

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE
December 18, 2008

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

TOWNSHIP COMMITTEE: Mayor Birge, Deputy Mayor Fay, Committeemembers Wilson, Caliguire and Joye

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

TEMPORARY CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

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

3. Eagle Scout Marcell Zimanyi led the Salute to the Flag.

4. **SKILLMAN VILLAGE**

Committeewoman Wilson reported on Skillman Village and the County visit. She stated that Township Planner Lori Savron had been working on scheduling a time for this visit. She wondered if the Somerset County Board of Chosen Freeholders had discussed this and authorized any kind of negotiations. She suggested that the Township Committee discuss the next steps and the Township's strategy to move forward to have the County focus on this.

5. **SENIOR CITIZEN PROPERTY TAX REIMBURSEMENT**

Committeewoman Wilson reported on a bill, which recently passed both houses of the legislature and awaits the Governor's signature, increasing the income eligibility for Senior Property Tax Reimbursement. She stated that the income eligibility limits have increased from approximately \$45,000.00 if single and approximately \$55,000.00 for combined two (2) income household up to approximately \$80,000.00 whether it's a single or two (2) income household. She suggested when the Governor signs this, the Township put together a fact sheet for the Seniors. It was suggested that the Community Information Officer write an article explaining the program and distribute it to the Senior Association.

6. **EAGLE SCOUT PRESENTATION** - Marcell Zimanyi

Eagle Scout Marcell Zimanyi reported on his Eagle Scout project, which was to build a bridge over the creek in the woods by the McKnight Baseball Fields. This bridge would help people crossing the creek to get from one field to the other, therefore reducing the need for motorized transportation between the fields. The funding for the project was to come from the Baseball Association.

- 6-1. **Motion #08-12-1** - Committeewoman Joye moved to approve this project, subject to design approval. The motion was seconded by Committeewoman Wilson and carried unanimously.

7. **PROCLAMATION HONORING COMMITTEEMAN MICHAEL JOYE**

WHEREAS, Civic dedication is a measure of character and achievement, and therefore is central to every healthy community; and

WHEREAS, Michael Joye has demonstrated a strong commitment to the residents of Montgomery Township during his years of community service; and

WHEREAS, Committeeman Joye will be leaving public office on December 31, 2008, having served the residents in the following capacities:

Township Committee - 2007 - 2008
Environmental Commission, Liaison - 2008
Environmental Commission, Advisor - 2007
Wildlife Management, Liaison - 2008

WHEREAS, During his years of service, Michael Joye has faithfully performed the duties and obligations of public office, and has given his utmost to the people of Montgomery, who in turn have benefited by his experience, knowledge, and love for this community; and

WHEREAS, Michael Joye has set a standard for excellence in public service with unerring civility, humility, determination, professionalism and good humor.

NOW, THEREFORE, BE IT RESOLVED That we the members of the Montgomery Township Committee, on behalf of the people of Montgomery, express our deepest appreciation for Committeeman Joye's many contributions to our community, and extend a salute, a fond farewell and warmest wishes for the future to Mike and his family on this 18th day of December 2008.

- 7-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried unanimously.

(Item #7 Cont.)

7-2. Committeeman Joye thanked the Township Committee. He read the following statement:

"It has been a great honor to be a part of this Montgomery Township organization, and I'm speaking in the broader sense than just the Committee, but I am speaking about the entire Township together. It's been a pleasure to work with all of you on the Township Committee, both Democrats and Republican. It's given me the chance to see that people of good will can work together in the best interests of all the people, notwithstanding their political party or their political philosophy. So, as to the Township organization, the Administrative staff, the Public Works Department, the Police Department, and everybody in between, I have seen in my year here that it takes a tremendous amount of work and cooperation to get all of the tasks done that are necessary for the successful operation of this Township. I am happy to be able to say that the Montgomery Township employees do an excellent job across the board of getting the Township's business done. I consider it my good fortune to have been able to participate in that, if only for one year, and I want to personally thank all of the Township employees for their hard work and their dedication.

Now, apart from that, I would like to spend a couple of minutes on one of the most important issues facing Montgomery Township and that is Skillman Village. I hasten to add that these comments are my own, I am not speaking as a Democrat, I am certainly not speaking for any organization, and I haven't discussed my comments with anybody else, I just thought I would like to share with you some of my observations about this issue which is going to have a great impact on the future of life in Montgomery regardless of what happens to the property. The main point that I want to make is that, in my opinion, there is one thing about Skillman Village that we should not lose sight of. We should not lose sight of the fact that what the Township was trying to achieve with its original concept of Skillman Village, that is the creation of an educational, cultural, recreational and civic center, which could become a central meeting place for all of the citizens of Montgomery, is exactly what an increasing number of towns and communities all over this country are striving to do. This is a trend that is still just emerging and book authors and social commentators have begun to take notice and to write about. In fact, my comments here tonight are prompted by a recent article on this subject by David Brooks of the New York Times editorial page. Mr. Brooks referred to a new book out titled "The New Geography" by Joel Cotkin which describes and analyzes this emerging trend in the way communities like Montgomery Township are developing. He uses the term "exurbs" to describe communities like Montgomery, which are on the metropolitan fringe of the big cities as opposed to the suburbs which are much more closely in toward the city. Mr. Brooks makes some important points that I thought are relevant to Montgomery and Skillman Village and I thought I'd mention them here tonight. One of his points is that the culture in the exurbs has changed, he says that if you had asked people in the exurbs in the 1980's and 1990's what they wanted in their communities, they would often say a golf course, but if you ask people today in the exurbs what they want, their more likely to say coffee shops, hiking trails, biking trails and community centers. They are more likely to say that they want an old fashioned town square rather than a large new shopping mall. Why are people in the exurbs like Montgomery looking for coffee shops, hiking trails, biking trails and community centers and why do they want an old fashioned town square with a post office, a health facility, a bank, restaurants, art facilities all within walking distance or biking distance from where they live? Apart from the obvious logistical advantage of that situation, Mr. Brooks' and Mr. Cotkin's new books say that people in the exurbs want these things because when they moved out to the exurbs, they found that they were missing something important in their lives. They were missing community connections and social bonds with their neighbors. In short, they were missing simple human contact. The typical development pattern of large subdivisions filled with "McMansions" do not provide the focal points to facilitate community connections and human contact. In responding to these needs, the emerging development patterns in the exurbs today around the country are attempting to deal with this increasing desire for more community connections and more human contact. To me, that is what the vision of Skillman Village is all about. The creation of a village within a park that can help to satisfy these basic human needs for the longer term. I believe that, if the real estate market had not collapsed, the Township would already be well on its way to creating Skillman Village and would not be discussing the sale of the property to the County for possible use as a park. And I cannot help but question whether it would be wise public policy to allow what will be a temporary economic crisis to kill a well conceived and well planned project that would help to satisfy on a permanent basis some of these basic human needs that are so important to the quality of life in a community like Montgomery Township. I will just end by saying that this is a project that in my view should not be easily or lightly abandoned and it should get the most serious consideration. If financial problems are such that we have no choice, that's one thing, but I think it ought to be thoroughly considered and considered very carefully before we abandon what is exactly the right direction for communities like Montgomery, the exurbs. This is exactly the right direction for the future and we ought to preserve it if we can."

7-3. Mayor Birge stated that she had always been very amazed by Mr. Joye's intellectual capacity and had always respected his integrity. It has been a true honor to serve with him.

7-4. Committeewoman Wilson stated that she too had learned so much from Mr. Joye and felt that he delivered at key moments in the course of the year, words of wisdom and asked that his comments tonight be included word-for-word in full in the minutes. She believed that Mr. Joye's thinking was a lot like hers regarding Skillman Village. Even with that vision in mind, there are different ways for it to unfold that can hopefully involve County resources but also can give to the Town the kind of benefits that Mr. Joye spoke about so eloquently.

8. **PUBLIC COMMENT**

Mayor Birge opened the public comment portion of the meeting. There being none, the public comment portion was closed.

9. **ORDINANCE #08-1306 - Development Fees - Public Hearing (continued from December 4, 2008)**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER XV, "THE AFFORDABLE HOUSING ORDINANCE",
OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984)
COUNTY OF SOMERSET, STATE OF NEW JERSEY WITH
REFERENCE TO SATISFYING THE REQUIREMENTS OF THE
NEW JERSEY COUNCIL ON AFFORDABLE HOUSING (COAH)
AND SPECIFICALLY BY AMENDING SECTION 15-15,
ENTITLED "DEVELOPMENT FEES"

B. Attorney Hadinger explained that this ordinance had been reviewed and approved by COAH except that there were two (2) nonsubstantive amendments to the Development Fee Ordinance that COAH had requested be included in the ordinance. On page 9 of the ordinance, Section 3, that now "escrowed amounts plus any interest earned shall be credited to the prevailing party", that is a change that had read "accrued interest earned on escrowed amounts to be returned shall also be returned to the developer". The second change was on page 13, Subsection 15-15.9 Monitoring, in the first paragraph, the word affordable should be inserted before the word housing.

B-1. Deputy Mayor Fay moved the adoption of the two (2) amendments to the ordinance. The motion was seconded by Committeeman Joye and carried unanimously.

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

D. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 18th day of December, 2008 and that notice thereof be published in an official newspaper as required by law.

9-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

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

10. **RESOLUTION #08-12-354 - ENDORSING AN ADOPTED HOUSING PLAN ELEMENT AND FAIR SHARE PLAN AND PETITIONING COAH FOR SUBSTANTIVE CERTIFICATION**

WHEREAS, The Planning Board of the Township of Montgomery, County of Somerset, State of New Jersey ("Planning Board") adopted the "Housing Plan Element and Fair Share Plan" on December 8, 2008; and

WHEREAS, A true copy of the Planning Board's Resolution adopting the Housing Plan Element is attached hereto; and

WHEREAS, The Township Committee of the Township of Montgomery in Somerset County has reviewed said Housing Plan Element and Fair Share Plan adopted by the Planning Board on December 8, 2008; and

WHEREAS, A certified copy of the resolution of the Montgomery Township Planning Board adopting the Housing Plan Element and Fair Share Plan as part of the Township of Montgomery's Master Plan, shall, pursuant to N.J.A.C. 5:96-2.2(a)2, be filed with the New Jersey Council on Affordable Housing ("COAH").

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery in Somerset County, New Jersey, that it hereby endorses said Housing Plan Element and Fair Share Plan as adopted by the Planning Board on December 8, 2008; and

BE IT FURTHER RESOLVED By the Township Committee, pursuant to the provisions of N.J.S.A.52:27D-301, et seq. and N.J.A.C. 5:96-3.2(a) that it submits this petition for substantive certification and the Housing Plan Element and Fair Share Plan to COAH for review and certification; and

BE IT FURTHER RESOLVED That a list of names and addresses for all owners of sites in the Housing Plan Element and Fair Share Plan shall be included with the petition to be submitted to COAH; and

BE IT FURTHER RESOLVED That notice of Township of Montgomery's petition for substantive certification shall be published in a newspaper of county-wide circulation pursuant to N.J.A.C. 5:96-3.5 within seven (7) days of issuance of the notification letter from the COAH's Executive Director indicating that the submission is complete; and

BE IT FURTHER RESOLVED That the adopted Housing Plan Element and Fair Share Plan, together with supporting documentation, shall remain available for public inspection in the Office of the Montgomery Township Clerk located at the Montgomery Township Municipal Building, 2261 Van Horne Road, Belle Mead, New Jersey between the hours of 8:30 a.m. and 4:30 p.m. Mondays through Fridays, excluding legal holidays, for a period of forty-five (45) days following the date of publication of legal notice pursuant to N.J.A.C. 5:96-3.5.

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

ROLL CALL: Ayes - Fay, Wilson, Joye, Birge
Nays - Caliguire

(Item #10 Cont.)

- 10-2. Deputy Mayor Fay commented that the Township Committee was endorsing a Housing Plan to meet COAH's requirements and he felt very much that the Township had to choose between two difficult choices, one being a plan for a significant number of affordable housing units and the alternative being to lose control of land use planning in the Township with the result of builder's remedy lawsuits that would result in a Special Master probably making a lot of decisions for the Township and potentially thousands of housing units. He considered this to be a difficult thing to vote on, but he felt that the responsible thing to do was to adopt it because the alternative is so much worse.
- 10-3. Committeewoman Wilson agreed with Deputy Mayor Fay's comments. She felt this was absolutely imperative to protect the Township against what Mr. Fay described and pointed out that, like all of the Township's Fair Share Plans and the entire Master Plan, it can be viewed as a work in progress. She thought that the Township could continue to improve but she felt that it was a sound and a very important protection that is being put in place for the Town.
- 10-4. Mayor Birge agreed with Mr. Fay and Ms. Wilson and she was very tempted to vote a protest no, but going back and checking against the principles that were set forth when this process was started, she thought as flawed and damaging as this policy was she felt the Township needed the protection.

11. **RESOLUTION #08-12-355 - CONCERNING THE FUNDING OF THE TOWNSHIP OF MONTGOMERY'S AFFORDABLE HOUSING PROGRAM**

WHEREAS, The Township Committee of the Township of Montgomery in Somerset County is petitioning the New Jersey Council on Affordable Housing ("COAH") for Substantive Certification of its Housing Plan Element and Fair Share Plan; and

WHEREAS, The Township Committee of the Township of Montgomery in Somerset County has endorsed said Housing Plan Element and Fair Share Plan; and

WHEREAS, The Township's Housing Plan Element and Fair Share Plan contain municipally sponsored affordable housing developments, a rehabilitation component, special needs housing, and other compliance techniques; and

WHEREAS, N.J.A.C. 5:97-6.2(d)3, N.J.A.C. 5:97-6.7(d)6.ii, and N.J.A.C. 5:97-6.10(e)8 concerning, respectively, rehabilitation units, municipally-sponsored projects, and supportive and special needs housing require documentation to be submitted to COAH with the Township's Housing Plan Element and Fair Share Plan regarding the availability of funding for these affordable housing initiatives, and regulations pertaining to other compliance techniques likewise so require; and

WHEREAS, The Township of Montgomery has already taken ownership and gained site control of the properties on which municipally-sponsored projects may be sited; and

WHEREAS, The provisions of the New Jersey Fair Housing Act of 1985, N.J.S.A. 52:27D-311(d) reflect that nothing therein shall require a municipality to raise or expend the municipal revenues in order to provide low and moderate income housing.

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

1. The Montgomery Township Committee determines that there is adequate and stable funding for the affordable housing compliance mechanisms set forth in its endorsed Housing Element and Fair Share Plan, including funding through the Township's Affordable Housing Trust Fund and outside funding sources as set forth in "A Guide to Affordable Housing Funding Sources," dated October 2008 posted on COAH's website as a resource to municipalities;
2. In the event that adequate and stable funding in the form of funds from the Townships Affordable Housing Trust Fund, governmental grants, or any other source is not sufficient as the Township's Housing Element and Fair Share Plan are implemented through 2018, the Township, in the discretion of the governing body then representing the Township, may determine to provide for an alternate source of affordable housing funding such as, but not limited to, municipal bonding, or elect to modify and change said Housing Plan Element and Fair Share Plan to address its remaining affordable housing obligations.

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

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

12. **RESOLUTION #08-12-373 - REQUESTING REVIEW AND APPROVAL OF A MUNICIPAL AFFORDABLE HOUSING TRUST FUND SPENDING PLAN**

WHEREAS, the Township Committee of the Township of Montgomery, in Somerset County petitioned the Council on Affordable Housing (COAH) for substantive certification on December 16, 2005; and

WHEREAS, the Township of Montgomery received approval from COAH on December 5, 2008 of its development fee ordinance; and

WHEREAS, the development fee ordinance establishes an affordable housing trust fund that includes development fees, payments from developers in lieu of constructing affordable units on-site, barrier free escrow funds, rental income, repayments from affordable housing program loans, recapture funds, proceeds from the sale of affordable units, affordable housing enforcement fines and application fees, and/or repayments from affordable housing program loans; and

WHEREAS, N.J.A.C. 5:97-8.1(d) requires a municipality with an affordable housing trust fund to receive approval of a spending plan from COAH prior to spending any of the funds in its housing trust fund; and

WHEREAS, N.J.A.C. 5:97-8.10 requires a spending plan to include the following:

1. A projection of revenues anticipated from imposing fees on development, based on pending, approved and anticipated developments and historic development activity;
2. A projection of revenues anticipated from other sources, including payments in lieu of constructing affordable units on sites zoned for affordable housing, funds from the sale of units with extinguished controls, proceeds from the sale of affordable units, rental income, repayments from affordable housing program loans, and interest earned;
3. A description of the administrative mechanism that the municipality will use to collect and distribute revenues;
4. A description of the anticipated use of all affordable housing trust funds pursuant to N.J.A.C. 5:97-8.7, 8.8, and 8.9;
5. A schedule for the expenditure of all affordable housing trust funds;
6. If applicable, a schedule for the creation or rehabilitation of housing units;
7. A pro-forma statement of the anticipated costs and revenues associated with the development if the municipality envisions supporting or sponsoring public sector or non-profit construction of housing;
8. A plan to spend the trust fund balance as of July 17, 2008 within four years of the Council's approval of the spending plan, or in accordance with an implementation schedule approved by the Council;
9. A plan to spend and/or contractually commit all development fees and any payments in lieu of construction within three years of the end of the calendar year in which funds are collected, but no later than the end of third round substantive certification period.
10. The manner through which the municipality will address any expected or unexpected shortfall if the anticipated revenues from development fees are not sufficient to implement the plan; and
11. A description of the anticipated use of excess affordable housing trust funds, in the event more funds than anticipated are collected, or projected funds exceed the amount necessary for satisfying the municipal affordable housing obligation.

WHEREAS, the Township of Montgomery, in Somerset County, has prepared a spending plan consistent with N.J.A.C. 5:97-8.10 and P.L. 2008, c. 46.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Montgomery, in Somerset County, requests that COAH review and approve the Township of Montgomery's spending plan.

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

ROLL CALL: Ayes - Fay, Wilson, Joye, Birge
Nays - Caliguire

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

A. **RESOLUTION #08-12-356 - REFUND OVERPAID 2008 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2006 and 2008 taxes:

Block	Lot	Name	Amount	Year
	3005	19 Meade, LLC	\$ 152.91	2008
	5003	1 Pike Run II, LLC	\$ 66.80	2008
	37002	1.098 Wells Fargo Real Estate Tax Service, LLC	\$ 1,876.91	2008

(CONSENT AGENDA Cont.)

B. **RESOLUTION #08-12-357 - RAFFLE LICENSES #662, #663, #664 and #665 - BPO Elks, Princeton Lodge #2129**

BE IT RESOLVED By the Montgomery Township Committee that approval is hereby given for the BPO Elks, Princeton Lodge #2129 to conduct Raffles under Licenses #662, #663, #664 and #665 on the following dates at the following times at the Princeton Lodge #2129, Route 518, Blawenburg, NJ.

February 14, 2009 at approximately 8:00 p.m.
February 22, 2009 from approximately 2:00 p.m. to 5:00 p.m.
March 14, 2009 at approximately 8:00 p.m.
April 10, 2009 at approximately 8:00 p.m.

C. **RESOLUTION #08-12-358 - AUTHORIZING ADDITION OF GREEN ACRES RESTRICTION TO DEED FOR "PLATZ" PROPERTY (Block 15001 Lot 26 & Block 15004 Lot 9)**

WHEREAS, The Township of Montgomery has applied to the New Jersey Department of Environmental Protection Green Acres Program ("Green Acres") for funding in connection with the acquisition of the property known as Block 15001 Lot 26 and Block 15004 Lot 9 on the Township Tax Assessment Maps (rev. ed. 2008), also known as the "Platz" property; and

WHEREAS, The Township purchased the "Platz" property on June 6, 2003 (deed filed in the Somerset County Clerk's Office, deed Book 5390, Pages 3061-3066); and

WHEREAS, Green Acres has authorized a grant of \$682,982.50 in reimbursement funds to the Township.

BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey that Mayor Cecilia Birge is authorized to sign a deed adding the Green Acres restrictive language required to receive Green Acres funding pursuant to N.J.S.A. 13:8C-1 et seq. and N.J.A.C. 7:36.

D. **RESOLUTION #08-12-359 - AWARD OF BID - Zero Tail Spin Compact Excavator**

WHEREAS, The following bids for a Zero Tail Spin Compact Excavator were received and publicly opened on December 10, 2008:

<u>BIDDER</u>	<u>AMOUNT</u>
Jesco, Inc.	\$53,215.00
G & H Service, Inc.	\$57,300.00
Foley, Inc.	\$57,000.00
Seely Equipment, Inc.	\$55,420.00
Harter Equipment	\$50,404.43
Powerco, Inc.	\$59,890.00
Bobcat of NJ	\$46,268.87

WHEREAS, Bobcat of NJ and Harter Equipment submitted bids which did not meet specifications and, therefore, are rejected; and,

WHEREAS, It is the recommendation of the Purchasing Agent and the Superintendent of Public Works that Jesco, Inc. be awarded the bid; it being the lowest responsible bidder; 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.

WHEREAS, There exists an account 04-216-55-901-1295C which will fund this piece of equipment; and

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the order for the Zero Tail Spin Compact Excavator is hereby awarded to Jesco, Inc., 118 St. Nicholas Avenue, So. Plainfield, NJ 07080 in the amount of \$53,215.00

BE IT FURTHER RESOLVED That the Purchasing Agent is hereby authorized to sign said Purchase Order.

E. **RESOLUTION #08-12-360 - AWARD OF BID - Fleet Maintenance Service**

WHEREAS, The following bids for Fleet Management & Maintenance Service were received and publicly opened on December 10, 2008:

<u>BIDDER</u>	<u>AMOUNT</u>
First Vehicle Services Company, Inc.	\$2,424,081.00

WHEREAS, It is the recommendation of the Purchasing Agent and the Superintendent of Public Works that First Group America Company, Inc. be awarded the bid; they being the lowest responsible bidder; 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; and

WHEREAS, There exists an account 01-201-26-315-2-056 which will fund this service; and

(CONSENT AGENDA Item E Cont.)

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for the Fleet Management & Maintenance Service is hereby awarded to First Vehicle Services Company, Inc., 600 Vine St., Suite 1400, Cincinnati, OH 45202 in the amount of:

\$444,984.00 for budget year 2009
\$463,868.00 for budget year 2010
\$483,752.00 for budget year 2011
\$504,690.00 for budget year 2012
\$526,787.00 for budget year 2008

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

F. **RESOLUTION #08-12-361 - RELEASE OF PERFORMANCE BOND - Hollow Road Restoration Site David Bekus**

WHEREAS, On December 9, 2008, Gail Smith, Township Engineer, recommended the release of the cash Performance Guarantee to David Bekus because all work has been satisfactorily completed with respect to landscaping for Block 11001, Lot 16.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash Performance Guarantee in the amount of \$6,500.00 be released to David Bekus, 45 Hunt Lane, Skillman, NJ 08558.

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

G. **RESOLUTION #08-12-362 - AMENDING RESOLUTION #08-8-234 - PROFESSIONAL ENGINEERING SERVICES AGREEMENT - NPDC Wastewater Treatment Plant Upgrade - Omni Environmental**

WHEREAS, On August 7, 2008, the Township Committee amended an agreement with Omni Environmental to include additional tasks for the NPDC Wastewater Treatment Plant upgrade; and

WHEREAS, Omni completed an analysis to determine possible construction cost savings as part of the preliminary design of the project and came up with a number of recommended design changes, which will result in a reduction in construction costs; and

WHEREAS, Cost savings changes include a reduction in the proposed pavement area (cost savings: approximately \$115,000.00), a reduction in the size of the emergency generator (cost savings: approximately \$130,000.00), and changing the design of the membrane bioreactor (MBR) building from a masonry building to a metal building (cost savings: approximately \$200,000.00).

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, in Somerset County that the amendment to the NPDC Wastewater Treatment Plant Upgrade is approved.

BE IT FURTHER RESOLVED That this resolution, when countersigned by Omni Environmental, shall serve as a contract amendment to the original contract for the project.

H. **RESOLUTION # 08-12-363 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - Planning Incentive Grant Program - Johnson Acquisition**

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

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

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

Planning Incentive Grant Program - Johnson Acquisition \$2,927,757.85

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

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

(CONSENT AGENDA Cont.)

- I. **RESOLUTION # 08-12-364 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) -
Green Trust Application Grant - Montgomery Friends of Open Space Inc - Nicolaysen
Open Space Acquisition

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

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

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

Green Trust Application Grant - Montgomery Friends of Open Space Inc - Nicolaysen
Open Space Acquisition \$400,000.00

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.

- J. **RESOLUTION # 08-12-365 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) -
Green Trust Application Grant - Nicolaysen Open Space Acquisition

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

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

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

Green Trust Application Grant - Nicolaysen Open Space Acquisition \$520,531.94

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.

- K. **RESOLUTION # 08-12-366 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) -
Green Trust Application Grant - Platz Open Space Acquisition

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

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

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

Green Trust Application Grant - Platz Open Space Acquisition \$682,982.50

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.

13-1 Committeeman Joye moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Caliguire and carried on the following:

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

14. **RESOLUTION #08-12-367 - 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>
Salary Adjustments (SW)		\$ 62,000.00
Kid Connection (SW)		\$ 30,000.00
Senior Center (SW)		\$ 15,000.00
Solid Waste Disposal (OE)		\$ 42,000.00
	General Administration (SW)	\$ 11,500.00
	Municipal Clerk (SW)	\$ 8,000.00
	Finance Administration (SW)	\$ 3,000.00
	Collection of Taxes (SW)	\$ 1,000.00
	Engineering Services (SW)	\$ 4,000.00
	Building and Grounds (SW)	\$ 2,000.00
	Zoning Board (SW)	\$ 1,500.00
	Police Department (SW)	\$ 18,000.00
	Construction Code (SW)	\$ 12,000.00
	Pre School (SW)	\$ 46,500.00
	First Vehicle (OE)	\$ 35,500.00
	Municipal Clerk (OE)	\$ 6,000.00

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

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

15. **RESOLUTION #08-12-368 - RESOLUTION EXTENDING CONTRACT TERM - First Vehicle Services**

WHEREAS, On August 4, 2005, the Township Committee awarded a contract to First Vehicle Services for the management and maintenance of a portion of the Township's vehicles and equipment for a term of three (3) years ("Fleet Maintenance Services Contract" or "contract"); and

WHEREAS, The contract was due to expire on August 14, 2008; and

WHEREAS, By Resolution No. 08-7-224 adopted on July 24, 2008, the Township Committee indicated that it sought to extend the term of the contract until February 28, 2009 (a total extended term of six and one-half (6 ½) months), so that this contract would expire at the same time as a second Township contract for the management and maintenance of the balance of the Township's vehicles and equipment; and

WHEREAS, At that time, however, the Township only had funds to extend the contract for an additional two (2) months (until October 15, 2008) and therefore, by Resolution No. 08-7-224, the Township Committee approved a two-month extension, which included a 6% increase in the original contract price; and

WHEREAS, Upon expiration of the initial two-month extension on October 15, 2008, the Township continued to have a need to extend the contract until February 28, 2009, but because it only had funds to extend the contract for two (2) additional months (until December 15, 2008), by Resolution No. 08-10-299 adopted on October 16, 2008, the Township Committee approved a second two-month extension, which included a 6% increase in the original contract price; and

WHEREAS, The Township still seeks to extend the term of the contract until February 28, 2009 for the reasons set forth above but at this time only has funds to extend the contract for another one (1) month - from December 16, 2008 to January 15, 2009; and

WHEREAS, First Vehicle Services has offered to continue to provide the services under the contract; and

WHEREAS, First Vehicle Services has been performing the services under the contract in an effective and efficient manner; and

WHEREAS, The maximum amount of the contract, as extended, for services from December 16, 2008 to January 15, 2009 will not exceed \$9,734.51, which amount includes a 6% increase in the original contract price; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for this contract extension.

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

(Item #15 Cont.)

1. The Fleet Maintenance Services Contract is hereby further extended from December 16, 2008 to January 15, 2009, that is, for an additional one (1) month.
2. Based on the existing contract, the total not-to-exceed contract amount for the term of the extension shall be \$9,734.51, which includes:
 - a. A base contract amount of \$9,344.43; and
 - b. An amount not to exceed \$390.08 (up to 8 hours at \$48.76/hour) for non-basic services when directed by the Township.
3. All remaining provisions of the Fleet Maintenance Services Contract, as extended by Resolution No. 08-7-224 and Resolution No. 08-10-299, not inconsistent herewith shall remain the same, except that instead of submitting monthly invoices for 1/12 of the contract amount, First Vehicle Services shall submit a monthly invoice for the base contract amount for the prorated period, along with costs for non-basic services.
4. This contract extension is awarded pursuant to N.J.S.A. 40A:11-15 because First Vehicle Services has performed the services in an effective and efficient manner.
5. This Resolution, when countersigned by First Vehicle Services, shall serve as an amendment to the original Fleet Maintenance Services Contract, as amended by Resolution No. 08-7-224 and Resolution No. 08-10-299, for the purpose of confirming the extension of the contract term until January 15, 2009 and the not-to-exceed contract price of \$9,734.51 for the one-month extended period.
6. A copy of this Resolution shall be placed on file in the Office of the Township Clerk, and shall be available for public inspection.

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

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

16. **RESOLUTION #08-12-369 - AUTHORIZING THE EXECUTION OF A HISTORIC PRESERVATION GRANT AGREEMENT WITH SOMERSET COUNTY CONCERNING THE HISTORIC MAPLEWOOD HOUSE; BLOCK 26001, PART OF LOT 1 (\$71,500.00)**

WHEREAS, The Township of Montgomery has applied to Somerset County under the County's Historic Preservation Grant Program for funds to assist in the preparation of a historic structure report and emergency stabilization work concerning the historic Maplewood House at Skillman Village; and

WHEREAS, Somerset County has approved the Township's application, and has awarded \$71,500.00 in grant funds to the Township, subject to the execution of a grant agreement, as amended, and the satisfaction of the conditions within said grant agreement; and

WHEREAS, It is in the best interests of the citizens of the Township to enter into the subject grant agreement.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey, that the proper officials be and hereby are authorized to execute the grant agreement, as amended, and to execute all documents as may be necessary to further the goals of the grant application; and

BE IT FURTHER RESOLVED That the Clerk be and hereby is authorized and directed to forward a certified copy of this resolution to the Somerset County Board of Chosen Freeholders.

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

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

17. **RESOLUTION #08-12-370 - AUTHORIZING ISSUANCE OF PLENARY RETAIL DISTRIBUTION LICENSE TO YASOTHA THILLAINATHAN TO BE ISSUED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY**

WHEREAS, By Resolution 08-5-132 adopted on May 1, 2008, the Township Committee of the Township of Montgomery in the County of Somerset, State of New Jersey ("Township"), authorized the sale of a Plenary Retail Distribution License pursuant to the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1.1 et seq.; and

WHEREAS, Yasotha Thillainathan satisfied all conditions for pre-qualification as set forth in Resolution 08-5-132 and submitted a bid in the amount of \$303,000.00; and

WHEREAS, By Resolution 08-7-231 adopted on July 24, 2008, the Township accepted the bid of Yasotha Thillainathan, upon the conditions set forth in said Resolution 08-7-231; and

WHEREAS, Yasotha Thillainathan has satisfied the conditions set forth in Resolution 08-7-231; and

WHEREAS, Yasotha Thillainathan's application is complete; and

WHEREAS, Yasotha Thillainathan is qualified to be licensed according to the standards established pursuant to the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1.1 et seq., the regulations promulgated there under, Township ordinances and other applicable law; and

(Item #17 Cont.)

WHEREAS, Yasotha Thillainathan has disclosed to the Township and the Township has reviewed the source of funds used in the purchase of the license and the licensed business and additional financing obtained in connection with the licensed business.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey that it hereby authorizes the issuance of a Plenary Retail Distribution License to Yasotha Thillainathan; and

BE IT FURTHER RESOLVED That a copy of this resolution, certified by the Township Clerk to be a true copy, shall be forwarded to Yasotha Thillainathan.

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

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

18. **RESOLUTION #08-12-371 - AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (FERN V. TOWNSHIP OF MONTGOMERY; BLOCK 31001, LOT 11.04; 137 BEDENS BROOK ROAD)**

WHEREAS, Charles and Katherine Fern, the owners of 137 Bedens Brook Road, Block 31001, Lot 11.04 in the Township of Montgomery ("the Property") have filed an appeal of their 2008 real property taxes in the New Jersey Tax Court, Fern v. Township of Montgomery, Tax Court Docket No. 000675-2008; 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 (2008)</u>		<u>REQUESTED ASSESSMENT (2008 and 2009)</u>	
LAND	\$ 104,500	LAND	\$ 328,700
IMPROVEMENT	<u>\$1,693,900</u>	IMPROVEMENT	<u>\$1,054,200</u>
TOTAL	\$1,798,400	TOTAL	\$1,382,900

together with a credit to be applied to the Property's 2009 taxes resulting from any overpayment in 2008, and other salient terms; and

WHEREAS, The Township's Tax Assessor and outsider appraiser have reviewed the proposed terms of settlement, and find the 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 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; and

BE IT FURTHER RESOLVED That the Township's Attorney be and hereby is authorized to withdraw the Township's Counterclaim, upon the receipt of a signed Stipulation of Settlement from the Plaintiffs, including the withdrawal of the Plaintiffs' Complaint in the identified Tax Court matter.

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

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

19. **RESOLUTION #08-12-372 - AUTHORIZING THE SETTLEMENT OF A RESIDENTIAL TAX APPEAL (XIN AND SUN V. TOWNSHIP OF MONTGOMERY; BLOCK 7006, LOT 15; 66 WILLOW RUN LANE)**

WHEREAS, Zhengyang Xin and Jinyu Sun, the owners of 66 Willow Run Lane, Block 7006, Lot 15 in the Township of Montgomery ("the Property") have filed an appeal of their 2008 real property taxes in the New Jersey Tax Court, Xin and Sun v. Township of Montgomery, Tax Court Docket No. 008406-2008; 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 (2008)</u>		<u>REQUESTED ASSESSMENT (2008 and 2009)</u>	
LAND	\$199,000	LAND	\$199,000
IMPROVEMENT	<u>\$154,100</u>	IMPROVEMENT	<u>\$130,000</u>
TOTAL	\$353,100	TOTAL	\$329,000

together with a credit to be applied to the Property's 2009 taxes resulting from any overpayment in 2008, and other salient terms; and

WHEREAS, The Township's Tax Assessor and outsider appraiser have reviewed the proposed terms of settlement, and find the 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 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; and

BE IT FURTHER RESOLVED That the Township's Attorney be and hereby is authorized to withdraw the Township's Counterclaim, upon the receipt of a signed Stipulation of Settlement from the Plaintiffs, including the withdrawal of the Plaintiffs' Complaint in the identified Tax Court matter.

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

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

20. **ORDINANCE #08-1305 - Noise, Permits for Events - Public Hearing**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER III, "POLICE REGULATIONS," OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984), COUNTY OF SOMERSET, STATE OF NEW JERSEY (NOISE).

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

C. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 18th day of December, 2008 and that notice thereof be published in an official newspaper as required by law.

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

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

21. ORDINANCE #08-1307 - LDO - Landscaping - Public Hearing

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

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER XVI, "LAND DEVELOPMENT", OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) COUNTY OF SOMERSET, STATE OF NEW JERSEY AND SPECIFICALLY SUBSECTION 16-5.5.6 d. REGARDING "LANDSCAPING"

B. The Clerk read the following report from Planning Board:

"On December 8, 2008 the Planning Board reviewed the above referenced ordinance. The Board found the ordinance consistent with the Master Plan and recommended adoption."

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

D. BE IT RESOLVED By the Montgomery Township Committee that the foregoing ordinance be hereby adopted this 18th day of December, 2008 and that notice thereof be published in an official newspaper as required by law.

21-1. Committeewoman Wilson moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Fay and carried on the following:

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

22. APPROVAL OF MINUTES

22-1. Committeeman Caliguire moved the Regular Session minutes of November 13, 2008. The motion was seconded by Committeewoman Wilson and carried on the following:

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

22-2. Committeewoman Wilson moved the Regular Session minutes of December 4, 2008. The motion was seconded by Committeeman Joye and carried on the following:

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

23. PAYMENT OF BILLS

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

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

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

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

23-1. Committeeman Caliguire moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried on the following:

ROLL CALL: Ayes - Fay, Wilson, Caliguire, Joye, Birge
Nays - None
Abstain - Fay (Check #049517)

24. SKILLMAN VILLAGE

Committeewoman Wilson stated that the Township Committee was trying to zero the Board of Chosen Freeholders in on fact-finding and talking with the Township seriously about what the possibilities are. The Township was told that the Freeholder Board was going to decide whether or not to move ahead and give some direction to their staff about negotiations. There has been no word yet from the Freeholders about meeting with the Township Committee or visiting the site. Committeeman Caliguire stated that Freeholder Fontana stated that the tour was postponed because of the impending weather

Mayor Birge stated that the second phase of HDSRF fund grant money was contingent upon the final use of the site. The Township's original plan was to put the re-development on hold, maybe take up on the offer from Back to Nature to do a final site plan, and focus on the acreage that the Township may want to preserve. Once that is decided, and the deed restriction is done, the Town can proceed with the second phase of the HDSRF fund. With the County being a potential partner in this, the Township has to put that effort on hold until the County makes a decision and concludes negotiations with the Township.

(Item #14 Cont.)

Committeeman Caliguire stated if the Township had a developer who was willing and able to entertain negotiations for the purchase of the site now, by all means move forward. Right now there is no developer or re-developer who was willing to come forward. If Back to Nature wanted to do a site plan for free, then let them do it.

Deputy Mayor Fay stated that it should be the goal as a Committee to try to speak with one voice in communications with the County. He wondered if one way to do that would be to draft a letter to the Freeholders explaining specifically what the reasons are from the Township's perspective for moving fairly urgently on this matter.

25. **ENERGY AUDIT**

Mayor Birge stated that Open Space Coordinator Lauren Wasilauski and she attended the Energy Audit Program Mandatory Session. She spoke about the County allocating funds for auditing energy of one building from each Township and each school district. The process would be that the Township had to pass a resolution and then identify a local energy team composed of facility, staff, community activists and one or two liaisons from the Governing Body. The application is due in February.

26. **EMPLOYEE INCENTIVE PROGRAM**

Mayor Birge spoke about an email received from a Township resident and stated that she thought the resident raised some good questions. She suggested that the Township Committee take a second look at the program and to fine tune it.

Attorney Hadinger asked if one of the criterion was that the savings not come out of a decrease of service.

Committeeman Caliguire stated that there had been discussion about this process for approximately two years.

Committeewoman Wilson suggested that the three things she felt needed to be looked at were: 1. making sure that the Township was really careful about the fact that there be no decrease of services; 2. whether or not the Department head incentives were overly generous; 3. whether the cap at \$20,000.00 needs to be decreased to \$10,000.00 or less.

Deputy Mayor Fay asked that the Committee Chairperson, Stephanie Carey, to give a year end review of the program. Administrator Nieman stated that he would have Ms. Carey do that.

27. **CHERRY HILL PARKING AREA**

Administrator Nieman stated there was a request from the Montgomery Friends of Open Space for an Eagle Scout project to improve the pathway to Cherry Hill Parking area. Montgomery Friends of Open Space would like to contribute up to \$650.00 towards the purchase of the stone if the Township would supply the labor.

27-1. **Motion #08-12-1** - Committeewoman Wilson moved the approval of laying stone in the parking lot. The motion was seconded by Committeeman Caliguire and carried on the following:

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

28. **POLICE REPORT**

Lieutenant Curry reported on the following incidents involving the Police Department:

- a major structure fire at the Princeton Hill Apartment Complex;
- a major structure fire at DeHart Drive;
- finding an older man who had been reported missing from Ewing Township;
- a burglary on Opossum Road.

29. **RESOLUTION TO CLOSE MEETING TO THE PUBLIC**

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

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session is as follows:
 - Donation of land - Block 17003 Lot 5; Block 11001 Lot 38.01 and Block 12001 Lot 11; Block 14001 Lot 11.02 for open space and other purposes, and negotiation of terms and conditions of agreements therefor;
 - Advice of Counsel with respect to potential COAH litigation.
3. It is unknown precisely when, if ever, the matters discussed in this session may be disclosed to the public. Approval of agreements for donations of land 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 that litigation.

28-1. Deputy Mayor Fay moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Wilson and carried unanimously.

29. The meeting reconvened in Open Session and adjournment was at 9:35 p.m. on a motion by Committeeman Joye and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk