

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
December 4, 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. **SWEARING IN OF POLICE OFFICERS** - James T. Ward and Daniel B. Rasmusson - effective December 1, 2014
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- 4-1. Attorney Hadinger administered the Oaths of Office to Probationary Police Officers James T. Ward and Daniel B. Rasmusson.
- 4-2. Police Director Palmer presented each of the new Officers with their badges.
- 4-3. Officer Ward expressed his thanks to the Township Committee for the opportunity of working for Montgomery Township and he looked forward to working with everyone.
- 4-4. Officer Rasmusson expressed his thanks to the Township Committee. He stated that he was an officer in the Marine Corps reserves. He takes this responsibility very seriously and he will do the best he can.
- 4-5. Police Director Palmer thanked the Township Committee for their continued support and for the hiring of Officers Ward and Rasmusson. This puts the Police Department sworn strength up to 31 Police Officers. He explained that these two officers have started their training with the Montgomery Township Police Department and will be starting the Morris County Police Academy on January 12, 2015 and will graduate on or about June 4, 2015.
- 4-6. Mayor Smith and Committeemembers Trzaska, Graham and Madrid welcomed the new officers and wished them well in their training.
5. **PUBLIC COMMENT**
- Mayor Smith opened the public comment portion of the meeting. There being no public comment, Mayor Smith closed this portion of the meeting.
6. **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 #14-12-255 - REFUND OVERPAID 2011 AND 2014 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2014 taxes:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Year</u>	<u>Amount</u>
5013	14	Daniel & Annie Pace	2011	\$1,304.34
16001	34.04	Da-Mu and Xie Fen Cai	2014	\$7,610.01
16002	9.05	Bert Mandelbaum & Joanna Ronelli	2014	\$6,105.67
19001	8.29	Soundararajan Sathishumar & Indu Balasugramanian	2014	\$5,012.96
37001	4.33	Laurie L. Strehl	2011	\$ 544.28
37003	6.24	Yiming Xu & Hong Kang	2014	\$2,291.47

B. **RESOLUTION #14-12-256 - REFUND 2014 SEWER CHARGES PAID IN ERROR**

BE IT RESOLVED That a refund in the amount of \$235.87 be given to Potter, Hamilton, 2837 Main Street, Lawrenceville, NJ 08648 for 2014 sewer charges paid in error by prior homeowner on Block 31001 Lot 47.

C. **RESOLUTION #14-12-257 - CANCEL TAX AND SEWER OVERPAYMENTS**

WHEREAS The Report of Audit on the Financial Statements of the Township of Montgomery for the Year Ended December 31, 2013 by Independent Auditors Suplee, Clooney and Company included a recommendation: "That Tax and Sewer Overpayments by Reviewed and Liquidated on a Timely Basis"; and

WHEREAS, A process already exists within the Tax Collector's Office that addresses in writing any tax or sewer overpayment balance with parties involved in an attempt to attain documentation verifying what actions should be taken in regards to the handling of the overpayment; and

(CONSENT AGENDA Item C Cont.)

WHEREAS, Those overpayment balances that have remained open for more than a year are primarily related to overpayments were the efforts of the Tax Collector's Office to attain documentation verifying what actions should be taken in regards to the handling of the overpayments have been unsuccessful.

NOW, THEREFORE, BE IT RESOLVED, That the following Tax and Sewer Overpayments are presented to the Township Committee for cancellation via resolution:

<u>Tax Quarter</u>	<u>Block</u>	<u>Lot</u>	<u>Amount</u>
2005/1 <sup>st</sup>	17008	3	\$ 18.96
2005/3 <sup>rd</sup>	31001	44	\$ 36.16
2005/4 <sup>th</sup>	31009	57	\$149.53
2005/4 <sup>th</sup>	37003	6.67	\$280.68
2006/1 <sup>st</sup>	31001	135	\$ 10.78
2006/1 <sup>st</sup>	31009	46	\$ 20.03
2006/3 <sup>rd</sup>	23001	8.04	\$556.40
2006/3 <sup>rd</sup>	31001	44	\$ 58.68
2006/3 <sup>rd</sup>	37002	4.26	\$ 71.67
2006/4 <sup>th</sup>	23001	8.04	\$556.39
2006/4 <sup>th</sup>	31009	57	\$ 50.00

D. **RESOLUTION #14-12-258 - TO AUTHORIZE AUCTION OF USED TOWNSHIP EQUIPMENT**

WHEREAS, The Township of Montgomery has determined that certain personal property as described below, is no longer needed for public purposes; and

WHEREAS, N.J.S.A. 40a:11-36 requires that such personal property be sold at public auction to the highest bidder.

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

1. The below listed schedule of Township property is declared surplus and no longer needed for public purposes;
2. The Purchasing Agent is hereby authorized and directed to advertise public sale of said personal property to be sold on GovDeals.com, a State of New Jersey authorized web based auction. Said sale shall commence within ten (10) days of approval by the Township Committee.
3. The Township reserves the right to reject any and all bids if it determines such rejection to be in the public interest.
4. Said sale shall be in the manner of a public auction and in accordance with the procedure to be announced.

Prisoner partitions from out of service Police cars  
Office chair  
Cabinet on wheels  
Small cabinet  
Wooden table  
Microfilm reproduction cabinet  
Rolling cart

5. If any of the referenced items do not sell at auction, they shall be disposed of as scrap.

E. **RESOLUTION #14-12-259 - RELEASE OF PERFORMANCE GUARANTEE - Tusk Fusion**

WHEREAS, The performance guarantee for Tusk Fusion Restaurant was released by Resolution #12-6-135, dated June 7, 2012, with a condition that a maintenance guarantee be posted; and

WHEREAS, The maintenance guarantee was never posted and the condition was not met and therefore the performance guarantee remained in place; and

WHEREAS, The two-year maintenance period is now over and the Township Engineer has determined all improvements to be acceptable and therefore recommends the release of the performance guarantee funds.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash performance guarantee in the amount of \$5,826.31 plus interest be released to Alan I. Gould, Receiver for Tusk, LLC, 3000 Pacific Avenue, PO Box 333, Wildwood, NJ 08260.

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

(CONSENT AGENDA Cont.)

F. **RESOLUTION #14-12-260 - APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT CONTRACT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE HIGHWAY SAFETY FUND APPLICATION 2014 PROJECT**

BE IT RESOLVED That the Montgomery Township Committee formally approves the grant application for the above stated project; and

BE IT FURTHER RESOLVED That Township Administrator Donato Nieman and Chief Financial Officer Walter Sheppard are hereby authorized to submit an electronic grant application identified as HSF-2014-Montgomery Township-00024 to the New Jersey Department of Transportation on behalf of the Township of Montgomery; and

BE IT FURTHER RESOLVED That Township Administrator Donato Nieman and Chief Financial Officer Walter Sheppard are hereby authorized to sign the grant agreement on behalf of the Township of Montgomery and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

6-1. Committeeman Trzaska 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

7. **RESOLUTION #14-12-261 - AUTHORIZING EXTENSION OF A COMPETITIVE CONTRACT FOR SEWER EXCAVATION SERVICES - WATERS & BUGBEE**

WHEREAS, Resolution #12-12-282 adopted on December 6, 2012 awarded a 2 year competitive contract to Waters & Bugbee for sewer excavation services with a one year extension; and

WHEREAS, N.J.S.A. 40A:11-15 provides that a contract may include provisions for no more than one two-year or two one-year extensions subject to the following: the contract shall be awarded by resolution of the governing body upon a finding by the governing body that the services are being performed in an efficient manner; no such contract shall be extended so that it runs for more than a total of five consecutive years; any price change included as part of extension shall be based upon the price of the original contract as cumulatively adjusted pursuant to any previous adjustment or extension and shall not exceed the change in the index rate for the 12 months preceding the most recent quarterly calculation available at the time the contract is renewed; and the terms and conditions of the contract remain substantially the same; and

WHEREAS, The Township Committee finds that the services are being performed in an efficient manner; and

WHEREAS, The rates paid to Waters and Bugbee for this contract would be as follows:

\$127.08 regular man hour  
\$176.47 OT per man hour  
\$222.74 Holiday per man hour; and

WHEREAS, The contract will not exceed \$100,000 for the extended year; and

WHEREAS, There exists an account (08-216-55-901-1473B) which will fund this item; and

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

NOW, THEREFORE, BE IT RESOLVED That Montgomery Township Committee hereby approves the one year extension on the above-described terms to December 6, 2015.

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

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

8. **RESOLUTION #14-12-262 - 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:

FROM	TO	AMOUNT
Clerk (O&E))		\$1,000.00
	Clerk (S&W)	\$1,000.00
Recreation Recap (O&E)		\$1,000.00
	Recreation Recap (S&W)	\$1,000.00
Sewer Legal (O&E)		\$7,000.00
	Stage II (O&E)	\$5,750.00
	Cherry Valley (O&E)	\$1,250.00

8-1. 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

9. **ORDINANCE #14-1482 - To Mandate Direct Deposit for Municipal Employees - Public Hearing**

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

AN ORDINANCE AMENDING AND SUPPLEMENTING THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984) TO MANDATE DIRECT DEPOSIT FOR MUNICIPAL EMPLOYEES PURSUANT TO C. 52:14-15f.2b et. seq.

B. Mayor Smith opened the hearing to the public. There being no comment, 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 4<sup>th</sup> day of December, 2014 and that notice thereof be published in an official newspaper as required by law.

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

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

10. **APPROVAL OF MINUTES - November 6, 2014**

The minutes of November 6, 2014 were approved as printed.

11. **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.

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

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

12. **DEER MANAGEMENT PROGRAM**

Mayor Smith stated that he and Committeewoman Graham would be heading up an Ad Hoc Committee with members of the Wildlife Management Committee, Open Space Committee, Agricultural Advisory Committee and Open Space Coordinator Lauren Wasilauski to come with some ideas on how to cull the Township's deer without having to use "White Buffalo".

13. **MUNICIPAL ALLIANCE**

Committeewoman Graham reported that the Municipal Alliance appointed Judith Fujimura and Katherine Powell as Chairwomen.

15. **PLANNING BOARD**

Mayor Smith reported that the general development plan for Country Club Meadows was approved at the December 1 Planning Board meeting. He stated that Gibraltar Rock presented a plan for some large construction projects they have planned.

14. **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 (A. Dix Skillman {Blocks 4002, 4003, 4004, 4005, 4006 & 4007, various lots}, and Donald Matthews {Block 17004 Lots 1, 2 & 3});
  - Advice of counsel with respect to anticipated Montgomery Woods sewer litigation;
  - Advice of counsel with respect to anticipated Affordable Housing litigation.
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. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

14-1. Committeeman Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried unanimously.

15. Meeting reconvened in Open Session and **ADJOURNMENT** was at 8:15 p.m. on a motion by Committeeman Trzaska. The motion was seconded by Committeewoman Graham and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk