

MINUTES FOR
MONTGOMERY TOWNSHIP COMMITTEE MEETING
August 4, 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 (after Item #5),
Committeemember Smith, Madrid and Conforti

Also present were:

TOWNSHIP ATTORNEY - Victoria Britton, Esq.

TOWNSHIP ADMINISTRATOR - Donato Nieman

CHIEF FINANCIAL OFFICER - Michael Pitts

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. **PUBLIC COMMENT**

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

5. **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 #16-8-197 - REDEMPTION OF TAX SALE CERTIFICATE #2014-28**

BE IT RESOLVED That a refund in the amount of \$5,368.22 be given US Bank for BV001 Trust, 50 South 16th Street, Suite 2050, Philadelphia, PA 19102-2513 for the Redemption of Tax Sale Certificate #2014-28 on Block 30003, Lot 24. Tax lien redeemed within 10 days.

Tax Lien Redemption

Certificate Amount	\$ 592.30
Subsequent Charges	\$2,327.46
Interest Amount	\$ 381.61
Redemption Fees	\$ 11.85
Recording Fee	\$ 43.00
Search Fee	\$ 12.00
Premium	\$2,000.00
TOTAL	\$5,368.22

B. **RESOLUTION #16-8-198 - REDEMPTION OF TAX SALE CERTIFICATE #2016-21**

BE IT RESOLVED That a refund in the amount of \$1,193.02 be given to Natu Patel, 505 Hoagland Court, Hillsborough, NJ 08844 for the redemption of Tax Sale Certificate #2016-21 on Block 34019, Lot 67.

Tax Lien Redemption

Certificate Amount	\$ 189.54
Subsequent Charges	\$ 147.17
Interest Amount	\$ 1.31
Recording Fee	\$ 43.00
Search Fee	\$ 12.00
Premium	\$ 800.00
TOTAL	\$1,193.02

C. **RESOLUTION #16-8-199 - RELEASE OF ESCROW FEE - Princeton Show Jumping - Street Opening Permit #15-R-74**

WHEREAS, George Remboske, Assistant to the Township Engineer, has recommended the release of the cash escrow fee to Princeton Show Jumping because all work has been satisfactorily completed with respect to a street opening permit at Block 26001, Lot 1.02 (246 Burnt Hill Road).

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the cash escrow fee in the amount of \$485.00 be released to Princeton Show Jumping/Hunter Farms, 1315 Great Road, Princeton, NJ 08540.

D. **RESOLUTION #16-8-201 - APPROVAL OF OUTDOOR ASSEMBLY PERMIT - Outdoor Movie Night and Mini-Festival**

BE IT RESOLVED By the Montgomery Township Committee as follows:

1. Annie Michaelson has requested approval of the Township Committee to conduct an Outdoor Movie Night and mini-festival at 35 Dorland Farm Court, Skillman, NJ 08558 on August 28, 2016.
2. The Township Committee has considered the application and hereby grants the same subject to the following conditions:

(CONSENT AGENDA Item D Cont.)

- (a) This approval is for the period specified and is not to be considered approval to conduct similar events without 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 will obtain the required health certificates from the Township Health Department.

**E. RESOLUTION #16-8-202 - AUTHORIZING SEWER PARTICIPATION AGREEMENT -
Jennifer Hartshorne and Stephen Gilbert - Block 32002, Lot 1**

BE IT RESOLVED By the Montgomery Township Committee that the Mayor and Clerk are hereby authorized to execute a Sewer Participation Agreement with Jennifer Hartshorne and Stephen Gilbert related to sewer capacity in the Cherry Valley Sewage Treatment Plant for Block 32002, Lot 1.

**F. RESOLUTION #16-8-203 - AMENDING RESOLUTION #16-6-153 - AUTHORIZING CROSS EASEMENT
Block 16007, Lot 15 - Xuehai Wang and Weifeng Li**

WHEREAS, On June 16, 2016, Resolution #16-6-153 was adopted authorizing the execution of a Cross Easement agreement with East Country Development, LLC; and

WHEREAS, Prior to approval of the agreement, Lot 15, Block 16007 was sold by East Country Development, LLC to Xuehai Wang and Weifeng Li.

NOW, THEREFORE, BE IT RESOLVED That the Mayor and Clerk are hereby authorized to execute a Cross Easement agreement with Xuehai Wang and Weifeng Li for a lawn inlet in the drainage easement on Lot 15, Block 16007 subject to the Township Attorney's approval of the Cross Easement agreement.

**G. RESOLUTION #16-8-204 - RESOLUTION PROHIBITING THE USE OF BLINDS DURING HUNTING ON
MUNICIPALLY-OWNED PROPERTIES AND SUPPLEMENTING RESOLUTION NO. 16-6-162**

WHEREAS, On June 16, 2016, the Township Committee adopted Resolution No. 16-6-162 to establish its comprehensive deer management plan for the 2016-2017 hunting season for the purpose of reducing the Township's white-tailed deer population; and

WHEREAS, Section 9-9 of the Code of the Township of Montgomery (1984) authorizes the Township Committee to designate annually by resolution which parks and open spaces will be made available for hunting through the Township's municipal deer management program and during which dates; and

WHEREAS, The Township has received a recommendation from the Police Department that blinds not be permitted on municipally-owned tracts to further the safety of persons; and

WHEREAS, The Township Committee agrees the recommendation is reasonable and in accordance with Section 9-9 of the Township Code.

NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONTGOMERY as follows:

- 1. Resolution No. 16-6-162 is hereby supplemented and amended to prohibit the use of blinds on any of the properties listed therein. In all other respects, Resolution No. 16-6-162 remains in full force and effect.
- 5-1. Committeeman Smith asked that Resolution #16-8-200 be moved from the Consent Agenda in order to discuss adding language regarding banner signs for the FunFest.
 - 5-1. Deputy Mayor Trzaska arrived prior to Roll Call.
 - 5-2. 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, Graham
Nays - None
Abstain - Trzaska

6. **RESOLUTION #16-8-200 - APPROVAL OF USE OF TENT AND BANNER SIGNS - Montgomery FunFest**

BE IT RESOLVED That the Montgomery Township Committee hereby approves the use of the Township tent for the Montgomery FunFest as the Township Recreation Department will be one of the sponsors of the event and the advertising will be provided to the Township. The event will be held on Sunday, September 25, 2016.

BE IT FURTHER RESOLVED That the Montgomery Township Committee hereby authorizes the Zoning Officer to administratively approve banner signs advertising the sponsors of the event for a period of time not longer than two weeks before the event and two weeks after the event (for a maximum of four weeks total). The banners shall be located along the airport fencing, and shall be of a reasonable size.

6-1. 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 - Conforti, Madrid, Smith, Trzaska, Graham
Nays - None

7. **RESOLUTION #16-8-205 - AWARD OF BID - Submersible Pump Repair Services**

WHEREAS, The following bids for Submersible Pump Repair Services for Montgomery Township Wastewater Treatment Facilities were received and publicly opened on July 20, 2016:

<u>BIDDER</u>	<u>Year One</u>	<u>Year Two</u>
Municipal Maintenance Company	\$42.00/hour	\$42.00/hour
Longo Electrical Mechanical, Inc.	\$55.00/hour	\$55.00/hour
Rapid Pump & Meter Services	\$48.00/hour	\$65.00/hour
KRS Services	\$99.00/hour	\$123.00/hour
GMH Association of America	\$159.65/hour	\$159.65/hour

WHEREAS, It is the recommendation of the Purchasing Agent and Chief Sewer Plant Operator that Municipal Maintenance Company be awarded the bid; it being the lowest responsible bidder; and

WHEREAS, The term of the contract is two (2) years with two (2) one year options to renew; and

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

WHEREAS, There exists accounts: 07-201-55-542-200, 07-201-55-543-200, 07-201-55-544-200, 07-201-55-545-200, 07-201-55-546-200, 07-201-55-547-200, 07-201-55-548-200 which will fund this service.

NOW, THEREFORE, BE IT RESOLVED By the Montgomery Township Committee that the contract for the Submersible Pump Repair Services is hereby awarded to Municipal Maintenance Company, 1352 Taylors Lane, Cinnaminson, New Jersey 08077 in an amount not to exceed

- in an amount not to exceed \$50,000 for the balance of budget year 2016,
- in an amount not to exceed \$60,000 in budget year 2017, or an amount to be appropriated by the Township Committee,
- in an amount not to exceed \$60,000 for the conclusion of the contract in budget year 2018, or an amount to be appropriated by the Township Committee,

BE IT FURTHER RESOLVED That the Mayor and Clerk are hereby authorized to sign said contract.

7-1. 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

8. **RESOLUTION #16-8-206 - RESOLUTION APPROVING CHANGE ORDER #1 IN EXCESS OF 20% - Bridgepoint Road Overlay Project**

WHEREAS, On or about April 21, 2016, a contract was awarded to Top Line Construction (also "Contractor") for the Bridgepoint Road Overlay Project; and

WHEREAS, The total contract price was \$321,694.28; and

WHEREAS, In accordance with the Certification from the Contractor dated August 2, 2016 and Request for Change Order from the Township Engineer dated August 2, 2016, it appears that a change order to the contract is necessary in the amount of \$71,986.62 due to circumstances which could not have reasonably been foreseen by the Township or the Contractor; and

WHEREAS, The change order exceeds 20% of the original contract price; and

WHEREAS, The Local Public Contracts Rules (N.J.A.C. 5:30-11.9) specify a procedure for change orders which exceed the 20% limitation; and

WHEREAS, The Township Attorney's office has consulted with the Township Engineer and has advised that the issuance of the change order would not constitute an abuse of the aforesaid Rules and procedures; and

(Item #8 Cont.)

WHEREAS, A copy of the proposed change order is annexed hereto; and

WHEREAS, Sufficient funds are available for this purpose in 04-215-55-901-1494B as set forth on the attached Certification of Availability of Funds, prepared by the Chief Financial Officer or his designee.

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

1. The Committee hereby determines and states that public bidding and contract award for a new contract for the performance of the additional work would have interfered with the timely, efficient and safe completion of the work and would not have been economically practical.
2. Issuance of the change order is in the best interest of the Township.
3. The attached Change Order No. 1 is hereby approved.
4. This Resolution, when counter-signed by Top Line Construction, shall serve as a contract amendment to the original contract for the purpose of confirming the increase in the contract price by \$71,986.62, the amount of the attached Change Order No. 1.
5. The Township Clerk is hereby directed to cause to be printed once in the official newspaper a brief notice indicating the additional amount to be expended, the original contract price, the nature of the original and additional work, and a statement that the additional funds must be expended in order to perform necessary work which could not reasonably have been foreseen by the Township or by the Contractor. The Township Clerk shall keep a copy of the advertisement on file, where it shall remain available for public inspection, and shall provide a copy to the Township Auditor so that he may report same in the annual audit.
6. The Township Clerk shall report to the Division of Local Government Services, on a form provided by said Division, the approval of the change order authorized herein. This report shall be an appendix to the Township's annual budget to said Division.

8-1. Committeeman Smith 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

9. **RESOLUTION #16-8-207 - PROFESSIONAL SERVICES RESOLUTION - Architectural Services - B-4 Development**

WHEREAS, There exists a need to acquire professional architectural services for the potential expansion, reconfiguration and renovation of the municipal building without a "fair and open process" as defined by P.L. 2004, c.19, the "Local Unit Pay-to-Play Law"; and

WHEREAS, The Montgomery Township Administrator has determined and certified in writing that the value of the services over the course of the contract 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 in Account #04-215-55-901-1494G for the aforesaid service in accordance with the amount set forth in the 2016 Budget.

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 B-4 Development for professional architectural services for the potential expansion, reconfiguration and renovation of the municipal building.
- (2) This contract is awarded for a period of one year, effective September 11, 2016 at a not to exceed cost of \$30,000.00, 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) This professional 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.

(Item #9 Cont.)

- (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.

9-1. 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 - Conforti, Madrid, Smith, Trzaska, Graham
Nays - None

10. **ORDINANCE #16-1526** - Acquisition of Real Property (Block 11001, Lot 55) - Public Hearing

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY, COUNTY OF SOMERSET AND STATE OF NEW JERSEY, AUTHORIZING THE ACQUISITION OF REAL PROPERTY, SPECIFICALLY BLOCK 11001, LOT 55 AND AUTHORIZING THE EXPENDITURE OF FUNDS FROM THE TOWNSHIP OF MONTGOMERY OPEN SPACE TRUST FUND

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 4th day of August, 2016 and that notice thereof be published in an official newspaper as required by law.

10-1. 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

11. **ORDINANCE #16-1527** - Deer Management - Introduction

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

AN ORDINANCE OF THE TOWNSHIP OF MONTGOMERY IN SOMERSET COUNTY, NEW JERSEY CONCERNING ELIGIBILITY FOR DEER HUNTING PERMITS AMENDING SUBSECTION 9-9f.10(b) 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 September 1, 2016 at approximately 7:00 p.m. as the date and time when said ordinance will be further considered for final adoption.

11-1. Committeeman Conforti 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

12. **APPROVAL OF MINUTES**

The Regular Session minutes of July 21, 2016 were approved as printed.

13. **PAYMENT OF BILLS**

WHEREAS, The Township Committee of the Township of Montgomery has received bills to be paid as listed; and

WHEREAS, The Chief Financial Officer and the Township Administrator have reviewed these bills and have certified that these bills represent goods and/or services received by the Township, that these are authorized and budgeted expenditures and that sufficient funds are available to pay these bills.

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

1. That these bills are hereby authorized for payment; and
2. That checks in the proper amounts are prepared and that necessary bookkeeping entries are made; and
3. That the proper Township Officials are authorized to sign the checks.

13-1. 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

14. **COMMITTEE AND SUB-COMMITTEE REPORTS**

14-1. **ENVIRONMENTAL COMMISSION**

Committeeman Conforti reported on the Environmental Commission meeting. One of the main topics of discussion was a debate about deer feeding. He stated that the Environmental Commission had asked the Governing Body to pass an ordinance prohibiting people from feeding deer on their own property. He explained that the Environmental Commission has now backed away from that request, as they would like to try educating the public first. This was also the recommendation of the Health Department.

14-2. **FIRE PREVENTION BUREAU**

Committeeman Smith reported on the Fire Prevention Bureau meeting. He stated that there was a representative of Country Club Meadows in attendance to discuss their concerns on access and fire hydrants.

14-3. **ECONOMIC DEVELOPMENT COMMISSION**

Mayor Graham reported on the Economic Development Commission meeting. They are coordinating with the Montgomery Business Association for the 2016 Montgomery Fun Fest. She reported that the 2016 Business Directory was published and distributed.

15. **TENNIS COURTS**

Administrator Nieman reported that he had received an estimate on what it would cost to repair the tennis courts, which was in excess of \$600,000.00. He stated that the Board of Education was willing to increase their contribution for this, but they are not willing to pay 50% of the cost. He suggested the Governing Body needed to discuss this with Recreation Director Karen Zimmerman.

16. **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 Transco request for permit modification and NJDEP hearing thereon;
 - Potential acquisition of properties with public funds.
3. It is unknown precisely when the matters discussed in this session will be disclosed to the public. Acquisition of property shall only be authorized by the Township Committee in a public session.

16-1. Deputy Mayor Trzaska moved the adoption of the foregoing resolution. The motion was seconded by Committeewoman Madrid and carried unanimously.

17. Meeting reconvened in Open Session and **ADJOURNMENT** was at 9:20 p.m. on a motion by Deputy Mayor Trzaska. The motion was seconded by Committeeman Smith and carried unanimously.

Date of Approval:

Donna Kukla, Township Clerk