

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
December 5, 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: Mayor Trzaska, Committeemembers Smith and Madrid  
Deputy Mayor Graham and Committeeman Sugden were absent

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

DEPUTY TOWNSHIP CLERK - Margaret Crawford

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

4. **PUBLIC COMMENT**

4-1. **FARMING ON TOWNSHIP'S OPEN SPACE PROPERTIES**

Dan Greenhouse, Sycamore Lane, spoke about the farming on the Township's open space property behind his house and the chemicals used on that property. He asked that the Township amend the existing resolution or adopt a new resolution regarding the auction of the farmland to restrict the application of chemicals. Mr. Greenhouse commented on the types of fertilizers used and possible effects from exposure. He explained that he contacted the New Jersey Department of Environmental Protection and the Township with his concerns and asked the Department of Environmental Protection to conduct an analysis of the soil but too much time had passed prior to his request. He expressed his concerns regarding the methods of spraying, the chemicals being used, the runoff into the Millstone River and its effect on the drinking water supply and exposure to animals, birds and humans. He noted other towns have pesticide free zones and asked the Township to consider organic farming on the Township owned properties. He also stated that the next time this issue arises, he is going to invest some money and have the Rutgers Extension come in and do a lab analysis. He asked that maybe a buffer zone of a few hundred yards be required, if the Township won't agree to banning chemicals. He spoke about filing a lawsuit as a result of spraying.

Administrator Nieman stated that the Department of Environment Protection has regulations regarding the pesticides that can be used on properties, and in fact, they came out at the request of Mr. Greenhouse and could find no evidence of over-spray on the property.

Committeeman Smith asked if anyone knew if organic fertilizers cost the same as the Department of Environmental Protection standards. Committeewoman Madrid stated that farmers needed to get certification for organic farming and those lands have to be unfarmed for three (3) years prior to getting the certification, so a significant burden would be put on the farmers if the Township were to require that.

Mayor Trzaska stated that he had no expertise or evidence to say that the Department of Environmental Protection regulations are wrong. That would be a conversation that the Township Committee would have to have and they would need to look at all of the documentation.

Frank Drift, Sunset Road, spoke about organic farming and how it is very hard to do on large pieces of property. He reiterated what Committeewoman Madrid said about leaving the property unfarmed for three years and that the ground has to be completely cleaned.

4-2. **FIELDS AT BROWN TRACT**

Frank Drift, Sunset Road, stated that he spoke to a representative from the schools regarding placing turf on the Brown Tract by the Skillman Post Office, so the schools could use it for athletic fields. He stated that the school is willing to work with the Township, and it would cost the Township nothing. He said he would do the work at no charge, except for the cost of the sod, which would be approximately \$40,000.00.

Mayor Trzaska stated that the Recreation Department does not have the ability or the funds to maintain more fields and parks. This was going to have to be a school project. Mr. Drift responded that the schools would take care of the maintenance and he would talk to them about paying for the project since they would no longer have to bus the kids to other fields.

Attorney Hadinger explained that the Township would have to enter into a lease agreement with the school and get approval from Green Acres, since the property is on the Township's Open Space inventory. The farmland resolution adopted at the November 14 meeting would have to be amended to omit this property from the farmland auction.

Mayor Trzaska stated that the first step would be to set up a meeting with the Montgomery Board of Education to see if they would be willing to do this.

Committeeman Smith asked if the Township could bid the property and retain the right to move forward with the lease with the School Board. Attorney Hadinger stated that the resolution would still have to be amended and republished.

(Item #4-2 Cont.)

**Motion #13-12-1** - Committeeman Smith moved to amend Resolution #13-11-270, adopted on November 14, 2013, to omit from the Resolution property #1 and in all other respects the resolution would remain the same and the lease date beginning January 1, 2014 would be held. The motion was seconded by Committeewoman Madrid and carried on the following:

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

4-3. **VEHICLE MAINTENANCE**

Frank Drift, Sunset Road, asked the Township to review the vehicle repair contract with First Vehicle Maintenance. First Vehicle supplies two mechanics, the tools and the parts but the Township supplies the building and the heat.

Administrator Nieman stated that when this first came about he had Ricky Grosso review it and he thought it was a great deal.

Mr. Drift also spoke about leasing Township vehicles instead of buying them. He stated that this would save money as most repairs are covered under the lease agreement.

Administrator Nieman responded that there is a CAP problem with acquiring more equipment under O&E. The Township went to the private contract for maintenance because they couldn't afford to hire qualified mechanics to do maintenance correctly.

4-4. **FARMING ON TOWNSHIP'S OPEN SPACE PROPERTIES (Cont. from #4-1)**

Jay Johnson, Bridgepoint Road, spoke about the Sycamore Lane property. He stated that he had been in contact with the Greenhouse family a week before the application of the chemicals. He explained that there are buffers already in place on a lot of the Township properties being farmed.

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 #13-12-275 - REFUND OVERPAID 2012 TAXES**

BE IT RESOLVED That a refund in the amount of \$2,584.18 be given to De Angelis, Ashley P & Laurie H, 55 Fairview Drive, Skillman, NJ 08558 for the overpayment of 2012 taxes on Block 14001, Lot 19.

B. **RESOLUTION #13-12-276 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - Recycling Tonnage Grant 2011**

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 2011, in the amounts listed below, which item is now available as a revenue from the State of New Jersey;

Recycling Tonnage Grant 2011	\$26,421.76
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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 certification be forwarded to the Division of Local Government Services.

C. **RESOLUTION #13-12-277 - APPROVAL OF SEWER PARTICIPATION AGREEMENT FOR SEWER CAPACITY - Balachandra Naik (Block 6001, Lot 4)**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Balachandra Naik related to capacity in the Pike Brook Sewage Treatment Plant for Block 6001, Lot 4.

D. **RESOLUTION #13-12-278 - APPROVAL OF CONSERVATION EASEMENT AND CONSERVATION AND PEDESTRIAN-BIKEWAY PATH EASEMENT - JER/Herring Orchard, LLC**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Conservation Easement and Conservation-Pedestrian Easement with JER/Herring Orchard, LLC.

(CONSENT AGENDA Item B Cont.)

E. **RESOLUTION #13-12-279 - 1<sup>ST</sup> AMENDMENT TO CONSERVATION EASEMENT OF SHARBELL/PLAINSBORO, INC. (Phase 1B-1 of Tapestry at Montgomery)**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Conservation Easement and Conservation-Pedestrian Easement with Sharbell Plainsboro, Inc. with respect to Phase 1B-1 of Tapestry at Montgomery.

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 - Madrid, Smith, Trzaska  
Nays - None  
Absent - Sugden, Graham

6. **RESOLUTION #13-12-280 - 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>
Administration - Finance Adj. (OE)	Administration - Overtime (SW)	\$ 2,500.00 \$ 2,500.00
Clerk - Finance Adj. (OE)	Clerk - Overtime (SW)	\$10,000.00 \$10,000.00
Tax Assessor - Finance Adj. (OE)	Tax Assessor - Overtime (SW)	\$ 1,000.00 \$ 1,000.00
Parks - Finance Adj. (OE)	Parks - Overtime (SW)	\$ 2,500.00 \$ 2,500.00
Sewer Plant F - MTN Sewer Plants (OE)		\$20,000.00
Sewer Plant G - Electricity (OE)	Sewer Plant E - Electricity (OE)	\$10,000.00 \$30,000.00

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

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

7. **APPROVAL OF MINUTES - November 14, 2013**

The minutes of November 14, 2013 were approved as printed.

8. **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.

8-1. Administrator Nieman explained that check #006416 was being removed because when the Superintendent of Public Works went to pick up the new emergency services vehicle, the vehicle was not as ordered.

8-2. Committeeman Smith moved the adoption of the foregoing resolution with the removal of check #006416. The motion was seconded by Committeewoman Madrid and carried on the following:

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

9. **2014 REORGANIZATION MEETING**

Committee discussed the date of the Reorganization meeting, which was scheduled for January 6, 2014. Committeeman Smith stated that the January 6 date was not good for him, he would prefer January 2 or January 3. January 2 or January 3 were good with Mayor Trzaska and Committeewoman Madrid. Administrator Nieman would check with Deputy Mayor Graham and Committeeman Sugden about their availability.

10. **COST OF CREATING CABLE TV CHANNEL**

Administrator Nieman updated the Governing Body on the cost of to create a cable TV channel in 2013. The total cost would be approximately \$14,836 which includes equipment (\$11,496.00), training (\$1000.00), and software and annual maintenance (\$2,340.00). There is no cost for staff as the Township would assign someone to keep the scroll updated.

Mayor Trzaska stated he was not in support of this expenditure at this time. Committeeman Smith did not support this financially, as the Township did already broadcast the meetings on the website. Committeewoman Madrid felt that the service provided was already adequate and she didn't like the idea of spending money on duplicating what was already provided.

Walt Beadling, Thornton Way, restated his opinion on this subject. There were three reasons why it is important that the Township broadcast the meetings on the Comcast network. First is the public safety issue. Second is public information. Third is public access. He stated that he recognized the fact that money is tight, so he offered to lease this equipment to the Township which would make the annual cost much lower.

Mayor Trzaska stated that at this point the Township Committee is not in support of this, but if Mr. Beadling wanted to put together information and details, they would be open to hearing about it.

11. **POLICE DEPARTMENT - Entry Level Hiring in 2014**

Administrator Nieman reported that that one of the current Police Sergeants may be retiring on February 1. Upon the promotion of a patrolman to Sergeant, there will be a need to hire a new recruit to fill that position. He asked that the Township Committee interview the 4th candidate from the group of prior applicants already on file. If the Committee agrees to hire the candidate he will complete a background check and be enrolled in the Morris County Police Academy class.

12. **CENTRAL JERSEY HEALTH INSURANCE FUND RENEWAL**

Administrator Nieman stated that the Central Jersey Health Insurance Fund contract is up for renewal at the end of 2013. He explained that the costs have increased due to a 57.9% increase in in-patient hospitalizations, and additional costs due to more admissions and longer days of care. The total in-patient costs increased 71.8%. The impact of Hurricane Sandy was the factor overall. He recommended renewing the Central Jersey Health Insurance Fund on December 19 for 2014 and market the Township in 2014 to see if there are any alternative coverage plans which would be cheaper.

13. **QUALIFIED PURCHASING AGENT POSITION**

Administrator Nieman explained that the current Purchasing Agent we shared with Branchburg Township has resigned. The Township Clerk is going to sit for the State test on December 13, but the passing rate is only 30%. He asked for permission to advertise for a part-time Qualified Purchasing Agent, so that if Ms. Kukla should not pass the test there would a Qualified Purchasing Agent on board to assist her. If Ms. Kukla does pass test, he believed she would need assistance and mentoring as she becomes more experienced. Committee was fine with this.

14. **2014 PERSONNEL POLICIES**

Administrator Nieman stated that there were changes in both State and Federal regulations, and the Township needed to update its personnel policies to comport with those changes. A resolution approving the updated policies will be on the December 19, 2013 Committee agenda.

15. **TRANSCO PIPELINE**

Attorney Hadinger updated the Township Committee with respect to the Transco Pipeline. The Township's application to be an intervenor was approved and there was no opposition to this. FERC issued a letter recently to Transco asking them to respond to a very long list of items and provide more information with respect to these items. These items included many concerns that Montgomery Township and Princeton had raised in their communications as well as concerns from the residents and resident groups. FERC has a request out to Transco to supplement the information that has been provided to FERC. The response from Transco is due to FERC on December 22. She explained that the Township has a Right-of-Entry agreement with Transco that allows Transco to go on the Township's open space properties to do non-invasive testing such as hand boring. The Township had expressed some environmental concerns in certain areas and has asked Transco to go back and look at those areas, in particular consider the possibility of doing a horizontal drill. Transco has responded that in order to do a horizontal drill there has to be some soil boring, because the capacity of the soil to manage the drill and those soil conditions need to be satisfactory in order to do this. The property in question is the Dale open space property consisting of approximately 50-60 acres on Route 518 that stretches from Route 518 to Burnt Hill Road.

(Item #15 Cont.)

- 15-1. **Motion #13-12-2** - Committeeman Smith moved to authorized Administrator Donato Nieman to amend the Right-of-Entry agreement to allow Transco, under the same conditions as the existing agreement, to do borings on the Dale Open Space property (Block 27001, Lot 6). The motion was seconded by Committeewoman Madrid and carried on the following:

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

16. **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:
  - Negotiation of terms and conditions of Lenape Swim Club Lease;
  - Affordable Housing Unit Foreclosure Litigation.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. No agreement shall be approved except by action of the Township Committee in open session. 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 Affordable Housing Unit Foreclosure.

- 16-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

17. Committeewoman Madrid moved to reconvene the meeting in Open Session. The motion was seconded by Committeeman Smith and carried unanimously.

18. **RESOLUTION #12-13-281 - RESOLUTION OF APPROVAL OF TRUST FUND EXPENDITURE FOR THE PRESERVATION OF AN AFFORDABLE HOUSING UNIT LOCATED AT 43 RIVER BIRCH CIRCLE**

WHEREAS, A Judgment of Foreclosure was entered on October 28, 2013 on an existing affordable housing unit located at Block 37006, Lot 20.07 as identified on the Montgomery Township Tax Map, and having a street address of 43 River Birch Circle ("the Property"); and

WHEREAS, A Sheriff's Sale has been scheduled for this Property on or about December 10, 2013; and

WHEREAS, The disposal of the Property at a Sheriff's Sale may extinguish the existing affordability controls and deed restrictions on the Property; and

WHEREAS, The Property is a two-bedroom low-income affordable housing unit with a current maximum resale price under the Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1, et seq. ("UHAC") of one hundred thousand seven hundred and eighty-one dollars (\$100,781.00); and

WHEREAS, The Township Committee has determined that the acquisition of the Property at Sheriff's Sale is the public interest in order to preserve these controls and restrictions and to preserve the Property as a unit within the Township's affordable housing inventory; and

WHEREAS, If the Township is the successful bidder at the Sheriff's Sale, it shall be required to pay twenty percent of the purchase price at the end of the sale by certified check or cashier's check; and

WHEREAS, Twenty-percent of the maximum resale price of the Property is twenty thousand one hundred fifty-six dollars and twenty cents (\$20,156.20); and

WHEREAS, Funds for the twenty-percent down payment on the Property are available from the Montgomery Township Affordable Housing Trust Fund; and

WHEREAS, The Township Committee now desires to authorize and direct the Township to participate in the Sheriff's Sale for the acquisition of the Property and to bring certified funds to the Sheriff's Sale in an amount not-to-exceed twenty thousand one hundred fifty-six dollars and twenty cents (\$20,156.20).

NOW, THEREFORE, BE IT RESOLVED On this 5th day of December, 2013, by the Township Committee of Montgomery, County of Somerset, State of New Jersey, that:

(Item #18 Cont.)

1. The Township, through its Attorney and other appropriate staff and officials, is hereby authorized and directed to participate in the Sheriff's Sale for an affordable housing unit located at Block 37006, Lot 20.07 as identified on the Montgomery Township Tax Map, and having a street address of 43 River Birch Circle.
2. The Township, through its Attorney and other appropriate staff and officials, is hereby authorized and directed to make certified funds available as a down payment for the acquisition of the Property at the time of Sheriff's Sale in an amount not to exceed twenty thousand one hundred fifty-six dollars and twenty cents (\$20,156.20). These funds shall be made available from the Montgomery Township Affordable Housing Trust Fund.
3. The Mayor, Administrator, Clerk, Attorney, CFO, and such other staff and officials as may be appropriate are authorized to take such steps as may be reasonably required to implement this resolution, including issuance of the down payment funds.

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

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

19. **ORDINANCE #13-1455 - Affordable Housing - Introduction**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY TO ACQUIRE AND RESELL REAL PROPERTY LOCATED AT BLOCK 37006, LOT 20.07 KNOWN AS 43 RIVER BIRCH CIRCLE FOR THE PURPOSES OF PRESERVING THE AFFORDABILITY CONTROLS AND DEED RESTRICTIONS OF AN EXISTING AFFORDABLE HOUSING UNIT

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 December 19, 2013 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

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

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

**ADJOURNMENT** was at 8:30 p.m. on a motion by Committeeman Smith. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

\_\_\_\_\_  
Donna Kukla, Township Clerk