

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
May 7, 2015

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 Madrid, Deputy Mayor Trzaska (during Item #8),  
Committeemembers Graham and Smith  
Committeeman Sugden (after Item #6)

Also present were:

TOWNSHIP ATTORNEY - Cory Kestner, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Madrid 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 Madrid led the Salute to the Flag.
4. **PROCLAMATION - EMERGENCY MEDICAL SERVICES WEEK - May 16-22, 2015**

WHEREAS, Emergency medical services is a vital public service; and

WHEREAS, The members of emergency medical services teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, Access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, The emergency medical services system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators and others; and

WHEREAS, The members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

WHEREAS, It is appropriate to recognize the value and the accomplishments of emergency medical services providers, especially Montgomery EMS, by designating Emergency Medical Services Week.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee, in recognition of this event, does hereby proclaim the week of May 16-22, 2015, as

EMERGENCY MEDICAL SERVICES WEEK

With the theme, *EMS: Anytime, Anywhere, We'll Be There*; and we encourage the community to observe this week with appropriate programs, ceremonies and activities.

- 4-1. Committeeman Smith moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried unanimously.
- 4-2. John Connacher, EMS President, invited the Township Committee to a cook-out fundraiser planned for May 16 from 4:00 pm to 8:30 pm. There will be burgers and hot dogs. Music will be provided by Montgomery High School students. He thanked the Township Committee for all of their support. He stated that Montgomery EMS entered into its 43<sup>rd</sup> year of operation in 2015. They are a 100% volunteer organization. They responded to over 1500 calls in 2014 and collectively, their 80 volunteers were on-call for over 36,000 hours. They respond to 911 calls 24 hours a day, 7 days a week. They rely on fundraising for their budget.

A representative of Transco who was in attendance stated that Transco would like to make a donation of \$5,000.00 to the Montgomery EMS.

5. **PROCLAMATION - SKIN CANCER AWARENESS MONTH - May, 2015**

WHEREAS, Skin cancer is the most common form of cancer in the United States, affecting 5 million individuals each year; one in five Americans will develop skin cancer in the course of a lifetime, and one in fifty will develop melanoma, which makes it the most common form of cancer in the United States; and

WHEREAS, The two most common forms of skin cancer are basal cell and squamous cell carcinomas are highly curable; melanoma the third most common form of skin cancer is the deadliest skin cancer and one of the most common cancers for young adults and is on the rise nationwide and worldwide; and

WHEREAS, Recent studies indicate sun damage in childhood can lead to skin cancer later in life, it also shows young people are not using proper protection and melanoma will account for more than 80,000 cases of skin cancer in 2015; and

WHEREAS, Melanoma is the most common form of cancer for young adults 25-29 years old and the second most common form of cancer for young people 15-29 years old. Over the past 33 years, more people have been diagnosed with skin cancer than ALL other cancer combined; and

(Item #5 Cont.)

WHEREAS, More women are diagnosed with melanoma before the age of 45; by age 60 the rate is more than two times higher in men; and by age 80 the rate in men is nearly three times higher than in women. Melanoma rates are 24 times higher in white people than black people; and

WHEREAS, The overall death rates from all cancers has decreased in the last three years, the incidence of all cancers continues to increase by over 4% with a rise in melanoma of the skin, especially in Morris and Somerset County; and

WHEREAS, Rates of sunburn remain high, affecting nearly 37% of Americans each year as a result of overexposure to UV rays. Indoor tanning is especially dangerous, resulting in an estimated 400,000 cases of skin cancer in the United States each year; and

WHEREAS, Skin cancer is a serious public health concern, the regional chronic disease coalition of Morris and Somerset, and its partners, are promoting Skin Cancer Awareness Month. Everyone, especially young people, are encouraged to take advantage of skin cancer prevention and early detection opportunities and activities throughout the Counties all year long, with a focus on having "safe fun in the sun" and outdoors without compromising skin health.

NOW, THEREFORE, BE IT RESOLVED That the Township Committee of the Township of Montgomery, to help save lives and raise awareness of skin cancer, does hereby support and recognize the State of New Jersey proclaiming May as Skin Cancer Awareness Month, and urge all residents to talk with family and friends about the importance of early detection and prevention measures and to educate ourselves and others about this disease and to offer compassion and understanding to people living with cancers of the skin.

- 5-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried unanimously.

6. **EAGLE SCOUT PROJECT PRESENTATION** - Nikolai Bottitta

Nikolai Bottitta explained his project entitled "Additions to the Rock Mill Preserve". He plans to install a kiosk, a bench and a sign at the entrance of the preserve. The purpose of his project is to bring more awareness to the area and help further develop it so that residents go to the site. The kiosk will hold information signs, so visitors get to learn a bit more about the preserve. He was expecting the cost to complete this project to be between \$600.00 and \$625.00. It was his intent to install the project during the months of July and August. He asked the Township Committee to consider funding anything they could towards the project and plans to approach local businesses to help with funding.

- 6-1. **Motion #15-5-1** - Committeewoman Graham moved to approve the Eagle Scout project of Nikolai Bottitta. The motion was seconded by Committeeman Smith and carried on the following:

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

7. Committeeman Sugden arrived.

8. **TRANSCO - Liedy Southeast Project - Request for Relaxation of Construction Work Hours**

Jim McAvoy, Project Manager in charge of the Land Department of Transco, requested that the Township Committee allow Transco to work on Sundays due to unforeseen problems that may arise, such as weather. They also have some road boring happening on Cherry Valley Road and it is critical that they continue working in order to avoid possible problems such as a road collapsing.

There were questions about the possibility of working on Sundays for other roads, to which Mr. McAvoy stated that at present the only road they are concerned with is Cherry Valley Road and this would only be for two Sundays, May 10 and May 17. They would come back to the Governing Body if any other Sundays were needed for other roads.

Clem Fiori, Open Space Committee Chair, stated that at their preliminary meetings for this project, he and others met with a group of representatives of Transco who made a series of promises. One of the promises was that the Township could have observers in the field for this project, as interveners. There was a caveat that they would have to attend a training session so that there would be no legal ramifications or liabilities. This training session has not happened, no matter how many times the Township has asked.

Committeeman Smith asked if they could set up a tour and training for a few Township representatives. Mr. McAvoy stated that he would gladly do that.

- 8-1. Deputy Mayor Trzaska arrived.

- 8-2. **Motion #15-5-2** - Committeeman Smith moved to allow Transco work on two Sundays, May 10 and May 17 from 9:00 a.m. to 5:00 p.m. on Cherry Valley Road, as long as they inform the Township Engineer prior to working, and that Transco provide training to Township representatives and staff. The motion was seconded by Committeewoman Graham and carried on the following:

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

9. **PUBLIC COMMENT**

Mayor Madrid opened the public comment portion of the meeting. There being no public comment, Mayor Madrid closed this portion of the meeting.

10. **MUNICIPAL BUILDING RENOVATION/EXPANSION PRESENTATION**

Committeeman Smith gave a brief introduction regarding the presentation. He stated that after touring the Police Department, the Township Committee was surprised at the need for upgrading, repair and renovation that was necessary for that facility. At that time, he looked into options such as leasing another building, building a new building and adding on to the existing Municipal Building. He looked into firms who could help in figuring out what the best option would be. Mr. Smith introduced Ed Rothe and Joe Spataro from Rothe and Santini.

Ed Rothe spoke about his background and gave a brief presentation on the present condition of the Municipal Building and the changes and additions he would propose if the Township were to stay in the building. He was informed of the real shortcomings of the existing building, what needed to be addressed to make the existing Municipal Building usable for the long term. He presented various options for the renovation and upgrading of the existing Municipal Building. The most important part of this project would be the Police Department as the existing space is not conducive to the day-to-day operations. Committeeman Smith explained that there had been an intensive mechanical and IT study. There was a consultant who came and toured the building, submitted a survey of all of the HVAC and electrical. They then reported on what could remain as is and what had to be updated and/or changed. Committeeman Smith stated that they were working on the budgeting of this project. There should be figures in the near future.

Committeeman Sugden suggested that buying the Convatec building might still be a better solution, because this addition to the existing Municipal Building option would take time and the employees would have to work in a construction zone for that time. In addition, the site is not exactly optimal. He asked that the Governing Body be given the pricing for all three of the options: the renovation and addition to the existing Municipal Building; the building of a brand new Municipal Building; and the purchase of the Convatec building.

Clem Fiori, Route 518, stated that this subject has been discussed numerous times over the years. He was pleased that the Governing Body was trying to repurpose the building and he didn't feel the existing location was a bad location. He didn't have any major concerns with the proposal except that if you change the entrance and exit you may cause major traffic issues. Administrator Nieman explained that the plan was to move the entrance completely off Route 206, except for Police, and have vehicles enter and exit from Belle Mead-Griggstown Road.

11. **APPOINTMENT OF INTERIM QUALIFIED PURCHASING AGENT - Greg Bonin**

BE IT RESOLVED By the Montgomery Township Committee that Greg Bonin is hereby appointed Interim Qualified Purchasing Agent.

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

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

12. **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 #15-5-104 - REFUND OVERPAID 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>Amount</u>
7003	19	AFRM Title & Abstract, LLC	\$3,323.89
31001	61	Nationstar Mortgage, LLC	\$4,286.08
37002	29	Alternative Abstract, LLC	\$2,294.92
37004	6.58	Alternative Abstract, LLC	\$1,959.87

B. **RESOLUTION #15-5-105 - REMOVE 2015 SEWER BILLING**

BE IT RESOLVED that the following properties have sewer that was billed in error removed:

<u>Block</u>	<u>Lot</u>	<u>Plant Number</u>	<u>Location</u>	<u>Amount</u>
26001	1.01	Sewer Plant #8	47 Skillman Road	\$8,944.89
34001	64	Sewer Plant #2	39 Cherry Valley Road	\$1,132.00

(CONSENT AGENDA Cont.)

C. **RESOLUTION #15-5-106 - ACCEPTANCE OF DONATIONS - Earth Day Fair - Callaway Henderson Sotheby's International Realty and Rocky Hill Cleaners**

BE IT RESOLVED that the Montgomery Township Committee hereby accepts the following donations for the Earth Day Fair.

<u>Name</u>	<u>Amount</u>	<u>Check #</u>
Callaway Henderson Sotheby's International Realty	\$100.00	11109
Rocky Hill Cleaners	\$200.00	2269

D. **RESOLUTION #15-5-107 - ACCEPTANCE OF DONATION - Montgomery Recreation - Darren Czekanski**

BE IT RESOLVED that the Montgomery Township Committee hereby accepts the following donation for Montgomery Recreation.

<u>Name</u>	<u>Amount</u>	<u>Check #</u>
Darren Czekanski	\$1215.00	1010

E. **RESOLUTION #15-5-108 - APPROVAL OF OUTDOOR ASSEMBLY - Montgomery EMS Burgers & Band-aids Fundraiser**

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. The Montgomery EMS has requested approval of the Township Committee to conduct a Burgers & Band-aids fundraiser on May 16, 2015. The events will take place at the Montgomery EMS Building at 8 Harlingen Road, Belle Mead.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:
  - (a) This approval is for the period specified and is not to be considered approval to conduct similar events without Township Committee approval.
  - (b) This event shall be held subject to the provisions of the Montgomery Township Code, Outdoor Assembly, Chapter 4-2.1.
3. The organizers will obtain the required approval from the Police Department regarding parking facilities, traffic plan and safety considerations.
4. The organizers have obtained the required tent permit from Township Fire Marshall, Roy Mondl.
5. The organizers have obtained the required health certificates from the Township Health Officer, Stephanie Carey.

F. **RESOLUTION #15-5-109 - AUTHORIZING THE ISSUANCE OF 2015 TOWING LICENSES**

WHEREAS, The Township has received completed towing applications for light duty licenses from Araujo Enterprises, Inc. (t/a Kwik Response Towing) and Rich's Offroad Towing; and completed towing applications for heavy duty licenses from Rich's Offroad Towing to provide towing services in 2015; and

WHEREAS, The Police Department has reviewed said application 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 towing licenses to Araujo Enterprises, Inc. (t/a Kwik Response Towing) and Rich's Offroad Towing; and

WHEREAS, The Police Director has reviewed the results of said investigations, approved said applications, and recommended the issuance of heavy duty towing licenses to 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 Araujo Enterprises, Inc. (t/a Kwik Response Towing) and Rich's Offroad Towing for 2015.
2. The Township Clerk is hereby authorized to issue heavy duty licenses to Rich's Offroad Towing for 2015.
3. 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, 2015.
3. This resolution shall take effect immediately.

G. **RESOLUTION #15-5-110 - AUTHORIZING RIGHT-OF-ENTRY AGREEMENT - Country Classics at Foxbrook**

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Right-of-Entry Agreement with Country Classics, Inc. to construct a footbridge over Fox Brook on the Pike Brook Wastewater Treatment Plant property.

(CONSENT AGENDA Cont.)

H. **RESOLUTION #15-5-111 - AUTHORIZING REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase I Affordable Apartments**

WHEREAS, Gail Smith, Township Engineer, has certified on April 30, 2015 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase I Affordable Apartments may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a performance guarantee as specified in the Township Engineer's estimate dated May 1, 2015.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$336,947.40, reduced from \$542,802.00, be posted as follows:

10% cash	\$ 33,694.74
90% cash, Letter of Credit, or Surety Bond	\$303,252.66

I. **RESOLUTION #15-5-112 - AUTHORIZING REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase I Townhomes**

WHEREAS, Gail Smith, Township Engineer, has certified on April 30, 2015 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase I Townhomes may be reduced; and

WHEREAS, The remaining and partially completed improvements will be adequately covered by a performance guarantee as specified in the Township Engineer's estimate dated May 1, 2015.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$1,108,547.40, reduced from \$1,968,451.50 (corrected amount - \$1,890,331.20), be posted as follows:

10% cash	\$110,854.74
90% cash, Letter of Credit, or Surety Bond	\$997,692.66

J. **RESOLUTION #15-5-113 - AUTHORIZING SEWER PARTICIPATION AGREEMENT - Mark & Patty Edelstein - Block 31001, Lot 2.12**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Mark and Patty Edelstein related to sewer capacity in the Cherry Valley Sewage Treatment Plant for Block 31001, Lot 2.12.

K. **RESOLUTION #15-5-114 - AUTHORIZING SEWER PARTICIPATION AGREEMENT - Jeffrey Warren - Block 17003, Lot 15**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Jeffrey Warren related to sewer capacity in the Oxbridge Sewage Treatment Plant for Block 17003, Lot 15.

L. **RESOLUTION #15-5-115 - RESOLUTION AUTHORIZING THE PROVISION OF A LOAN PURSUANT TO THE TOWNSHIP OF MONTGOMERY AFFORDABILITY ASSISTANCE PROGRAM FOR THE TENANTS OF AN AFFORDABLE HOUSING UNIT LOCATED AT 1226 MCKINLEY COURT MONTGOMERY, NEW JERSEY**

WHEREAS, Applicants 2015-6 ("Tenants") will be renting 1226 McKinley Court, Montgomery Township ("Property"), a property governed by the statutes, ordinances, rules and regulations restricting occupancy and use of the property as an affordable housing unit; and

WHEREAS, the Tenants have requested a loan through Montgomery Township's Affordability Assistance Program to pay for a security deposit for the Property; and

WHEREAS, the Township's Affordable Housing Administrative Agent, Community Grants Planning and Housing, LLC, has reviewed the Tenants' application and qualified the Tenants for the requested assistance; and

WHEREAS, the Township shall pay the amount of the requested loan for a security deposit directly to the landlord, M&G McKinley Investments, LLC; and

WHEREAS, the Township is willing, pursuant to the Affordable Assistance Program, to extend a loan to the Tenants in the amount of eight hundred and ninety-two dollars (\$892.00); and

WHEREAS, the funding for the loan will be from the Montgomery Township Affordable Housing Trust Fund.

NOW THEREFORE BE IT RESOLVED on this 7th day of May, 2015, by the Township Committee of the Township of Montgomery, County of Somerset, State of New Jersey, that:

(CONSENT AGENDA Item L Cont.)

1. The Mayor and Clerk are hereby authorized, pursuant to the Township's Affordability Assistance Program, to enter into an Agreement with Tenants and Landlord, and provide Tenants with a loan to be used to pay a security deposit for the Property.
2. The Mayor, Administrator, Clerk, Township Attorney, CFO, and such other staff and officials as may be appropriate are authorized to take such steps as may be reasonably required to implement this resolution, including issuance of the loan amount.

12-1. Committeeman Sugden moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Graham and carried on the following:

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

13. **MAYORAL APPOINTMENT - Central Jersey Transportation Forum**

BE IT RESOLVED That Gail Smith is hereby appointed Central Jersey Transportation Forum Representative, 1 year term expiring December 31, 2015.

BE IT FURTHER RESOLVED That Donato Nieman is hereby appointed Central Jersey Transportation Forum Alternate, 1 year term expiring December 31, 2015.

BE IT FURTHER RESOLVED That Lori Savron is hereby appointed Central Jersey Transportation Forum Alternate, 1 year term expiring December 31, 2015.

14. **RESOLUTION #15-5-116 - PROFESSIONAL SERVICES AGREEMENT - Bridgepoint Road Overlay Project Engineering Consultants - Remington, Vernick & Vena Engineers**

WHEREAS, The Township of Montgomery seeks to retain the services of a professional engineer for the Bridgepoint Road Overlay Project; and

WHEREAS, There exists a need to acquire these services without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay to Play Law); and

WHEREAS, The firm Remington, Vernick & Vena Engineers has submitted a proposal offering to provide the sought-after service to the Township; and

WHEREAS, It has been determined that the value of the acquisition over the course of the contract is anticipated to exceed \$17,500.00; and

WHEREAS, Remington, Vernick & Vena Engineers has completed and filed with the Township of Montgomery a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying that Remington, Vernick & Vena Engineers has not made any prohibited contributions to a candidate committee or municipal committee representing elected officials of the Township of Montgomery; and

WHEREAS, The New Jersey Local Public Contracts Law N.J.S.A. 40A: 11-1 et seq authorizes the award of a contract for "professional services" without competitive bidding on the basis that the services are to be performed by persons who are recognized as licensed and regulated professionals.

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

1. The Mayor and Clerk are hereby authorized and directed to execute an agreement with Remington, Vernick & Vena Engineers for the engineering design, permitting and preparation of contract documents for the Bridgepoint Road Overlay Project. The terms of the agreement shall be subject to the approval of the Township Attorney.
2. Remington, Vernick & Vena Engineers shall be paid a not to exceed fee of \$23,000.00 for its services.
3. A copy of this Resolution, the Certification of Contract Value, the Campaign Contributions Affidavit, and the executed Agreement shall be placed on file in the office of the Township Clerk.
4. A notice of this action shall be published in the official newspaper as required by law.
5. Performance of services and payment for services are subject to the certification of availability of funds by the Chief Financial Officer.

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

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

15. **RESOLUTION #15-5-117 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2015 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2015 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:

	AMOUNT
Administrative & Executive	
Other Expenses	\$10,000.00
Financial Administration	
Other Expenses	10,000.00
Collection of Taxes	
Other Expenses	5,000.00
Legal Services	
Other Expenses	50,000.00
Employee Group Insurance	
Other Expenses	250,000.00
First Aid - Rescue Squad	
Other Expenses	10,000.00
Summer Camp	
Other Expenses	5,000.00
Economic Development	
Other Expenses	750.00
Water	
Other Expenses	5,000.00
Natural Gas	
Other Expenses	20,000.00
Total 2015 Temporary Appropriations for Operating Purposes	\$365,750.00
Sewer Utility	
Other Expenses	\$6,000.00
Total 2015 Temporary Appropriations for Sewer Utility	\$6,000.00

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

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

16. **RESOLUTION #15-5-118 - RESOLUTION TERMINATING AGREEMENT WITH APS CONTRACTING, INC.**

WHEREAS, On or about January 12, 2010, the Township executed an agreement ("Agreement") for the Upgrade and Expansion of the Pike Brook Waste Water Treatment Plant Project ("Project") with APS Contracting, Inc. for the Contract Amount of \$14,250,000; and

WHEREAS, The Township issued a Certificate of Substantial Completion on February 8, 2013 designating the Project as "substantially complete," in accordance with the Agreement's "General Conditions;" and

WHEREAS, At this time, however, the Project remains incomplete because APS Contracting, Inc. has: 1) failed to submit all mandatory documentation prerequisite to Final Acceptance in accordance with section 3.11 of the General Conditions; 2) failed to correct a number of defects in the work despite receiving notice of same, with an estimated value of \$91,084.79; and 3) failed to pay subcontractors and vendors for their work under the Agreement in the amount of \$256,195.49; and

WHEREAS, During the past 18 months, the Township Engineering Department has attempted on numerous occasions to work with APS Contracting, Inc. to bring the Project to Final Completion, to no avail; and

WHEREAS, On March 18, 2015, in consultation with the Township Engineer's Office, the Township Attorney's Office sent a letter and notice to APS Contracting, Inc. and its bonding company, Fidelity and Deposit Company of Maryland, specifying in detail APS Contracting, Inc.'s default under the Agreement and the necessary actions APS Contracting, Inc. would need to take to cure same; and

WHEREAS, Said March 18<sup>th</sup> letter also included notice to APS Contracting, Inc. and Fidelity and Deposit Company of Maryland that in the event APS Contracting, Inc. failed to cure the defects within three (3) days of said notice, then, pursuant to section 2.35(a) of the General Conditions, the Township would have the right to make good all deficiencies in the work and deduct the cost thereof from the payments that may be due to APS Contracting; and

WHEREAS, Said March 18<sup>th</sup> letter further provided notice to APS Contracting, Inc. and Fidelity and Deposit Company of Maryland that in the event APS Contracting, Inc. failed to cure the defects within ten (10) days of said notice, then pursuant to section 2.35(b) of the General Conditions, the Township would also have a right to terminate the Agreement; and

(Item #16 Cont.)

WHEREAS, There has been no response from APS Contracting, Inc. or Fidelity and Deposit Company of Maryland to the May 18<sup>th</sup> correspondence (or follow up inquiries regarding same) and therefore, at this time, the Township Engineer requests that the Township Committee terminate the Agreement with APS Contracting, Inc. and authorize the Township Engineer, consistent with the General Conditions, to take possession of the work and all materials and equipment thereof and finish the work by whatever method and means she may select, and which shall include a requirement that APS Contracting, Inc.'s Surety Fidelity and Deposit Company of Maryland complete some or all remaining work;

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

1. The Agreement executed on or about January 12, 2010 between the Township of Montgomery and APS Contracting, Inc. for the Upgrade and Expansion of the Pike Brook Waste Water Treatment Plant Project ("Project") is hereby terminated on the basis of APS Contracting, Inc.'s default under said Agreement, as specified in the letter and notice dated March 18, 2015 from the Township Attorney's Office.
2. Consistent with the General Conditions which are a part of the Agreement, the Township Engineer shall take possession of the work and all materials and equipment thereof and finish the work by whatever method and means she may select, and which shall include a requirement that Fidelity and Deposit Company of Maryland complete some or all remaining work.
3. The Township Attorney, Township Engineer and Township Clerk and such other officers, officials and employees as may be appropriate are herewith authorized to file such claims under Bond #PRF761301100 on behalf of Montgomery Township against APS Contracting, Inc. and take such other steps as may be necessary to assure satisfactory completion of this Project.
4. The Clerk is herewith directed to furnish a certified copy of this Resolution to APS Contracting, Inc. and Fidelity and Deposit Company of Maryland, by certified mail, return receipt requested.

16-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried on the following:

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

17. **ORDINANCE #15-1488 - No Parking Green Avenue - Public Hearing**

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

AN ORDINANCE AMENDING SCHEDULE I OF CHAPTER VII,  
"NO PARKING," OF THE CODE OF THE TOWNSHIP OF  
MONTGOMERY (1984) TO PROHIBIT PARKING ON GREEN AVENUE.

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

B-2. Ken Knieser, Oak Ridge Drive, stated that no one parked on Green Avenue at present. Administrator Nieman explained that because there were bike lanes on the road, the Township was making sure that parking was prohibited on Green Avenue.

B-3. Deputy Mayor Trzaska moved that the public hearing be closed. The motion was seconded by Committeewoman Graham and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 7<sup>th</sup> day of May, 2015 and that notice thereof be published in an official newspaper as required by law.

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

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

18. **ORDINANCE #15-1489 - 2015 Sewer Service Fees - Public Hearing**

A. Mayor Madrid 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  
2015 SEWER CAPACITY CHARGES AND 2015 SEWER SERVICE RATES.

B. Mayor Madrid opened the hearing to the public. There being no comment, Committeeman Sugden moved that the public hearing be closed. The motion was seconded by Committeewoman Graham and carried unanimously.

C. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby adopted this 7<sup>th</sup> day of May, 2015 and that notice thereof be published in an official newspaper as required by law.

18-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Graham and carried on the following:

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

19. ORDINANCE #14-1490 - Affordable Housing Administrative Fees - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY CONCERNING AFFORDABLE HOUSING ADMINISTRATIVE FEES AND AMENDING CHAPTER XV OF THE CODE OF THE TOWNSHIP OF MONTGOMERY (1984).

B. BE IT RESOLVED By the Township Committee of the Township of Montgomery that the foregoing ordinance be hereby passed on first reading and that the same be published in an official newspaper as required by law together with a Notice of Pending Ordinance fixing May 21, 2015 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

19-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Trzaska and carried on the following:

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

20. APPROVAL OF MINUTES - April 16, 2015

The minutes of April 16, 2015 were approved as printed.

21. 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.

21-1. Committeeman Sugden moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Trzaska and carried on the following:

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

22. SHRED DAY

Township Clerk Donna Kukla reported that the annual Somerset County Shred Day in Montgomery Township would take place on Saturday, May 9 from 9:00 a.m. to 1:00 p.m. at the firehouse on Belle Mead-Griggstown Road.

23. OPEN SPACE STEWARDSHIP/DEVELOPMENT PROJECTS

Open Space Coordinator Lauren Wasilauski stated that this presentation stems from a discussion that staff had with Committeeman Sugden and Deputy Mayor Trzaska regarding improvements to some of the Township's Parks. Recreation Director Karen Zimmerman and Planning Director Lori Savron are presently working very hard on this. There was also some direction from the Open Space Committee on how to make the Township Open Space more of a destination and how to let people know that it is there.

The Open Space Committee discussed it and broke this down into three categories:

- Programming - some of the Eagle Scouts, the Watershed Association and the Montgomery Friends of Open Space have been working on programming. There is hope that there can be future partnerships with the Board of Education and maybe some artists groups. Another part of this would be hands on projects, such as tree planting and pathway maintenance days. Open Space Chair Clem Fiori reported that there are more and more people participating in these projects and activities.

(Item #23 Cont.)

- Increased visibility and raised awareness - the Open Space Committee decided that making a uniform space for some of the trailheads was extremely important. They created a standard design for kiosks, which some of the Eagle Scouts have built for their projects, and installed some interpretative text. There are currently four planned and there are two more that are already installed. They also would like to develop a new pathways booklet, since the last one was done in the late 1990's or early 2000's and there were additions and corrections that needed to be done. Ms. Wasilauski stated that the Open Space Committee applied for some grant funding to off-set some of the cost of the new booklet. They are awaiting an answer. Their goal is to have this booklet on-line. Mr. Fiori reported that one of the members of the Open Space Committee is a groundskeeper for "Grounds for Sculpture" and he has helped attract some of the sculptors to put pieces in the parks. There were also possible plans for Rock Mill Park, the land at the corner of Route 206 and Dutchtown-Harlingen Road and Skillman Park. There was discussion about either trying to preserve and renovate the barn that is at the corner of Route 206 and Dutchtown-Harlingen Road, or to use one of the barns that are in storage at the Township for that site. Mr. Fiori pointed out that there was a barn that was restored and placed on Route 206 by the corner of Orchard Road.
- Expanding the trail that winds its way through Skillman Park to around the park. This would make it a huge network and to provide neighbors the opportunity to walk to the park and enjoy the beauty of it.

There was discussion about looking into using Open Space funds for upgrading the existing Open Space and making them more accessible to the public.

Deputy Mayor Trzaska spoke about the Cherry Brook Preserve and how it needed to be rehabilitated and made a destination so more people would use it. He asked the Open Space Committee to look into this. Mr. Fiori stated that the Township's Environmental Engineer had looked at this and had come up with a three tier analysis. The first would be to fix the dam and keep the pond as is. The second was to fix the dam and dredge the pond but not much else. The third was a full restoration of the dam and pond with the construction of some piers and landscaping around the entire pond. Deputy Mayor Trzaska felt the Township and the Open Space Committee should look into getting grant funding to go with the third option.

24. **REC-N-CREW CAMP SCHOLARSHIPS**

Township Attorney Cory Kestner explained the discussion he had with Recreation Director Karen Zimmerman about potential ways that the Recreation Department could provide qualifying Montgomery Township residents with a reduced tuition rate for the Rec-N-Crew summer camp program. He explained that Ms. Zimmerman has, in the past, granted reduced tuitions for residents who were struggling so that the child/children could attend the camp. As the economy worsened, more and more people were requesting help and she felt that the Township needed to formalize this process. One of the suggestions was to make this an actual scholarship program based on income levels or past income tax returns. Also she wondered about setting up a separate account within the Recreation Department so she could accept donations directly to that account, as well as trying to set up a more permanent funding source.

Committeewoman Graham asked if it would be a set scholarship fee or would it be a percentage of the fee. Attorney Kestner explained that Ms. Zimmerman would like to have it where there would always be something paid by the resident. One suggestion was to have it as a percentage based on the tuition rate for that year. If the Township were to implement such a program, it should have pre-determined eligibility requirements for a reviewer to use to determine eligibility and the amount of the scholarship to be awarded. A check list should be established and include income eligibility and residency. He did recommend that if the Township were to implement this sort of program, only partial scholarships should be awarded to ensure that there would be enough funds available to accommodate all requests and that no scholarships be offered towards trips with the certain exceptions.

It was the consensus of the Township Committee that there would be further discussion of the matter at a future date.

25. **P.L.A.Y. COMMITTEE**

Committeeman Sugden reported that he and Deputy Mayor Trzaska would be attending the P.L.A.Y. Committee meeting on May 12. This meeting would be about the recreational and sports needs of the Township.

26. **ENVIRONMENTAL COMMISSION**

Administrator Nieman stated that the Environmental Commission was rethinking how they want to celebrate Earth Day, because they are having difficulty getting volunteers to participate in the Earth Day Fair. He stated that it was a tremendous undertaking and they start planning approximately a year in advance.

27. **POLICE RECRUITS**

Administrator Nieman reported that the newest Police recruits would be graduating from the Police Academy on June 4. He invited any of the Township Committee to attend the graduation at the Morris County Police Academy on that day. Mayor Madrid stated that it was her intention to attend.

28. RESOLUTION TO CLOSE MEETING TO THE PUBLIC

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

1. The Township Committee will now convene in a closed session that will be limited only to consideration of items with respect to which the public may be excluded pursuant to Section 7B of the Open Public Meetings Act.
2. The general nature of the subjects to be discussed in this session are as follows:
  - Potential acquisition of properties with public funds: Block 3001, Lots 1 & 2 (Thompson Belle Mead); Block 4001, Lots 8 & 8.01 (Kiss); Block 4002, Lot 1 (Carrier Clinic); Block 4002, 4003, 4004, 4005, 4006, 4007, various lots (Dix Skillman); Block 6001, Lot 7 (Nagle); Block 6001, Lot 24 (Congregation Kehilat Shalom); Block 10001, Lots 1, 1.01, 2, 3 & 4 (Styles); Block 11001, Lot 46 (Antonacci); Block 11001, Lot 61 (Abrahamsen); Block 12001, Lot 15 (Irish); Block 12001, Lot 20 (Fenton/Safro); Block 13001, Lot 15 (Johnson & Johnson); Block 17004, Lots 1, 2 & 3 (Matthews); Block 22001, Lot 20.01 (Weingart); Block 30001, Lot 9 (Brennan); Block 30001, Lot 9.01 (901 Realty); Block 32001, Lot 24 (Thompson Cherry Valley); Block 33001, Lots 22 & 22.01 (Firmenich); Block 34001, Lots 14, 15, 22 & 30 (Thompson/Lanwin); Block 34001, Lots 44 & 46 (Drake); Block 37003, Lot 7 (Trap Rock).
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.

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

29. Meeting reconvened in Open Session and ADJOURNMENT was at 10:00 p.m. on a motion by Committeewoman Graham. The motion was seconded by Committeeman Sugden and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk