

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
April 3, 2014

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 Smith, Committeemembers Trzaska, Graham and Madrid  
Deputy Mayor Sugden 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. Mayor Smith 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 Smith led the Salute to the Flag.

4. **NATIONAL PUBLIC HEALTH WEEK**

WHEREAS, The week of April 7-13, 2014, is National Public Health Week, and the theme is "Public Health: Start Here"; and

WHEREAS, Since 1995, the American Public Health Association, through its sponsorship of National Public Health Week, has educated the public, policymakers and public health professionals about issues important to improving the public's health; and

WHEREAS, Seven in 10 deaths in the U.S. are related to preventable diseases such as obesity, diabetes, high blood pressure, heart disease, and cancer; and

WHEREAS, 75 percent of our health care dollars are spent treating such diseases, while only 3 percent of our health care dollars go toward prevention; and

WHEREAS, Nearly one-third of all students in the United States do not graduate from high school on time. Students who don't graduate face lifelong health risks and high medical costs, and are more likely to engage in risky health behaviors. They are less likely to be employed and insured, and earn less—all of which continues the cycle of poverty and disparities; and

WHEREAS, More than half of all cancer deaths could be prevented by making healthy choices like not smoking, staying at a healthy weight, eating right, keeping active, and getting recommended screening tests; and

WHEREAS, Foodborne contaminants cause an average of 5,000 deaths, 325,000 hospitalizations, 76 million illnesses and costs billions of dollars annually. The five most common foodborne pathogens cost the U.S. economy more than \$44 billion each year in medical costs and lost productivity; and

WHEREAS, Strong public health systems are critical for sustaining and improving community health.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery does hereby proclaim the week of April 7-13, 2014, as National Public Health Week 2014 in Montgomery Township and calls upon the people of Montgomery to observe this week by helping our families, friends, neighbors, co-workers and leaders better understand the value of public health and adopt preventive lifestyle habits in light of this year's theme, "Public Health: Start Here."

- 4-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried unanimously.

5. **PRESENTATION BY MONTGOMERY EMS**

John Connacher, EMS President, gave a powerpoint presentation and some background on the operations, finances and membership of the Montgomery EMS. The organization was formed in 1972. He spoke about the contributions and expenditures for 2013 and what their expected expenditures were for 2014. He reported that, at present, there were 75 regular members, 15 cadets, 5 associate members, 20 drivers, 21 EMTs and 17 crew chief/EMTs. There was a large number of people who would be going to the EMT training academy in May. He offered ride-alongs to members of the Township Committee who might be interested.

Rob Giguere, EMS Captain, reported on the number of calls received in 2013. He stated that the average response time was 6.1 minutes from the time dispatched. He stated that the top calls were motor vehicles accidents, then fall victims, then general sickness, and time spent on fire standbys. He reported that they added a full generator to the squad building, so they are up and running 24 hours a day, 7 days a week, no matter what. This was something that came about because of Superstorm Sandy. A new addition for 2014 was a Sprinter Ambulance and a possibility of purchasing a second one to replace an older ambulance. He stated that they now had 4 ambulances, with one stationed at Montgomery Fire Company #46 in Blawenburg.

Mayor Smith explained to Mr. Connacher and Mr. Giguere that the Special Olympics were going to hold a biking event at Skillman Park in June so they should plan for that event.

6. **2013/2014 DEER MANAGEMENT UPDATE**

Bruce Perone, Wildlife Management Committee Chair, explained that the program just finished the 13<sup>th</sup> year. He spoke about the shooting of coyotes and how he has encouraged the hunters to shoot any that they see while hunting so that the coyote population does not escalate. He reported that the deer hunting program was doing very well and that there is a 100% safety record. He stated that the amount of deer that are taken off the 14 Open Space properties, which equals approximately 1000 acres, is substantial. He stated that there are problems with neighboring residents feeding the deer. He cited the change in the fact that hunters don't have to go to a physical check-in station. They can check them in on a smartphone from their deer stand and continue to hunt.

Committeeman Trzaska asked if there were any incentives for hunters to take does first. Mr. Perone answered that the Township does not, but the State for one part of the season has an earn-a-buck program where the hunters have to take a doe before they shoot a buck. He explained how the "grandfathering" part of the program works. If a hunter takes 3 deer by firearm or 2 deer by bow, they are guaranteed their spot on that same property for the next year.

Mayor Smith stated that the Township Committee had looked into a deer culling program like the one in place in Princeton. Unfortunately, it was too expensive for the budget. He explained that he will be going to the next meeting of the Wildlife Management Committee to see if they could come up with some ideas on how the Township could cull more deer for the sake of safety. Mr. Perone gave a list of some of the ideas the Committee talked about, such as eliminating the bucks from the number of deer needed to be "grandfathered"; increasing the number of deer needed to be "grandfathered" from two (2) to three (3); and create a program to take does first. He spoke about the possibility of closing Montgomery Park for a weekend at some point to allow a hunt. He mentioned that the State closes some parks for a week for a hunt. Mayor Smith also mentioned the possibility of approaching the Somerset County Freeholders about Skillman Park.

Mayor Smith asked if feeding deer was illegal. Attorney Hadinger stated that some towns adopt anti-deer feeding ordinances. Montgomery Township has not done so.

7. **PUBLIC COMMENT**

7-1. Jeff Grant, Livingston Drive, spoke about remarks Committeeman Trzaska made at the February 24 Committee meeting where he asserted that Mr. Grant was advocating Community Energy Aggregation to the Somerset County Freeholders. Being a civic minded individual, he lends his expertise to the Somerset County Energy Council on matters involving energy, but he avoids advocating any position in any sense. He shared a public information piece designed to educate citizens on purchasing energy that was produced by the Energy Council on behalf of the Freeholders. He stated that just because he presented this piece does not mean that he advocates educating individuals on how they can best make their own energy choices. In June of 2013, at the request of the County, he offered insight on community energy aggregation to the Municipal Managers Association, but that does not mean that he advocates the government making decision for energy choices on behalf of citizens.

7-2. Walter Beadling, Thornton Way, commended the EMS and Officer Bet and explained that they saved his wife's life twice.

Mr. Beadling thanked the Township Committee for broadcasting the meetings on Comcast.

Mr. Beadling spoke about energy aggregation. He reiterated that he is opposed to the decision the Township Committee made. He felt the Governing Body should not have made the decision for the citizens to opt them in to this energy aggregation program. He stated he was more comfortable having PSE&G as his supplier, even if he does have to pay a bit more. He presented some statistics of people who have switched to these other programs away from their utility supplier.

7-3. Bill Randolph, Boulder Brook Court, congratulated the Township Committee on the decision to broadcast meetings on Comcast.

Mr. Randolph spoke about deer management. He stated that 30 plus years ago there were no deer in New Jersey. He remembers when he was in high school, on the first day of hunting season, everyone went to Pennsylvania to hunt. He blamed the increase in deer population on the increase in residential development.

Mr. Randolph spoke about energy aggregation and how he felt it was not the government's job to decide for the people.

8. **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 #14-4-80 - REFUND OVERPAID 2013 AND 2014 TAXES - Corelogic**

BE IT RESOLVED That a refund in the amount of \$24,128.88 be given to Corelogic, Attn: Tax Refunds, Mail Code DFW 1-3, 1 Corelogic Drive, Westlake, TX 76262 for the overpayment of 2013 & 2014 taxes on the following Blocks & Lots:

<u>BLOCK</u>	<u>LOT</u>	<u>QUARTER</u>	<u>OVERPAYMENT AMOUNT</u>
5008	24	2013/4 <sup>th</sup>	\$2,971.97
5008	96	2013/4 <sup>th</sup>	\$3,184.09
7013	8	2013/4 <sup>th</sup>	\$3,827.35
12001	2	2013/4 <sup>th</sup>	\$2,893.46
37002	5.187	2013/4 <sup>th</sup>	\$2,567.30
6008	6	2013/4 <sup>th</sup>	\$4,426.02
6008	6	2014/1 <sup>st</sup>	\$4,258.69

B. **RESOLUTION #14-4-81 - REFUND OVERPAID 2013 TAXES**

BE IT RESOLVED That a refund in the amount of \$2,334.26 be given to Miller, Rebecca J. and Hovey, Keith, 70 Scarlet oak Drive, Princeton, NJ 08540 for the overpayment of 2013 taxes on Block 37002, Lot 9.

BE IT FURTHER RESOLVED That a refund in the amount of \$3,897.71 be given to Nancy R. Knipe, c/o Peter G. Knipe, 2 Farmview Road, Bordentown, NJ 08505 for the overpayment of 2013 taxes on Block 24001, Lot 14.03.

C. **RESOLUTION #14-4-82 - AUTHORIZATION TO ENTER INTO A CONSTRUCTION SEQUENCE AGREEMENT Sunoco, Inc. (BA-03-12) Convenience Store Conversion**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Construction Sequence Agreement with Sunoco, Inc. with respect to Block 35004, Lot 1.

D. **RESOLUTION #14-4-83 - AUTHORIZING SEWER CAPACITY AGREEMENT - Sunoco, Inc.**

BE IT RESOLVED, That the Mayor and Clerk are hereby authorized to execute a sewer capacity agreement with Sunoco, Inc. to purchase capacity in the State II Sewage Treatment Plant to accommodate the new convenience store (Block 35004, Lot 1).

E. **RESOLUTION #14-4-84 - APPROVAL OF MAINTENANCE AGREEMENT - Tapestry at Montgomery**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Maintenance Agreement with Tapestry at Montgomery with respect to Phase 1B-4 (Block 28002, Lots 2 through 14).

F. **RESOLUTION #14-4-85 - RELEASE OF PERFORMANCE BOND - Tapestry at Montgomery, 1B-4 w/o Force Main and Pump Station**

WHEREAS, Gail Smith, Township Engineer, has certified on March 26, 2014 that all public improvements in a project known as Tapestry at Montgomery, 1B-4 w/o Force Main and Pump Station have been completed in accordance with the approved plans and the code of the Township of Montgomery and therefore recommends that the Performance Guarantee be released; and

WHEREAS, Along with other site improvements, this phase included construction of the portion of the Suffolk Road improvements from Station 11+00 to 14+14. The Suffolk Road improvements connect to the portions of Acadia Lane and Hartwick Drive within Tapestry which are dedicated to the Township as public roadways but have not yet been formally accepted by the Township. Since the Suffolk Road improvements does not yet connect directly to an accepted public street, it is recommended that the Township Committee approve the Developer's request to release the Phase 1B-4 performance guarantee and accept the Suffolk Road improvements until such time as the Township formally accepts the dedicated portions of Acadia Lane and Hartwick Drive as public roadways.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$470,436.00 (Letter of Credit #39604560 in the amount of \$423,392.40 and \$47,043.60 cash) be released to Sharbell Building Company, LLC and a maintenance guarantee be posted as follows:

Construction Cost Estimate	\$470,436.00
15% Maintenance Guarantee	\$ 70,565.40

BE IT FURTHER RESOLVED That upon the posting of a maintenance guarantee in the form and amount called for by this resolution and Section 16-9 of the Montgomery Township Code (1984) the performance guarantee may be released.

BE IT FURTHER RESOLVED That the effective date of acceptance of the improvements shall be the date the Township Attorney confirms in writing that the maintenance guarantee is in the proper amount and acceptable legal format.

(CONSENT AGENDA Item F Cont.)

BE IT FURTHER RESOLVED That the release of the Performance Guarantee shall also be conditioned upon the posting of adequate escrow funds.

BE IT FURTHER RESOLVED That the release shall also be conditioned upon the execution of an agreement to maintain Suffolk Road until such time as the Township formally accepts the dedicated portions of Acadia Lane and Hartwick Drive as public roadways.

BE IT FURTHER RESOLVED That the Township should accept the following roads:

- Suffolk Road - Sta. 11+00 to 14+14 (aka Master plan road)
- Suffolk Road - Sta. 7+76 to 11+00 dedicated for future 50' wide ROW to Montgomery Township Master Plan Road

The Township will not accept any detention basin improvements.

G. **RESOLUTION #14-4-86 - AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE MUNICIPALITY OF PRINCETON FOR ANIMAL CONTROL ASSISTANCE**

WHEREAS, The Municipality of Princeton and Montgomery Township each provide animal control services to their respective municipalities; and

WHEREAS, Montgomery Township requires supplemental assistance from an Animal Control Officer to provide shelter maintenance and animal emergency response.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Shared Services Agreement with the Municipality of Princeton to utilize Princeton's Animal Control Officer for supplemental assistance as the need arises.

H. **RESOLUTION #14-4-87 - RELEASE OF PERFORMANCE GUARANTEE FOR RESTORATION OF BIO-RETENTION SWALE - Hyesung Demesmin - Block 7019, Lot 61.29**

WHEREAS, Gail Smith, Township Engineer, has certified on March 27, 2014 that the restoration of the bio-retention swale at 18 Rockland Court has been completed to the satisfaction of the Engineering Department and recommends the release of the performance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee that the performance guarantee in the amount of \$3,000.00 (cash) be released to Hyesung Demesmin.

BE IT FURTHER RESOLVED That a maintenance guarantee is not required.

I. **RESOLUTION #14-4-88 - AUTHORIZING THE ISSUANCE OF 2014 TOWING LICENSES**

WHEREAS, The Township has received completed towing applications for light duty licenses from Boro Collision, Kovi Towing, and Rich's Offroad Towing to provide towing services in 2014; and

WHEREAS, The Police Department has reviewed said applications and conducted appropriate investigations pursuant to section 4A-2.2 of the Code of the Township of Montgomery (1984); and

WHEREAS, The Police Director has reviewed the results of said investigations, approved said applications, and recommended the issuance of light duty licenses to Boro Collision, Kovi Towing, and Rich's Offroad Towing.

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

1. The Township Clerk is hereby authorized to issue light duty licenses to Boro Collision, Kovi Towing, and Rich's Offroad Towing for 2014.
2. All towing licenses are subject to the provisions set forth in Chapter IVA of the Code of the Township of Montgomery (1984), and shall expire on December 31, 2014.
4. This resolution shall take effect immediately.

J. **TOWNSHIP COMMITTEE APPOINTMENTS - Zoning Board of Adjustment**

BE IT RESOLVED That Dave Kristjanson is hereby appointed Zoning Board of Adjustment, Alternate III, two year term expiring December 31, 2015; and

BE IT FURTHER RESOLVED That Matt Fedun is hereby appointed Zoning Board of Adjustment, Alternate IV, two year unexpired term expiring December 31, 2014.

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

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

9. **RESOLUTION #14-4-89 - DENYING APPLICATION FOR LIGHT DUTY TOWING LICENSE**

WHEREAS, The Township has received a completed application for a light duty towing license from Somerset Hills Towing located in Bridgewater, New Jersey to provide towing services in 2014; and

WHEREAS, The Police Department has reviewed said application and conducted the appropriate investigation pursuant to section 4A-2.2 of the Code of the Township of Montgomery (1984); and

WHEREAS, The Police Director has reviewed the results of said investigation, and recommends for the reasons set forth in his memorandum dated March 18, 2014 that Somerset Hills Towing's application for a light duty towing license be denied because the applicant has failed to timely respond to calls in the past and has not altered its practices so as to timely respond in the future; and

WHEREAS, Based upon the investigation conducted by the Police Department and the recommendation of the Police Director, the Township Committee has determined that Somerset Hills Towing cannot comply with all of the necessary criteria for the issuance of a light duty towing license as set forth in Chapter 4A of the Code.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey, that the application for a light duty towing license submitted by Somerset Hills Towing be and hereby is denied.

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

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

10. **RESOLUTION #14-4-90 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2013 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2014 Budget being adopted, in order to maintain operations until such time as the Township Budget is in place; and

WHEREAS, N.J.S.A. 40A:4-20 provides for approval of emergency temporary appropriations prior to the Municipal Budget being adopted, by a confirming vote of two-thirds of the full governing body.

NOW, THEREFORE, BE IT RESOLVED, By confirmation of two-thirds of the full governing body, that the Chief Finance Officer is authorized to increase the temporary emergency appropriations as follows:

Current Fund

Streets and Roads Maintenance	
Other Expenses	\$75,000.00
Economic Development	
Other Expense	\$875.00
PERS	
Other Expenses	(\$119,650.00)
Summer Camp	
Other Expenses	\$10,000.00

Utility Fund

Liability Insurance	
Other Expenses	\$17,000.00
Workers Compensation Insurance	
Other Expenses	\$8,000.00

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

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

11. **ORDINANCE #14-1461 - 2014 Sewer Capacity Charges & 2014 Sewer Service Rates -Public Hearing**

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

AN ORDINANCE AMENDING CHAPTER XII SEWER AND WATER OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO ESTABLISH 2014 SEWER CAPACITY CHARGES AND 2014 SEWER SERVICE RATES, TO ELIMINATE SEWAGE EFFLUENT METERS IN THE DETERMINATION OF SEWER SERVICE FEES, AND TO CLARIFY REQUIREMENTS FOR THE CONSTRUCTION OF BUILDING SEWERS.

B-1. Mayor Smith opened the hearing to the public.

B-2. Walter Beadling, Thornton Way, asked if someone could explain the ordinance. Administrator Nieman responded that the base charge remained the same, the per gallon increased about 5%.

(Item #11 Cont.)

- B-3. Committeeman Trzaska moved that the public hearing be closed. The motion was seconded by Committeewoman Madrid and carried unanimously.
- C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 3rd day of April, 2014 and that notice thereof be published in an official newspaper as required by law.

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

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

12. **APPROVAL OF MINUTES - March 6, 2014**

The minutes of March 6, 2014 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. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried on the following:

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

14. **BROWN TRACT**

Administrator Nieman stated that there had been a communication from the Board of Education stating that they had no interest in the Brown property. He asked the Township Committee to approve putting the property out to bid for farming. Committee agreed.

15. **EARTH DAY**

Administrator Nieman announced that the Environmental Commission would be holding the Earth Day Fair on April 27.

16. **SKILLMAN PARK WALKING/JOGGING PATH**

Mayor Smith stated that there had been discussions with Freeholder Caliguire about the walking/jogging paths that were planned for Skillman Park. The Freeholders are getting very close to putting the project out for bid.

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 is as follows:
  - Potential acquisition of properties with public funds (Styles (10001, 1, 1.01, 2, 3 & 4); Congregation Kehilat Shalom (6001/24); Jim Irish (12001/15); Firmenich (33001/22); Trap Rock (37003/7); Thompson - Belle Mead (3001/1, 2); Don Matthews (17004/1,2,3); Thompson - Cherry Hill Road (34001/14, 15, 30); Thompson - Cherry Valley Road (32001/24)
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Acquisition of lands shall only be authorized by the Township Committee in a public session.

17-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Trzaska and carried unanimously.

18. Meeting reconvened in Open Session and **ADJOURNMENT** was at 9:10 p.m. on a motion by Committeewoman Graham. The motion was seconded by Committeewoman Madrid and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk