

MINUTES FOR  
MONTGOMERY TOWNSHIP COMMITTEE MEETING  
October 1, 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, Committeemembers Smith and Sugden  
Committeewoman Graham (via telephone after Item #4)

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, 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. **RESOLUTION HONORING MONTGOMERY BUSINESS ASSOCIATION, ECONOMIC DEVELOPMENT COMMISSION AND PRINCETON AIRPORT OWNERS - Montgomery FunFest 2015**

WHEREAS, The strength and vitality of any community depends upon the engagement, public spiritedness, energy and generosity of its people; and

WHEREAS, The people who comprise the Montgomery Business Association and the Economic Development Commission epitomize a volunteer spirit and commitment that is truly remarkable and admirable, resulting in extraordinary benefits to our community; and

WHEREAS, On September 12, 2015, the first Montgomery FunFest was held at Princeton Airport attended by approximately 6,000 people, including vendors and businesses promoting their services; and

WHEREAS, It is the goal of the Montgomery Business Association and Economic Development Commission to support local businesses and strengthen the community spirit of Montgomery Township; and

WHEREAS, The Montgomery Business Association and Economic Development Commission worked tirelessly for months to organize this very successful event which will hopefully become an annual tradition in Montgomery.

NOW, THEREFORE, BE IT RESOLVED That the Montgomery Township Committee wishes to recognize the membership of both organizations and the owners of Princeton Airport who were instrumental in planning this wonderful opportunity for Montgomery to come together as a community.

ECONOMIC DEVELOPMENT COMMISSION

Joan Kettlekamp      Heidi Shegoski      Alicia Schwarcz      Todd Royer  
Arun Mani              Kevin Baez              Anthony Gatto      Saul Wendroff      Rich Smith

MONTGOMERY BUSINESS ASSOCIATION

Lorette Pruden                      Jean Robinson              Jane Gore  
Cory Wingerter              Peter DiPersia              Frank Luis

PRINCETON AIRPORT

Ken Nierenberg and Steve Nierenberg

BE IT FURTHER RESOLVED That the Township Committee congratulates and commends the Montgomery Business Association and Economic Development Commission on a job well done and is genuinely appreciative to the Nierenberg Family for the hospitality shown to all who visited their facility for the First Annual Montgomery FunFest.

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

5. Committeewoman Graham joined the meeting via telephone.

6. **PUBLIC COMMENT**

- 6-1. Ken Kneiser, Oak Ridge Drive, commended the Township and all of the members of the Economic Development Commission, the Montgomery Business Association and the owners of the Princeton Airport for the Montgomery FunFest. It was very much a community event. He felt that the crowd would have been larger had it not rained on and off.

7. **2015 BEST PRACTICES DISCUSSION**

Chief Financial Officer Walter Sheppard explained that the State of New Jersey, on an annual basis, sends out a "Best Practices" questionnaire with approximately 50 questions. Every year the questions change and five (5) new questions are added. This year there were five "no" answers, which are being addressed at present. The Township once again has scored high enough to not have any penalty on any revenue received by the Township. He asked for Township Committee approval to send the completed questionnaire to the State.

- 7-1. **Motion #15-10-1** - Deputy Mayor Trzaska moved to adopt the report and gave authorization for Chief Financial Officer Sheppard to send the report to the State. The motion was seconded by Committeeman Sugden and carried unanimously.

8. **R.A.P.I.D. - Regional Automated Property Information Database - Captain Palmer**

Police Captain Robert Palmer explained that this program started as a local program run by the Somerset County Prosecutor's office to track the transfer and sale of precious or scrap metals to vendors within the County that accept those items for sale. There was a process where the Somerset County Prosecutor would act as the central repository to track and identify various articles that came in for sale to vendors by consumers who may have come in contact with them illegally. There was a decision made, enabled through State legislation, that can expand this program from a localized County program to a State-wide program called R.A.P.I.D. This would allow the Municipal Police Departments to access an internet data base on a wider basis. This program is backed by the Somerset County Prosecutor. Only four municipalities in Somerset County have adopted it so far. He explained the draft ordinance he presented. There was some discussion about the fees associated with this program. It was the opinion of the Township Committee that the Township would absorb the fee, at this time, since there was only one or possibly two vendors in the Township. Attorney Hadinger suggested putting the fee in the ordinance but have some language indicated that the Township shall retain the right to pay the fee at its discretion. It was the consensus of the Township Committee that an ordinance be drafted to authorize Montgomery Township's participation in this program.

9. **PROMOTIONAL PROCESS FOR POLICE LIEUTENANT - Captain Palmer**

Police Captain Robert Palmer reported that, with the recent retirement of Captain Curry, there is a vacancy in the department being filled on an acting basis for a Commander at the sworn rank of Lieutenant. This means there is a need to hold an examination process very much akin to prior promotional processes that have been used in the past.

Administrator Nieman stated that a resolution needed to be passed to initiate the process including the specific detailing of the schedule. There also needs to be a subcommittee appointed to do the review of the essays and the personnel files. Mayor Madrid and Committeewoman Graham volunteered to be on the subcommittee, with Deputy Mayor Trzaska acting as an alternate.

10. **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 #15-10-248 - REFUND UNUSED PORTION OF SPECIAL DUTY SERVICE MONIES**

BE IT RESOLVED That a refund be given to the following business/company for monies owed by the Township of Montgomery for Private Duty Services;

Reivax Contracting Corp.  
356 Thomas Street  
Newark, NJ 07114  
\$42.50

B. **RESOLUTION #15-10-249 - PURSUANT TO N.J.S.A. 40A:4-87 (Chapter 159, P.L. 1948) - Clean Communities Program**

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 2015, in the amounts listed below, which items is now available as a revenue from the State of New Jersey;

Clean Communities Program	\$59,339.64
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BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That the Chief Financial Officer shall file an electronic Special Item of Revenue Resolution submittal form to the Division of Local Government Services.

(CONSENT AGENDA Cont.)

C. **RESOLUTION #15-10-250 - PURSUANT TO N.J.S.A. 40A:4-87** (Chapter 159, P.L. 1948) -  
DOT Bridgepoint Road

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 2015, in the amounts listed below, which items is now available as a revenue from the State of New Jersey Department of Transportation;

DOT Bridgepoint Road	\$162,000.00
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BE IT FURTHER RESOLVED That a like sum, be, and the same, hereby is appropriated under the above appropriation titles.

BE IT FURTHER RESOLVED That the Chief Financial Officer shall file an electronic Special Item of Revenue Resolution submittal form to the Division of Local Government Services.

D. **RESOLUTION #15-10-251 - RELEASE OF PERFORMANCE GUARANTEE** - Princeton North Shopping Center - Sidewalk along Benjamin Boulevard

WHEREAS, Gail Smith, Township Engineer, has certified on September 23, 2015 that all public improvements in a project known as Princeton North Shopping Center - Sidewalk along Benjamin Boulevard 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.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a performance guarantee in the amount of \$44,079.60 (LOC #876-SB in the amount of \$39,671.64 and \$4,407.96 cash) be released to Princeton North Realty Assoc. and a maintenance guarantee be posted as follows:

Original Construction Cost Estimate	\$44,079.60
15% Maintenance Guarantee	\$ 6,611.94

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.

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

There are no roads or detention basins to be accepted with this project.

E. **RESOLUTION #15-10-252 - AUTHORIZATION TO ENTER INTO A ROAD OPENING AGREEMENT** -  
Empire Holdings Cherry Valley 39, LLC - Master Plan Road

BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a road opening agreement with Empire Holding Cherry Valley 39, LLC, Master Plan Road with respect to Block 34001, Lot 64.

10-1. Committeeman Smith moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeeman Sugden and carried on the following:

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

11. **RESOLUTION #15-10-253 - AUTHORIZING CHANGE ORDER #2** - Pike Brook Consolidation -  
Kleinfelder East, Inc.

WHEREAS, On May 2, 2013, a contract for an anti-degradation study and preliminary design of the consolidation of the Oxbridge and Riverside Wastewater Treatment Plants into the Pike Brook Wastewater Treatment Plant was awarded to Kleinfelder East, Inc. for \$172,000.00; and

WHEREAS, On February 19, 2015, Resolution #15-2-60 authorized Change Order #1 for \$10,000.00; and

WHEREAS, The Township Administrator has requested the Committee's approval of another change order in connection with completion of the above project; and

WHEREAS, The work comprising Change Order No. 2 will result in a net increase in the original contract amount by \$7,500.00; and

WHEREAS, The change outlined in Change Order No. 2 is to complete the Wastewater Management Plan amendment to incorporate the proper flow from the Country Club Meadows property; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for these purposes in Account #04-216-55-901-985A.

(Item #11 Cont.)

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

1. Change Order No. 2 is hereby approved.
2. This Resolution, when counter-signed by Kleinfelder East, Inc., shall serve as a contract amendment to the original contract and Change Order #1 for the purpose of increasing the total contract price by \$7,500.00 for a total contract amount of \$189,500.00.

11-1. Committeeman Smith 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. **RESOLUTION #15-10-254 - RESOLUTION AWARDED CONTRACT UNDER E-PROCUREMENT PILOT PROGRAM**

WHEREAS, The Township of Montgomery ("Township") is interested in hiring a third-party supplier to provide electric generation services to the Township, and, at their option, Township residents and businesses, at a cost below utility-provided electric generation services (referred to as a "government energy aggregation" program or "GEA"); and

WHEREAS, The "Local Unit Electronic Technology Pilot Program and Study Act" ("Pilot Program"), P.L. 2001, c.30, permits the Township to purchase electric generation services from a third-party supplier through an on-line auction rather than traditional sealed bids; and

WHEREAS, Also pursuant the Pilot Program, the Township may hire an on-line purchasing agent without public bidding for purposes of managing the Township's GEA and conducting the on-line auction; and

WHEREAS, The firm of Gabel Associates, Inc. ("Gabel") has offered to render the requisite energy consulting services for management of the Township's GEA, which includes, as more specifically outlined in the proposed Agreement, services necessary to prepare for and manage the GEA, obtain necessary approvals in connection with the GEA and conduct the on-line auction; and

WHEREAS, The Township seeks to hire Gabel to render the necessary energy consulting services for management of the Township's GEA as set forth immediately above and in the proposed Agreement; and

WHEREAS, Under the proposed Agreement, the successful third-party supplier shall be responsible for the payment of Gabel's fees, and the Township shall not be obligated to make payments to Gabel; and

WHEREAS, The Township Administrator has determined and certified in writing that the value of the Gabel's services may exceed \$17,500.00; and

WHEREAS, The Township is obtaining these services without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law" and in connection therewith, Gabel has completed and filed with the Township the required Campaign Contributions Affidavit pursuant to N.J.S.A. 19:44A-20.8, Certification Regarding Political Contributions pursuant to N.J.S.A. 19:44A-20.26 and Affidavit Prerequisite to Execution of Agreement Exempt from Public Bidding and in Excess of \$5,000.00 pursuant to Section 2-22.2 of the Code of the Township of Montgomery (1984) (collectively, the "Pay-to-Play Forms"); and

WHEREAS, A certificate of availability of funds from the Chief Financial Officer is not necessary because the Township will not making payments to Gabel for its services; and

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

1. The Mayor and Township Clerk are hereby authorized and directed to execute an Agreement with Gabel Associates, Inc. ("Gabel") hiring Gabel to provide energy consulting services necessary to manage the Township's government energy aggregation program ("GEA"), obtain the necessary approvals in connection with the GEA and conduct the on-line auction.
2. The Agreement is awarded without competitive bidding pursuant to "Local Unit Electronic Technology Pilot Program and Study Act", P.L. 2001, c.30;
3. The Agreement may be extended beyond the initial two-year term for an additional two-year term, as permitted by law;
4. A copy of this Resolution and the executed Agreement shall be sent to the Division of Local Government Services in the Department of Community Affairs; and
5. A copy of this Resolution, the Certification of Contract Value, the Pay-to-Play Forms and the Agreement shall be placed on file in the Office of the Township Clerk.

12-1. 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

13. **RESOLUTION #15-10-255 - MODIFICATION OF TERMS TO EXECUTED RESTORATION AGREEMENT - TRANSCONTINENTAL GAS PIPE LINE COMPANY LLC (TRANSCO)**

WHEREAS, Pursuant to Township Resolution #15-5-130, the Township authorized execution of a Construction and Restoration Agreement with Transco because the Township and Transco recognized that construction of the Project will impact the Townships lands and roadways; and

WHEREAS, Gail Smith, the Township Engineer has discussed the restoration of certain of the Township's roadways with representatives from Transco, and the Township Engineer and Transco's representatives believe both parties would benefit from Transco providing the Township with a payment in the amount of \$215,576.20 in lieu of actual restoration so the Township may arrange for the work to be completed according to its needs; and

WHEREAS, The Township Engineer and Transco's representatives have agreed upon the amount to be provided in lieu of actual restoration by Transco or its agents.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the agreement between the Township and Transco be modified to permit the payment in lieu of actual restoration so the Township may arrange for the work to be completed according to its needs.

13-1. Committeeman Smith 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

14. **RESOLUTION #15-10-256 - ABC LICENSE #1813-33-009-001 - MTC Restaurant I, LLC**

WHEREAS, Based on the following information regarding the renewal of ABC License #1813-33-009-001 for MTC Restaurant I, LLC:

- a. The submitted application form is complete in all aspects;
- b. The applicant is qualified to be licensed according to all standards established by the New Jersey Alcoholic Beverage Control Act, the regulations promulgated thereunder, as well as any pertinent local ordinances or division-approved conditions; and
- c. The applicant previously disclosed and the Township Committee from the authority previously reviewed the source of funds used in connection with the initial purchase of the license and licensed business and additional financing obtained in connection with the licensed business;
- d. No reports of violations have been filed by the Health Officer, Police Department and Fire Prevention Official.

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery that a renewal of Alcoholic Beverage Control License #1813-33-009-001 is hereby granted for the year 2015-2016.

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. **ORDINANCE #15-1499 - Supplementing and Amending Ordinance #15-1497 (2015 Salary and Wage Plan) - Introduction**

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

AN ORDINANCE SUPPLEMENTING AND AMENDING ORDINANCE #15-1497, ESTABLISHING A COMPREHENSIVE SALARY AND WAGE PLAN FOR THE TOWNSHIP OF MONTGOMERY, SOMERSET COUNTY, AND TO PROVIDE FOR ITS ADMINISTRATION IN 2015.

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 October 15, 2015 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

15-1. Committeeman Smith 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

16. **APPROVAL OF MINUTES**

The Regular Session minutes of September 17, 2015 were approved as printed.

The Executive Session minutes for 2015 were approved as printed for CONTENT ONLY.

17. **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.

17-1. Committeeman Smith 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

18. **TROPICAL STORM JOAQUIN**

Administrator Nieman reported that there are forecasts that indicate that there is a more than 60% chance that the storm will go out to sea and not have a serious impact on the Township.

19. **CHERRY VALLEY ROAD**

Administrator Nieman updated the Township Committee on Cherry Valley Road. The preliminary plans are complete and final design is ongoing. This would be the reconstruction of 2300 linear feet, from the west end of the Jefferson Curve bridge replacement and roadway construction project that was completed in 2010, to approximately 300 feet west of the intersection of Cherry Valley Road and Cherry Hill Road. It will be widened 34 feet and will have full curbing; full drainage; and bike and walking paths that will continue on the Princeton side of the road. It will include pedestrian crossings at Birchwood Drive and Cherry Hill Road. The project requires ten temporary construction easements. Appraisals are forthcoming for the three properties on the Princeton side and seven on the Montgomery side. Construction is expected to start in mid-summer 2016.

20. **BUILDING RENOVATION COMMITTEE**

Committeeman Smith reported on the Building Renovation Committee met to kick-off the process. They have already met with the Police Department. This program is moving forward. There will be a report presented in the next month or so.

21. **TRANSPORTATION ADVISORY COMMITTEE**

Deputy Mayor Trzaska reported on the Transportation Committee meeting. The subjects were Transco, all of the work going on based on the last Capital Budget, and the PSE&G upcoming work on a portion of the new loop road.

22. **MUNICIPAL ALLIANCE**

Committeewoman Graham spoke about the Municipal Alliance meeting. She stated that they have a legal question with respect to their By-Laws and whether the By-Laws have to be amended and adopted again.

23. **MARY JACOBS LIBRARY**

Mayor Madrid reported on the Mary Jacobs Library Foundation's annual food and wine fundraiser on November 14, 2015. This year was going to be the wines of France.

24. **DUTCHTOWN-ZION ROAD**

Administrator Nieman stated that the ballpark figure, with the permits, to pave the unpaved section of Dutchtown-Zion Road would be \$1,000,000.00 to do the project correctly.

25. 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:
  - Advice of Counsel with respect to affordable housing matters and pending litigation.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Matters concerning litigation may be announced upon the conclusion of any trial or settlement of the litigation.

25-1. Committeewoman Graham moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Smith and carried unanimously.

24. Meeting reconvened in Open Session and ADJOURNMENT was at 8:08 p.m. on a motion by Committeeman Smith. The motion was seconded by Deputy Mayor Trzaska and carried unanimously.

Date of Approval:

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Donna Kukla, Township Clerk