montgomery Road across from Stonebridge) - 8 tillable acres
- Property #4 Block 23001/Lot 13 (Montgomery Road behind/around Stonebridge) - 40 tillable acres
- Property #5 Block 18026/Lot 27 (Dead Tree Run Road across from Summit Drive) - 48 tillable acres
- Property #6 Block 20001/Lot 4 (Route 206 north of Nassau Tennis Club) - 4.5 tillable acres
- Property #7 Block 11001/Lot 56 (Hollow Road by the railroad tracks) - 42 tillable acres
- Property #8 Block 27001/Lot 6 (Route 518 next to Washington Well Farm) - 28 tillable acres
- Property #9 Block 31010/p/o 9.03 (Corner of Provinceline Road and Cherry Valley Road) - 37 tillable acres
- Property #10 Block 34001/p/o Lot 35 & p/o 35.01 (Route 518 adjacent to Lenape Swim Club) - 36 tillable acres
- Property #11 Block 15001/Lots 29 & 34 (Sunset Road and Kildee Road) - 28 tillable acres
- Property #12 Block 15001/Lot 31 (Corner of Route 206 and Dutchtown-Harlingen Road) - 40.5 tillable acres
- Property #13 Block 15001 Lot 26 & Block 15004 Lot 9 (Dutchtown-Harlingen Road) - 28 tillable acres
- Property #14 Block 34001 Lot 43.07 (Route 518) - 3.5 tillable acres

WHEREAS, The properties listed above except for Property #13 are currently subject to separate Farming Services Agreements between the Township and private farmers, which require the farmers to actively farm the land in exchange for which the farmers may sell the harvested crops on their own account; and

WHEREAS, The Farming Service Agreements are due to expire on December 31, 2013 and the Township has determined that it is in its best interest for these parcels to remain open, accessible and farmed; and

WHEREAS, Although Property #13 is not subject to a Farming Services Agreement, the Township has nonetheless determined that it is in its best interest for said parcel to remain open and accessible, and to be farmed; and

WHEREAS, N.J.S.A. 40A:12-14 authorizes a municipal corporation to lease to any private person real property owned by said municipal corporation and not needed for a public use; and

WHEREAS, N.J.S.A. 40A:12-14 requires that a lease by a municipal corporation to a private person, except for a lease to a private person for a public purpose, be made to the highest bidder by open public bidding at auction or by submission of sealed bids.

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

1. Pursuant to N.J.S.A. 40A:12-14(a), the Township through its Administrator or his designee, is hereby authorized and directed to conduct an open public auction for the lease of the "tillable" acres, on each of the fourteen (14) properties identified above in the "Whereas" clauses, and as more specifically set forth in the maps and exhibits to be attached to the Bidding Materials (referred to hereafter as "property" or "properties"), at such time and place as he may deem appropriate and necessary to effectuate the terms hereof.
2. The Township Administrator or his designee shall cause said auction to be duly advertised in accordance with the requirements of N.J.S.A. 40A:12-14, by causing the advertisement to be published in a newspaper circulating in the Township by two insertions at least once a week during two consecutive weeks, the last publication to be not earlier than seven days prior to the date of the auction. Said advertisement shall specify that the Township reserves the right to reject all bids where the highest bid is not accepted.

(Item 9. Cont.)

3. The following minimum terms and conditions shall apply to each of the above-referenced Leases:
 - A. The Leases shall be for initial five (5) year terms, beginning on January 1, 2014, and to the extent authorized by applicable law, shall be renewable for a second term of up to five (5) years.
 - B. There shall be a minimum bid on each property of eight (\$8.00) dollars per tillable acre. The highest price bid per tillable acre for each property will be deemed the "highest bid" for purposes of awarding a lease for that property. The "highest bid" for each property, multiplied by the number of tillable acres on that particular property, will become the annual rental amount for purposes of leasing said property.
 - C. The properties are being leased "as is" and the Township makes no representation about the condition thereof. The tillable acreage provided is an approximation.
 - D. Farmers must actively use the tillable portions of the properties for agricultural purposes as defined by applicable law and regulation, including but not limited to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. and Agricultural Retention and Development Act, N.J.S.A. 4:1C-11 et seq., except that any such agricultural activities shall be limited to the planting and harvesting of field and row crops only. Permitted agricultural activities may include animal grazing and other livestock, poultry or animals only upon the prior written approval of the Township Committee, in consultation with the Open Space Committee.
 - E. Farmers will be permitted to use and store on the property tractors and other equipment and supplies in connection with agricultural activities, but will not be authorized to use any existing buildings, structures or improvements that might be on the properties or to construct any structures or other improvements thereon without the prior written approval of the Township. Any appurtenant portion of a property not included in the tillable acres that a farmer is authorized to utilize as part of his/her agricultural activities, such as existing driveways and designated parking lots, will be delineated on the maps and exhibits to be attached to the Bidding Materials.
 - F. Farmers must farm the properties using management practices that conserve soil and water, such as those agricultural management practices approved by the State Agriculture Development Committee under the Right to Farm Act (N.J.S.A. 4:1C-1 et seq.), and that minimize the use of herbicides, pesticides, and fertilizers in accordance with the Pesticide Control Code (N.J.A.C. 7:30). Prior to the application of any pesticide or herbicide, as defined by N.J.A.C. 7:30, farmers shall be required to provide written notification of same to the Township, as more specifically set forth in the Bidding Materials.
 - G. If any forests or hedgerows exist on the properties, said forest or hedgerow must be managed in accordance with the New Jersey Forestry and Wetlands Best Practices Manual. Farmers will not be permitted to cut trees or make any physical changes in the properties' natural conditions without prior written approval of the Township.
 - H. Farmers shall not adversely impact documented occurrences, if any, of a threatened, endangered, or rare species, or the habitat of such species, on the properties.
 - I. Farmers may sell on their own account any crops harvested by them in connection with the agricultural activities conducted on the properties, but shall not be permitted to conduct retail sales on the properties themselves.
 - J. Consistent with Section 9-9 of the Code of the Township of Montgomery (1984), hunting on Township property is only permitted if a municipal deer management permit for such activity is first obtained from the Township. Otherwise, farmers cannot engage in hunting on the properties, nor shall farmers be authorized to permit any third party to hunt thereon.
 - K. The use of any type of audible or noisemaking device, including but not limited to a crow, propane or noise cannon, propane gun or popgun, shall be strictly prohibited on the properties.
 - L. Farmer will be obligated to provide regular maintenance of the property, and make repairs thereto, at his or her own cost and expense. The Township will have the right to enter upon the property to ensure compliance with the Lease and Green Acres Regulations (if applicable), and to make repairs and alterations for the safety and preservation of the property.

(Item 9. Cont.)

- M. Transcontinental Gas Pipe Line Co., LLC ("Transco") has advised the Township that Transco seeks to construct its gas pipe line through Property #8 and Property #13. Transco's construction may significantly impact agricultural and other activities on these properties. Farmer shall assume any and all risk involved in farming Property #8 or Property #13, and neither the Township or NJDEP will be responsible for any loss to any farmer farming either Property #8 or Property #13 as a result of Transco's construction of its gas pipe line, as set forth more fully in the Bidding Materials.
 - N. The properties must be kept accessible to the public at all times, except that the public shall not be permitted access to those areas actively farmed. If the property has an existing, marked pathway for public use, said pathway shall remain open and accessible to the public. If the property does not have an existing marked pathway, farmer shall leave an eight (8) foot wide strip for purposes of public access, as directed in the exhibit attached to the Bidding Materials describing the specific property. Farmers shall not allow the public to enter the properties to harvest or "pick your own."
 - O. Farmers shall not place signs on the properties unless authorized by the Township, nor shall farmers be permitted to run new utilities on, under, above or through the properties.
 - P. Farmers shall not assign the leases or sublet or mortgage the properties or any portion thereof. Farmers shall be authorized to subcontract specific portions of the agricultural activities to one or more subcontractors, such as pesticide or herbicide application, subject to the approval of the Township.
 - Q. Farmers shall provide proof of insurance in the types, manner and amounts required by the Township in the Bidding Materials, naming the Township and NJDEP (as applicable) as additional insured, and shall be required to indemnify the Township and NJDEP (as applicable), as set forth in more detail in the Bidding Materials.
 - R. Each farmer shall comply with the Bidding Materials and Lease; all applicable laws, rules, regulations, ordinances and deed restrictions pertaining to the property, including but not limited to the rules and regulations of the Green Acres Program, N.J.A.C. 7:36-1.1 et seq. and specifically N.J.A.C. 7:36-25 (as applicable); and all federal and state environmental laws.
- 4. Only pre-qualified bidders or their authorized representatives will be permitted to participate in the public auction. To qualify, bidders must submit to the Township Clerk documentation that the bidder possesses five (5) years of experience as a commercial farmer or in commercial farming activities as set forth in and consistent with the aforementioned Right to Farm Act and Agricultural Retention and Development Act, along with all other required documents. The deadline to submit said documentation shall be established by the Township Administrator or his designee, in consultation with the Township Clerk and Township Attorney.
 - 5. In the event the bidder will not attend the public auction in person and is authorizing an agent to bid on his/her behalf, the bidder must complete and submit an "Authorization to Bid" form with the above-referenced qualification documentation. Authorized bidders or their authorized representatives must attend the auction in person in order to bid, and only authorized bidders or their authorized representatives may participate in the auction.
 - 6. Immediately at the completion of the auction, the highest bidder for each property will be publicly announced, and those bidders must each submit to the Township a deposit in the amount of 10% of the first year's rental payment amount (in the form of a personal, cashiers' or certified check), which shall be put towards the first year's rental payment amount if the Township Committee accepts the highest bid as hereinafter provided.
 - 7. For each property:
 - a. The Township reserves the right to accept the highest bid or reject all bids should the highest bid be rejected;
 - b. Acceptance of the highest bid or rejection of all bids will be made by Township Committee no later than at its second regular meeting following the completion of the bidding; and
 - c. If Township Committee fails to act within said time, all bids shall be deemed to have been rejected.

(Item #9 Cont.)

8. If the high bid(s) are accepted, the successful bidder(s) will be required to enter into the Lease(s) included in the Bidding Materials within ten (10) business days of being notified by the Township of the award, and also at that time tender the balance of the annual rental amount (less the deposit paid at the auction) and all other documentation required in these bidding materials, including but not limited to a Certificate of Insurance and evidence of affirmative action compliance.
9. The Mayor, Administrator, Clerk and other appropriate Township staff and officials are hereby authorized to undertake any and all acts and execute any and all documents as may be necessary and proper to effectuate the terms hereof.

9-1. Committeewoman Madrid moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried on the following:

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

9-2. **Motion #13-11-1** - Committeeman Sugden moved that the Township Clerk to keep track on the off-site conditions disclosure of Township-owned properties that are farmed by private farmers. The motion was seconded by Committeewoman Madrid. During discussion Committeeman Sugden inquired whether there had been complaints from any other residents about herbicide or pesticide use, and Administrator Nieman answered that the Township had not received other complaints. From the floor, resident Dan Greenhouse asked why the Township was requiring five years of experience from farmers. Mr. Nieman advised that it's preferable to have farmers who know farming to work the land. The motion carried on the following:

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

10. **RESOLUTION #13-11-271 - AWARDED NON-FAIR AND OPEN CONTRACT FOR SOFTWARE AND HARDWARE FOR FINANCE PACKAGE**

WHEREAS, The Township Committee of the Township of Montgomery has a need to acquire accounting software and its accompanying hardware; and

WHEREAS, The Township Committee is permitted to acquire such services through a "non-fair and open" process (as defined by NJSA 19:44A-20.4) meaning the award is made by the Township Committee in its judgment of which provider will best serve the interests of the citizens of Montgomery, and not by a "fair and open" process (as defined by NJSA 19:44A-20.7) such as awarding to the lowest bidder; and

WHEREAS, The purchase cost for the purchase is expected to exceed \$17,500 but less than the bid threshold of \$36,000; and

WHEREAS, Two (2) quotes were received; and

WHEREAS, Municipal Software Inc., PO Box 1128 Marshalls Creek, PA 18335 has submitted a unit price quote dated October 21, 2013; and

WHEREAS, Municipal Software Inc. has completed and submitted a Business Entity Disclosure Certification; and

WHEREAS, It is the recommendation of the Township Administrator; and

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

NOW THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery authorizes a contract with Municipal Software Inc. pursuant to the attached proposal in the amount not to exceed of \$21,000, and

BE IT FURTHER RESOLVED That the Business Disclosure Entity Certification and the Quote be placed on file.

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

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

11. **RESOLUTION #13-11-272 - REVIEW OF ANNUAL AUDIT REPORT OF 2012**

WHEREAS, N.J.S.A. 40A:5-4 requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions, and

WHEREAS, The Annual Report of Audit for the year 2012 has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, The Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

(Item #11 Cont.)

WHEREAS, The Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

General Comments
Recommendations

and

WHEREAS, The members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

General Comments
Recommendations

as evidenced by the group affidavit form of the governing body; and

WHEREAS, Such resolution of certification shall be adopted by the Governing Body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, All members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, Failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S. 52:27BB-52 - "A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE, BE IT RESOLVED, That the governing body of the Township of Montgomery, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

BE IT FURTHER RESOLVED That the Montgomery Township Committee has reviewed and approves the Corrective Action Plan as filed.

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

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

12. **APPROVAL OF MINUTES**

The minutes of October 17, 2013 were approved as printed.

13. **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.

13-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

14. **WORK SESSIONS**

Administrator Nieman explained that, in the future, there would be a section of the agenda that would be set aside for the Township Committee to talk about items that would be on an upcoming agenda.

15. **GAS PIPELINE**

Committeeman Smith asked if there could be more discussion about the gas pipeline. He explained that people in town are getting letters from Transco telling them what was happening and some of the items were disturbing.

Attorney Hadinger stated that there would have to be negotiations between the residents and the gas company for some of the items.

16. **FORMER HIGH SCHOOL STUDENT BIKE RIDE**

Committeeman Smith mentioned that he read in the newspaper that a former Montgomery High School student was going to be doing a 4,000 mile bike ride in the summer raising money for Cancer research. He asked if the Township could put this in the newsletter to help her.

16. **ORGANIZATIONAL CHARTS - SUCCESSION PLANNING**

Committeewoman Madrid stated that she would like to start taking a more in-depth look at the Township's succession planning and personnel issues. She asked if someone could start assembling some organizational charts.

Committeeman Smith offered to help Committeewoman Madrid with this.

17. **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 are as follows:
 - Advice of counsel with regard to negotiation of terms and conditions for JER/Herring Orchard, LLC sewer pump station agreement.
 - Interview of police candidates for the position of Lieutenant in the Montgomery Township Police Department;
 - Pending Country Club Meadows litigation and COAH proceedings matters, together with advice of counsel regarding these matters.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation. It is possible that at the conclusion of the Closed Session, the Township Committee may reconvene in Open Session for the purpose of taking action on the JER/Herring Orchard, LLC sewer pump station agreement.

17-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried unanimously.

18. The meeting reconvened in Open Session for the purpose of addressing JER/Herring matters. The Township Committee did not yet discuss the other two closed-session topics, and will reconvene in closed session on those two items.

19. **RESOLUTION #13-11-273 - AUTHORIZING THE ACCEPTANCE OF PUMP STATION AND SEWERAGE - Orchard Residential - JER/Herring Orchard, LLC**

Township Engineer Gail Smith and Township Attorney Kristina Hadinger reviewed proposed terms and conditions for future acceptance by the Township of the JER/Herring sanitary sewerage pump station and appurtenances.

BE IT RESOLVED That the Montgomery Township Committee hereby authorizes the Township's future acceptance of a sanitary sewerage Pump Station, force main and gravity sewer from JER/Herring Orchard, LLC. in connection with the Orchard Residential affordable housing development project upon the following conditions: (1) the developer's contribution in the amount of \$35,000 for operation and maintenance costs to be made prior to acceptance, (2) developer's satisfactory resolution of all matters raised by the Township Engineer and Sewer Consulting Engineer's review of the plans for the pump station, force main and gravity sewer, (3) release of the Maintenance guaranty for the pump station, force main and gravity sewer, and (4), the satisfactory completion of all improvements and repairs thereof.

19-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried on the following:

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

20. **RESOLUTION #13-11-274 - AUTHORIZATION TO EXECUTE TREATMENT WORKS APPROVAL PERMIT APPLICATION (TWA) - Orchard Residential - JER/Herring Orchard, LLC**

BE IT RESOLVED By the Montgomery Township Committee that Donato Nieman, Township Administrator, is hereby authorized to execute a Treatment Works Approval Permit application to the New Jersey Department of Environmental Protection related to JER/Herring Orchard, LLC. (Orchard Residential) conditioned on JER/Herring Orchard, LLC satisfactorily addressing comments of the Township's Sanitary Sewer Consulting Engineer and Engineer regarding developer's sanitary sewerage plans forthcoming on November 15, 2013.

21-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

22. **RESOLUTION TO RE-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 reconvene 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 are as follows:
 - Interview of police candidates for the position of Lieutenant in the Montgomery Township Police Department;
 - Pending Country Club Meadows litigation and COAH proceedings matters, together with advice of counsel regarding these matters.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Any appointments shall only be authorized by the Township Committee in a public session. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

22-1. Committeewoman Madrid moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Sugden and carried unanimously.

23. The meeting reconvened in Open Session and **ADJOURNMENT** was at 12:10 a.m. on a motion by Committeeman Smith. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk