

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
March 3, 2016

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 Graham, Deputy Mayor Trzaska, Committeemembers Smith, Madrid and Conforti

Also present were:

TOWNSHIP ATTORNEY - Kristina P. Hadinger, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Walter Sheppard

TOWNSHIP CLERK - Donna Kukla

2. Mayor Graham 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 Graham led the Salute to the Flag.
4. Attorney Hadinger steps down from the dais.
5. **MARY JACOBS LIBRARY BUDGET PRESENTATION**

Brenda Fallon, President of the Mary Jacobs Memorial Library Board of Trustees, spoke about the library's budget and how in 2010 Montgomery Township cut their contribution to the library from \$85,000.00 to \$42,500.00. This cut came after they had just doubled the size of the library. The cut made a significant difference to the working of the Mary Jacobs Library Foundation and to their priorities. The Foundation owns the library and maintains and improves it. She stated that the Foundation has been forced to become a fund raising machine just to pay the annual bills. The Mary Jacobs Library has a very unique funding system. They have an annual budget of \$300,000.00 which is used to operate the building. This money comes almost entirely from private donations. She urged the Township to up their contribution to the library to a total of \$100,000.00. She explained that the current Township funding is not enough. She asked the Township not to wait a year or two to see what the County will do. She thanked the volunteers and donors of the library for their continued support.

Mayor Graham thanked Ms. Fallon and stated that everyone on the Township Committee valued having the library in the Township. She explained that she spoke with the Somerset County Freeholders and said the County Library Commission is supposed to be giving a report within the next couple of weeks regarding a proposal on this issue. She explained that when the library funding was cut, it was really after the depression of 2009. There were enormous financial constraints on the Township and the County. The Township has been on a pretty tight budget every year since then. Montgomery residents already pay over \$2 million in County Library.

Ms. Fallon explained that out of the 15 municipalities in Somerset County who pay library taxes, 10 have paid to build a library building and to currently maintain the building. The remaining 5 municipalities in the system are in Montgomery and Rocky Hill's situation. The residents pay the library dedicated taxes for the services but they do not have to pay for a building. She stated that she has been working with Rocky Hill and Somerset County also. If no one helps, the Library Foundation will run short of funds and the residents of Rocky Hill and Montgomery will be forced to go to one of the other branches.

Deputy Mayor Trzaska stated that the process has been ongoing, since 2013. There have been complications, such as the fairness of tax rates on the County residents and who is paying what into what building. Mary Jacobs Library is the only privately owned building in the Somerset County Library system.

6. **PUBLIC COMMENT**

The following people urged the Township Committee to increase their contribution to the Mary Jacobs Library:

Maria Kauzmann, Fairview Road; Bonnie Giacobbe, Tapestry at Montgomery; Nina Singh; Tricia Thorme, Chicopee Drive; Robert Thorme, Chicopee Drive; Dennis Helms, Poling Farm Court; Jo Szabaga, Hoover Avenue; Mary Reece, Norfolk Way; Sarah Roberts, Harlingen Road; Carrie Dawson, Rocky Hill; Chrissy Blanos, Grant Way; Barbara Preston, Rocky Hill; Hema Malini Waghray, Township Line Road; and Ed Metcalf, Toth Lane.

7. Attorney Hadinger returns to the dais.

8. **RESOLUTION #16-3-62 - RESOLUTION AWARDING A CONTRACT TO A THIRD PARTY POWER SUPPLIER TO PROVIDE ELECTRIC GENERATION SERVICE TO MONTGOMERY COMMUNITY ENERGY AGGREGATION (MCEA) PARTICIPANTS AND TO PROVIDE GOVERNMENT ENERGY AGGREGATION SERVICES IN CONNECTION WITH THE MCEA**

WHEREAS, The Government Energy Aggregation Act of 2003 (P.L. 2003, c.24; N.J.S.A. 48:3-93.1 et seq.) ("Act") and rules promulgated by the New Jersey Board of Public Utilities (N.J.A.C. 14:4-6.1 et seq.) ("Rules") govern the establishment and implementation of a government energy aggregation program, which is a government-operated purchasing cooperative through which multiple energy consumers join together for the purchase of electric utility services by a government aggregator; and

WHEREAS, By Ordinance No. 13-1434 adopted on April 4, 2013, the Township of Montgomery created a Government Energy Aggregation Program in the Township of Montgomery, New Jersey, known as the Montgomery Community Energy Aggregation ("MCEA"); and

WHEREAS, The Township is the Lead Agency of the MCEA; and

WHEREAS, The residents of Montgomery Township are included in the MCEA on an "opt-out" basis, as set forth in the Rules; and

WHEREAS, On August 9, 2013 the Township publicly noticed and issued a Request for Proposals for electric generation service and government energy aggregation services under the MCEA, and on September 5, 2013 awarded a contract to a third party supplier for a 24-month contract running from December 2013 to December 2015 which resulted in significant energy cost savings for Township residents participating in the MCEA; and

WHEREAS, By Ordinance No. 15-1500 adopted on December 3, 2015, the Township of Montgomery authorized the continuation of the MCEA; and

WHEREAS, By virtue of Ordinance Nos. 13-1434 and 15-1500 and in accordance with the Act and Rules, the Township is authorized to award a contract or contracts for the Provision of Electric Generation Service and Government Energy Aggregation Services on behalf of participating residential customers; and

WHEREAS, On February 8, 2016, the Township, in its capacity as Lead Agency of the MCEA, publicly noticed and issued a Request for Proposals (RFP) for the Provision of Electric Generation Service and Government Energy Aggregation Services for the MCEA by New Jersey Board of Public Utilities (NJBPU)-licensed and qualified electric power suppliers in New Jersey; and

WHEREAS, The RFP provided for a two stage process that included: Stage 1 for the submission of supplier questions and comments and the submission of qualification documents by interested, NJBPU -licensed electric power suppliers; and Stage 2 for the submission of bid prices; and

WHEREAS, The RFP also provided for the submission of separate pricing for three potential contract terms, including 12-month, 18-month and 24-month terms commencing in June 2016, and in accordance with the evaluation criteria set forth in the RFP; and

WHEREAS, During Stage 1 non-binding Notices of Intent and other qualification documents were received from six (6) NJBPU-licensed electric power suppliers; and

WHEREAS, A number of supplier questions and comments were received and, as a result, on February 23, 2016 a document entitled "Responses to Supplier Questions and Addendum No.1," which supplemented and amended the RFP, was issued and distributed to all suppliers that had submitted a Notice of Intent to Bid and/or requested a copy of the RFP; and

WHEREAS, Stage 2 price bids and accompanying Transmittal Letters were submitted by four (4) NJBPU-licensed electric power suppliers by the 2:00 p.m. March 3, 2016 deadline set forth in the RFP; and

WHEREAS, The Township, in consultation with its energy agent, has conducted an in-depth evaluation of qualifications and analysis of bid prices, in accordance with the evaluation criteria set forth in the RFP and Addendum No.1; and

WHEREAS, Pursuant to the RFP, the Township reserved the right to make an award to a supplier, or to make no award at all; and

WHEREAS, Pursuant to the Rules, Township shall base its award of a contract to a NJBPU-licensed electric power supplier for the Provision of Electric Generation Service and Government Energy Aggregation Services for the MCEA upon the most advantageous proposal, price and other factors considered; and

WHEREAS, As a result of the evaluation of qualifications and proposals and analysis of bid prices submitted, and in accordance with the provisions of the RFP, the Township seeks to award a contract to TriEagle Energy, LP for the Provision of Electric Generation Service and Government Energy Aggregation Services for the Residential Bid Group for a contract term of 18 months; and

(Item #8 Cont.)

WHEREAS, The Township finds that the proposal submitted by TriEagle Energy, LP for the Provision of Electric Generation Service and Government Energy Aggregation Services for the Residential Bid Group for a contract term of 18 months is most advantageous to the Township, price and other factors considered, because: 1) TriEagle Energy, LP received the highest possible rating during the Township's evaluation of Stage 1 qualifications; 2) TriEagle Energy, LP's bid price for the Residential Bid Group was the lowest bid price among the four (4) bids received on March 3, 2016; iii) TriEagle Energy, LP's bid proposal provides the most overall benefit for the Township and MCEA Residential Participants; and iv) TriEagle Energy, LP's bid price will provide for contract power supply prices that are lower than the applicable Public Service Gas and Electric Co. (PSE&G) Basic Generation Service tariff prices for power supply.

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

- a. The Township hereby finds that TriEagle Energy, LP's proposal for the provision of electric generation service to the Participating Residential Accounts Bid Group in the MCEA and the provision of government energy aggregation services in connection therewith is most advantageous to the Township, price and other factors considered.
 - b. The Township hereby awards a contract for the provision of electric generation service to the Participating Residential Accounts Bid Group and the provision of government energy aggregation services in connection therewith to TriEagle Energy, LP's in accordance with the terms and conditions of the RFP (including the applicable form of Master Performance Agreement included therein), as amended pursuant to Addendum No. 1 to the RFP.
 - c. The government energy aggregation services to be provided by TriEagle Energy, LP, including implementation of the opt-out process for residential customers as set forth in the RFP and applicable NJBPU rules, shall commence immediately upon execution of the Master Performance Agreement, and electric generation service to be provided by TriEagle Energy, LP to the MCEA-participating residential customers shall commence with the June 2016 meter read date for each electric account served, and shall continue for a 18-month term.
 - d. The contract price for an 18-month term commencing in June 2016 for Residential Accounts included in the MCEA shall be \$0.11217/kwh, in accordance with the RFP and the terms and conditions of the Master Performance Agreement.
 - e. The Mayor and Clerk are hereby authorized and directed to execute on the Township's behalf the Master Performance Agreement with TriEagle Energy, LP.
 - f. The Township Administrator is hereby authorized and directed to issue on the Township's behalf an Award Letter consistent herewith to TriEagle Energy, LP.
- 8-1. Bob Chilton, Gabel Associates, gave a presentation on how the bid process worked and reported on the results. During the 2013-2015 program, the savings to the residents of Montgomery was 14% which computes to approximately \$350.00 per residential customer over the 2 year period. The contract expired in December, 2015 and all of the residential customers were transitioned back to PSE&G. Gabel Associates kept their eye on the market during the Fall and Winter of 2015, and advised the Township not to go out to bid at that time, as prices were quite high. They went back out to bid in February, 2016. He stated that six (6) suppliers submitted their documents to Gabel Associates. Of those pre-qualified suppliers, four (4) submitted their bids. The bids were for 12, 18 and 24 months. The low bid was for 18 months, starting in June, 2016 and ending in December, 2017. The low bidder was TriEagle Energy, LP. The low bid is approximately 9% to 9½% below the current tariff. The Board of Public Utilities has announced that, as of June 2016, the PSE&G tariff prices will be going up by another 3½%. So, by the time this contract is in place, this bid contract price will be about 12% below the tariff price. The next step, should the Township Committee decide to award the contract, is to issue a notification letter with opt-out information. Those residents who opted-out last time would automatically be out this time. Also anyone with a solar system would be removed. Any one of those customers will be more than welcome to opt into the program.

The Governing Body suggested that before the end of this contract, there should be a public meeting about the progress and what the future looked like, so that residents were not taken unaware.

- 8-2. Committeeman Conforti moved the adoption of the foregoing resolution. The motion was seconded by Deputy Mayor Trzaska and carried on the following:

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

9. **ORDINANCE #16-1511 - Acquisition of Interests in Seven Properties on Cherry Valley Road for Road Improvements - Public Hearing**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY, PROVIDING FOR THE ACQUISITION OF INTERESTS IN SEVEN PROPERTIES ON CHERRY VALLEY ROAD IN THE TOWNSHIP OF MONTGOMERY FOR ROAD IMPROVEMENTS.

B. Mayor Graham opened the hearing to the public. There being no comment, Deputy Mayor Trzaska moved that the public hearing be closed. The motion was seconded by Committeeman Conforti 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 March, 2016 and that notice thereof be published in an official newspaper as required by law.

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

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

10. **ORDINANCE #16-1512 - Conveyance of Un-Needed Property to Abutting Owner - Public Hearing**

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, IN SOMERSET COUNTY AUTHORIZING THE CONVEYANCE OF ±0.12 ACRES OF LAND NOT NEEDED FOR PUBLIC USE TO THE OWNER OF BLOCK 28005, LOT 65, SAID PARCEL TO BE MERGED WITH BLOCK 28005, LOT 65.

B. Mayor Graham opened the hearing to the public. There being no comment, Committeeman Conforti 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 March, 2016 and that notice thereof be published in an official newspaper as required by law.

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

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

11. **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 subject to be discussed in this session is as follows:

- Personnel - Police Lieutenant Interviews.

3. It is unknown precisely when the matter discussed in this session will be disclosed to the public. Any appointment shall only be authorized by the Township Committee in a public session.

11-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Conforti and carried unanimously.

12. The meeting reconvened in Open Session.

13. **PROCLAMATION - National Poison Prevention Week - March 20-26, 2016**

WHEREAS, Congress designated the third full week in March to be National Poison Prevention Week (NPPW) in 1961 and since then this week has helped to raise national awareness of the dangers of potentially poisonous medicines, household chemicals, and other substances; and

WHEREAS, Poison centers across the country will focus the public's attention on identifying poisoning hazards at home as well as learning ways to prevent poisoning emergencies; and

WHEREAS, Unintentional poisoning is the leading cause of unintentional injury death in New Jersey; and

WHEREAS, Approximately half of all reported poison exposures involve children five (5) years old and younger; and

(Item #13 Cont.)

WHEREAS, The majority of poisoning deaths occur in adults aged 20 to 59; and

WHEREAS, Every poisoning is preventable! From the youngest to the oldest, all people and even pets are at risk; and

WHEREAS, Poison experts urge parents and caregivers to keep "single-load liquid laundry packets" out of sight and reach of young children. These products can cause serious harm if ingested; and

WHEREAS, Consumers must be aware that e-cigarette devices, hookah pipes and liquid nicotine may contain very high doses of nicotine in enticing colors, aromas, and flavors - increasing the likelihood that small children and pets will be drawn to them. These products pose serious risk of poisoning; and

WHEREAS, The New Jersey Poison Information and Education System (NJPIES), a division of the Department of Emergency Medicine of the New Jersey Medical School of Rutgers, The State University of New Jersey, provides free, expert medical advice, drug information, and poison prevention education to NJ residents through the 800-222-1222 Poison Help Hotline; and

WHEREAS, All services are free, confidential, multilingual and available 24 hours a day, 7 days a week, 365 days a year even during bouts of Mother Nature; and

WHEREAS, NJ Poison Experts encourage all residents to program the Poison Help Line 800-222-1222 into home, office, and cell phones because a rapid response can make a difference in preventing serious injury and saving lives; and

WHEREAS, NJPIES is involved with the state's efforts in homeland defense, counter-terrorism, emergency preparedness and response, and bio surveillance, and surveillance for clusters of poisonings and their sources (products, food and beverages, chemicals in the workplace and at home, environmental toxins, drugs and medicine, and animal and insect bites and stings; and

WHEREAS, The use of poison center services saves residents both time and money. Most cases are managed in the convenience of the caller's home, requiring no hospital visit.

NOW, THEREFORE, The Township Committee of the Township of Montgomery does hereby proclaim the week of March 20-26, 2016 as National Poison Prevention Week in New Jersey and encourages all citizens to pledge their commitment to ensuring the safety of themselves, their families, and their community.

13-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeeman Conforti and carried unanimously.

14. **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 #16-3-63 - REFUND OVERPAID 2015 SEWER CHARGES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2015 sewer charges:

<u>Block</u>	<u>Lot</u>	<u>Name</u>	<u>Amount</u>
31001	47	William Brooks Rubin	\$1,067.00
31009	17	Donald B. & Bonnie S. Brenner	\$ 465.96

B. **RESOLUTION #16-3-64 - REDEMPTION OF TAX SALE CERTIFICATE #2015-15**

WHEREAS, The Township received payment for the redemption of Tax Sale Certificate #2015-15 in the amount of \$6,005.72.

BE IT RESOLVED That a refund in the amount of \$6,005.72 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2015-15 on Block 34019 Lot 82.

Certificate Amount	\$ 1,166.93
Subsequent Charges	\$ 999.48
Interest Amount	\$ 60.97
Redemption Fee	\$ 23.34
Recording Fee	\$ 43.00
Search Fee	\$ 12.00
Premium	\$ 3,700.00
TOTAL	\$ 6,005.72

(CONSENT AGENDA Cont.)

C. **RESOLUTION #16-3-65 - REDEMPTION OF TAX SALE CERTIFICATE #2015-18**

WHEREAS, The Township received payment for the redemption of Tax Sale Certificate #2015-18 in the amount of \$3,319.47.

BE IT RESOLVED That a refund in the amount of \$3,319.47 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2015-18 on Block 37001 Lot 82.

Certificate Amount	\$	591.94
Subsequent Charges	\$	905.46
Interest Amount	\$	55.23
Redemption Fee	\$	11.84
Recording Fee	\$	43.00
Search Fee	\$	12.00
Premium	\$	1,700.00
TOTAL	\$	3,319.47

D. **RESOLUTION #16-3-66 - REFUND OVERPAID 2013 & 2014 TAXES**

BE IT RESOLVED That a refund in the amount of \$29,886.88 be given to Core Logic, 1 Core Logic Drive, Westlake, TX 76262 ATTN: Refunds Department for the overpayments of 2013 and 2014 taxes on the following properties;

BLOCK	LOT	PROPERTY LOCATION	YEAR/QUARTER	AMOUNT
26002	20	86 Wild Azalea Lane	2014/1 st	\$5,742.26
30001	10.02	189 Route 518	2014/3 rd	\$2,723.83
31001	41	92 Rolling Hill Road	2013/4 th	\$7,334.52
31001	41	92 Rolling Hill Road	2014/1 st	\$7,043.14
31001	41	92 Rolling Hill Road	2014/2 nd	\$7,043.13

E. **RESOLUTION #16-3-67 - REFUND OVERPAID 2014 AND 2016 TAXES**

BE IT RESOLVED That refunds be given to the following for the overpayment of 2014 and 2016 taxes:

Block	Lot	Name	Amount	Year
7016	5	Zimm Title Agency, LLC	\$3,619.00	2016
16003	26	Shuohya Xu & Maoxu Yang	\$1,453.00	2016
21012	17	Investors Bank	\$4,444.34	2016
37003	6.19	Core Logic	\$2,511.27	2014

F. **RESOLUTION #16-3-68 - CANCELLATION OF GRANT RECEIVABLES AND GRANT APPROPRIATIONS**

WHEREAS, The Township of Montgomery has been notified by the Somerset County Department of Human services that a total of \$9,007.18 remains unexpended from the Montgomery-Rocky Hill Municipal Alliance DEDR Grant; and

WHEREAS, These monies, which were to have been expended by June 30, 2015, are being returned to the State.

NOW, THEREFORE, BE IT RESOLVED, That the following Grant Receivables and Grant Appropriations be cancelled.

Grant Receivables	
Municipal Alliance Grant	\$ 9,007.18
Grant Appropriations	
Municipal Alliance Grant	\$ 9,007.18

G. **RESOLUTION #16-3-69 - AUTHORIZING A REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase 2 Townhomes Site Work**

WHEREAS, Gail Smith, Township Engineer, has certified on February 23, 2016 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase 2 Townhomes Site Work 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 February 24, 2016.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$452,840.00, reduced from \$858,736.20, be posted as follows:

10% cash	\$ 45,284.04
90% cash, Letter of Credit, or Surety Bond	\$407,556.38

(CONSENT AGENDA Cont.)

H. **RESOLUTION #16-3-70 - AUTHORIZING A REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase 3 Townhomes**

WHEREAS, Gail Smith, Township Engineer, has certified on February 23, 2016 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase 3 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 February 17, 2016.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$339,739.20, reduced from \$566,977.20, be posted as follows:

10% cash	\$ 33,973.92
90% cash, Letter of Credit, or Surety Bond	\$305,765.28

I. **RESOLUTION #16-3-71 - AUTHORIZING A SECOND REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase 1 Townhomes**

WHEREAS, Gail Smith, Township Engineer, has certified on February 23, 2016 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase I Townhomes may be reduced again; 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 February 24, 2016.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a second reduced performance guarantee amounting to \$786,903.00, reduced from \$1,968,451.50 (original guarantee amount)(corrected amount - \$1,890,331.20), be posted as follows:

10% cash	\$ 78,690.30
90% cash, Letter of Credit, or Surety Bond	\$708,212.70

J. **RESOLUTION #16-3-72 - AUTHORIZING A SECOND REDUCED PERFORMANCE GUARANTEE - Montgomery Ridge Site Improvements - Phase I Affordable Apartments**

WHEREAS, Gail Smith, Township Engineer, has certified on February 23, 2016 that a performance guarantee posted for Montgomery Ridge Site Improvements, Phase I Affordable Apartments may be reduced again; 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 February 17, 2016.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that a reduced performance guarantee amounting to \$164,245.80, reduced from \$542,802.00 (original guarantee amount), be posted as follows:

10% cash	\$ 16,424.58
90% cash, Letter of Credit, or Surety Bond	\$147,821.22

K. **RESOLUTION #16-3-73 - RELEASE OF MAINTENANCE GUARANTEE - Village Shopper III Pugliese Properties, LLC**

WHEREAS, Gail Smith, Township Engineer, has certified on February 25, 2016 that all public improvements in a project known as Village Shopper III have been in satisfactory continuous use for a period greater than two years and therefore recommends the release of the posted maintenance guarantee.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the Maintenance Bond in the amount of \$28,313.13 (cash) be released to Pugliese Properties, LLC., 219 Nassau Street, Princeton, NJ 08542, conditioned upon the posting of adequate escrow funds.

L. **RESOLUTION #16-3-74 - AUTHORIZING THE EXECUTION OF A MUNICIPAL SERVICES AGREEMENT WITH TAPESTRY AT MONTGOMERY HOMEOWNERS ASSOCIATION, INC.; N.J.S.A. 40:67-23.2 et seq.**

WHEREAS, N.J.S.A. 40:67-23.2 et seq., requires the Township of Montgomery to enter into municipal services agreements with qualified private communities with regard to the provision of certain municipal services, such as lighting of streets and snow removal, in the same fashion as provided on public roads and streets; and

WHEREAS, Tapestry at Montgomery Homeowners Association, Inc., a qualified private community, has requested that the Township enter into municipal service agreement for certain municipal services; and

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

(CONSENT AGENDA Item L Cont.)

NOW, THEREFORE, BE IT RESOLVED By the Township Committee of the Township of Montgomery, County of Somerset, New Jersey, that the Township Committee approves the municipal services agreement with Tapestry at Montgomery Homeowners Association, Inc.; and

BE IT FURTHER RESOLVED That the Mayor and Clerk are authorized and directed to execute the same.

M. TOWNSHIP COMMITTEE REAPPOINTMENT - Building Inspector

Building Inspector - Ken Clayton 1 year Expiring 3/10/17

14-1. Committeeman Conforti moved the adoption of the **CONSENT AGENDA**. The motion was seconded by Committeewoman Madrid and carried on the following:

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

15. RESOLUTION #16-3-75 - PROFESSIONAL SERVICES RESOLUTION - Traffic Engineer - Joseph A. Fishinger, Jr. of RBA Group

WHEREAS, There exists a need to acquire professional Traffic Engineer services for 2016 without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"; and

WHEREAS, Joseph A. Fishinger, Jr. of Dewberry Engineers, Inc. was appointed Traffic Engineer on January 21, 2016; and

WHEREAS, Joseph A. Fishinger, Jr. is no longer affiliated with Dewberry Engineers, Inc. and is now representing RBA Group; and

WHEREAS, The Montgomery Township Purchasing Agent has determined and certified in writing that the value of the services over the course of the contracts is anticipated to exceed \$17,500.00; and

WHEREAS, The New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of professional services contracts without competitive bidding; and

WHEREAS, The Chief Financial Officer has certified that sufficient funds are available for the aforesaid service in accordance with the amount set forth in the 2016 Temporary Budget, with performance of said service after March 31, 2016 being subject to the Township's amendment of the 2016 Temporary Budget, and/or adoption of the final 2016 Budget; and

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 proper agreements with Joseph A. Fishinger, Jr. of RBA Group as Traffic Engineer.
- (2) This contract is awarded for a period of one year, for the amount set forth in The contract, and without competitive bidding as "Professional Services" under the provisions of the Local Public Contracts Law N.J.S.A. 40A:11-5(1)(a) as contracts for services to be performed by persons authorized by law to practice recognized professions that are regulated by law and because the services to be performed are not susceptible of quantifying in bid specifications.
- (3) The contractor has completed and filed with Montgomery Township a Campaign Contributions Affidavit as required by N.J.S.A. 19:44A-20.2 et seq. certifying they have not made any prohibited contributions to a candidate committee or municipal committee representing the elected officials of the Township.
- (4) A copy of this Resolution, the Certifications of Contract Value, the Campaign Contributions Affidavit, and the executed Agreements shall be placed on file in the office of the Township Clerk.
- (5) A notice of this action shall be published once in the official newspaper as required by law.

15-1. 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 - Conforti, Madrid, Smith, Trzaska, Graham
Nays - None

16. **RESOLUTION #16-3-76 - AUTHORIZING TEMPORARY EMERGENCY APPROPRIATIONS**

WHEREAS, The 2016 Municipal Budget has not been adopted and there is a need to increase the Temporary Budget prior to the 2016 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:

<u>Current Fund</u>	
Liability Insurance	
Other Expense	\$125,000.00
Police Department	
Other Expense	\$79,590.00
Streets and Roads	
Salary and Wages	\$212,625.00
Shade Tree Committee	
Other Expenses	\$2,632.00
Buildings and grounds	
Salary and Wages	\$25,594.00
Buildings and Grounds	
Other Expenses	\$31,736.00
Environmental Commission	
Other Expenses	\$3,000.00
Pre School (Outside cap)	
Salary and Wages	\$302,794.00
Adult School	
Other Expenses	\$62,147.00
Solid Waste Disposal	
Other Expenses	\$21,131.00
Municipal Court	
Other Expenses	\$18,000.00
Master Plan	
Other Expenses	\$20,000.00
<u>Sewer</u>	
Bond Principal	
Other Expenses	(\$305,000.00)
Bond Interest	
Other Expenses	\$390,000.00

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

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

17. **APPROVAL OF MINUTES**

The Regular Session minutes of February 18, 2016 were approved as printed.

18. **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.

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

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

19. **FUNFEST**

Committeeman Smith reported that the FunFest event has been delayed for two weeks to September 25, 2016.

20 **COMMITTEE AND SUBCOMMITTEE REPORTS**

20-1. **ENVIRONMENTAL COMMISSION**

Committeeman Conforti reported on the Environmental Commission meeting and stated that they were still working on the invasive species ordinance and the Earth Day program.

20-2. **ECONOMIC DEVELOPMENT COMMISSION**

Mayor Graham reported on the Economic Development Commission meeting and stated that the Business Directory will be distributed in the beginning of April.

21. **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:
 - Pending affordable housing litigation and advice of counsel relative thereto;
 - Acquisition of Open Space (Thompson/Spring Hill Road property - Block 11001, Lot 55) with public funds for farmland, open space and other purposes.
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. Acquisition of lands shall only be authorized by the Township Committee in a public session.

21-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

22. The meeting reconvened in Open Session.

23. **RELEASE OF APPRAISALS - Thompson/Spring Hill Road Property**

23-1. **M16-03-01** - Committeeman Conforti moved to release the appraisals for the Thompson/Spring Hill Road property. The motion was seconded by Committeewoman Madrid and carried unanimously

ADJOURNMENT was at 9:35 p.m. on a motion by Committeeman Conforti. The motion was seconded by Deputy Mayor Trzaska and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk